

STATE OF SOUTH CAROLINA	)	
	)	COURT OF COMMON PLEAS
COUNTY OF BERKELEY	)	
Derek Bryant, <i>et. al.</i> ,	)	
	)	
Plaintiffs	)	
	)	
v.	)	Case No. 11-CP-08-2631
	)	
SAIC Engineering,	)	
	)	
Defendant	)	

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SC Court of Appeals

TRANSCRIPT OF HEARING

The within Hearing in the above-captioned matter was held on January 12th, 2015, before The Honorable J.C. Nicholson, Jr., in Courtroom E of the Berkeley County Courthouse, 300 California Avenue, Moncks Corners, South Carolina; attended by counsel as follows:

APPEARANCES:

Ann Nicholson, *Pro Se*

Sabrina Walker, *Pro Se*

Elizabeth Sharper, *Pro Se*

Gloria Sinsuat, *Pro Se*

Lois Parker, *Pro Se*

Ashley Cuttino, Esq.
Appearing for Defendants SAIC Engineering,
John Kiessling and Marcia Saari

Deborah Garrison
Circuit Court Reporter – 13th Judicial Circuit
P O Box 27145
Greenville, South Carolina 29615
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1 THE COURT: Bryant versus S.A.I.C.
2 Engineering. Everybody here on that?

3 MS. CUTTINO: Yes, sir.

4 THE COURT: Who's here for who?

5 MS. CUTTINO: Yes, sir. I am Ashley
6 Cuttino. I am here on behalf of the
7 defendant, SAIC Engineering. And I am also
8 here on behalf of John Kiessling and Marci
9 Saari, who are individual defendants in the
10 action.

11 THE COURT: All right. You're
12 representing defendant who now?

13 MS. CUTTINO: S.A.I.C. Engineering,
14 John Kieesling and Marcia Saari.

15 THE COURT: Let me get a caption
16 real quick with everybody's name on it. All
17 right. SAIC Engineering, Christopher Murrow
18 and John Keesling and Marsha ---

19 MS. CUTTINO: Marcia Saari, yes,
20 sir.

21 THE COURT: So you represent all
22 defendants?

23 MS. CUTTINO: Ms. Broome has never
24 been served in the case and is never here in
25 the case.

1 THE COURT: Okay. Who's here for
2 the plaintiff?

3 MS. CUTTINO: Yes, sir. You have
4 five *pro se* plaintiffs.

5 THE COURT: Okay. You've got five
6 *pro se* plaintiffs. Okay. And it looks like
7 there are several Motions, aren't there?

8 MS. CUTTINO: Yes, sir. The
9 defendants have two Motions to dismiss
10 pending. And then the plaintiffs have a
11 Motion that they filed. My other Motions
12 correspond with their Motion.

13 THE COURT: All right. Looking at
14 the roster, I've got a Motion for summary
15 judgment. And that's your Motion, right?

16 MS. CUTTINO: Yes, sir.

17 THE COURT: And I've got another
18 motion for summary judgment. Is that also
19 yours?

20 MS. CUTTINO: Yes, sir. They can be
21 argued together. One's on behalf of the
22 company and one's on behalf of the
23 individuals.

24 THE COURT: Okay. And I've got a
25 Motion to dismiss Plaintiff Walker based on a

1 lack of some ---

2 MS. CUTTINO: That is in response to
3 their Motion -- I think we're calling it a
4 Motion to suppress.

5 THE COURT: The Motion for waiver
6 of attorney-client privilege, whose is that?

7 MS. CUTTINO: That is also mine. It
8 goes in response to their Motion to suppress.
9 A document was submitted that's privileged,
10 Your Honor, as an attachment to the Motion.

11 THE COURT: All right. So the
12 Motion to suppress is the plaintiffs' Motion,
13 right?

14 MS. CUTTINO: Yes, sir.

15 THE COURT: All right. I guess
16 we'll do the summary judgment Motions first.

17 MS. CUTTINO: Your Honor, may I make
18 a suggestion? We might just want to clarify.

19 I believe their Motion to suppress
20 is actually in response to one of my Motions
21 for summary judgment, but I'm not a hundred
22 percent sure of that.

23 They also, on Friday, filed some
24 affidavits. One of them is also called a
25 Motion, but I believe those are in response

1 to the summary judgment. It may help us just
2 to get some clarification before we start.

3 THE COURT: Well, first of all,
4 let me read the Complaint, okay?

5 MS. CUTTINO: All right. Your
6 Honor, there are two Complaints. This case
7 was consolidated. Are you looking at the
8 Nicholson complaint? If not, I can hand you
9 a copy up.

10 THE COURT: Do you have copies of
11 the two complaints?

12 MS. CUTTINO: Well, the only one
13 left -- one was filed on behalf of some folks
14 who were not terminated. This is the only
15 one that's left, Your Honor.

16 THE COURT: Okay. Thank you. All
17 right. Is Ann Nicholson here?

18 MS. NICHOLSON: (No verbal
19 response).

20 THE COURT: Aubrey or Obie Varner?

21 MS. CUTTINO: He's no longer in the
22 case, Your Honor.

23 THE COURT: All right. Lois
24 Parker?

25 MS. PARKER: (Affirmative gesture).

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1 THE COURT: Gloria Sinuat?

2 MS. SINSUA: Yes, sir.

3 THE COURT: And we've got
4 Elizabeth Sharper?

5 MS. SHARPER: (Affirmative gesture).

6 THE COURT: Preston Grant?

7 MS. CUTTINO: He's no longer in the
8 case, Your Honor.

9 THE COURT: And Alice Felder?

10 MS. CUTTINO: No longer in the case,
11 Your Honor.

12 THE COURT: Sabrina Walker?

13 MS. WALKER: (Affirmative gesture).

14 THE COURT: So Alice Felder,
15 Sabrina Walker, and Lois Parker are out of
16 it?

17 MS. CUTTINO: Lois Parker is still
18 in, Your Honor.

19 THE COURT: Obie Varner is out.
20 Okay. (Upon review of Complaint), does your
21 summary judgment, I guess, affect the
22 defamation as well as the negligence?

23 MS. CUTTINO: Yes, sir.

24 THE COURT: False imprisonment.
25 Let me see what else they have: intentional

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1 infliction of emotional distress, unlawful
2 termination?

3 MS. CUTTINO: Yes, sir.

4 THE COURT: Promissory estoppel?

5 MS. CUTTINO: Yes, sir.

6 THE COURT: Negligent mis-
7 representation?

8 MS. CUTTINO: Yes, sir.

9 THE COURT: So it affects all of
10 those; right?

11 MS. CUTTINO: Every one, yes, sir.

12 THE COURT: All right Stuart
13 Hudson and Nathan Hughey, they don't
14 represent y'all anymore?

15 PLAINTIFF: No, sir.

16 THE COURT: If you would, tell me
17 what the iAppreciate program was? The
18 Complaint doesn't really, it just names it.
19 What is it?

20 MS. CUTTINO: Would you like me to
21 briefly go through just a very brief fact
22 summary before we get to the cause of action,
23 Your Honor?

24 THE COURT: Right. During that
25 process, tell me what that program, what it

1 is.

2 MS. CUTTINO: Absolutely. So, SAIC
3 is a government contractor. What they do is
4 they take big Humvees and they put the
5 logistics equipment in them before they go
6 overseas.

7 All of these plants were hourly
8 employees. At some point in time SAIC
9 decided to start an iAppreciate Program. It
10 was a program where employees could nominate
11 each other for work-related reasons for a
12 twenty-five dollar (\$25) gift card. That
13 program was in place for some period of time.

14 At some point the local management
15 here in Charleston received notification that
16 the employee work group in question was
17 giving an exorbitant amount of awards. So an
18 investigation was started. As part of the
19 investigation, they pulled a summary of how
20 many awards were being given.

21 THE COURT: Let me make sure I
22 understand this. So if I'm an employee
23 working for your company, I could say 'John
24 here works for the company. I want you to
25 give him a twenty-five dollar gift card?'

1 MS. CUTTINO: Yes, sir. It was an
2 employee to employee peer reward system.

3 THE COURT: Well, who made a
4 decision -- who paid the twenty-five dollars
5 (\$25)?

6 MS. CUTTINO: SAIC did. They were
7 done through gift cards.

8 THE COURT: Okay. So do I have to
9 get -- who makes the decision whether the
10 company's going to give the gift card or not?

11 MS. CUTTINO: Yes, sir. It was an
12 employee ---

13 THE COURT: Was it automatic? I
14 mean, if I say 'John, I want a gift card',
15 y'all gave it to him. Was that done
16 automatically or what?

17 MS. CUTTINO: The requirements were
18 work-related reasons. You could give up to
19 three. You could receive up to three.

20 THE COURT: So you give three and
21 receive three?

22 MS. CUTTINO: Yes, sir.

23 THE COURT: Okay.

24 MS. CUTTINO: There were ---

25 THE COURT: Regardless of the

1 reasons?

2 MS. CUTTINO: They had to be work-
3 related reasons, Your Honor.

4 THE COURT: Work related?

5 MS. CUTTINO: Yes, sir.

6 THE COURT: So I had to justify
7 he's an outstanding worker or whatever the
8 reason was?

9 MS. CUTTINO: Yes, sir.

10 THE COURT: Okay.

11 MS. CUTTINO: When you gave the
12 award, your manager got a notification that
13 an award was given.

14 So at some point in time they
15 received an enormous amount of awards being
16 given all at the same time. Because of that,
17 they started an investigation trying to
18 figure out are the awards justified? Are
19 they not justified? What's going on? We've
20 gone from a very small amount of awards to a
21 spike in awards.

22 THE COURT: How many awards are we
23 talking about?

24 MS. CUTTINO: One employee gave over
25 a hundred awards, Your Honor.

1 THE COURT: Over a hundred.

2 MS. CUTTINO: Yes, sir.

3 THE COURT: Okay. What time
4 frame?

5 MS. CUTTINO: I would have to go
6 back and look at that, Your Honor.

7 MS. NICHOLSON: Objection on time
8 frame.

9 THE COURT: Pardon?

10 MS. NICHOLSON: I object.

11 THE COURT: Don't object and don't
12 interrupt, okay?

13 MS. NICHOLSON: Yes, sir.

14 THE COURT: She's going to have an
15 opportunity to talk and you're going to have
16 an opportunity to talk. Don't interrupt.
17 You understand?

18 MS. NICHOLSON: Yes, sir.

19 THE COURT: You'll have an
20 opportunity to talk.

21 MS. NICHOLSON: Okay.

22 THE COURT: I can't listen to both
23 of you. I can't listen to both of you talk
24 at the same time. I want to hear what you
25 have to say, okay? She can't take down

1 what's being said when there's two people
2 talking. So don't interrupt, you understand?

3 MS. NICHOLSON: (Affirmative nod).

4 THE COURT: There were a hundred
5 awards, is that correct? Approximately?

6 MS. CUTTINO: There were ones where
7 we gave over a hundred awards, Your Honor,
8 and I'll have to pull the exhibit for you
9 that has that detail. But it was, I believe,
10 in like less than a week period. It was a
11 very short period of time.

12 THE COURT: Okay.

13 MS. CUTTINO: But overall, what they
14 decided to do was they pulled the awards that
15 were given and received. They then decided
16 that they needed to ask the employees what
17 was going on. So they had an investigation.

18 THE COURT: Okay.

19 MS. CUTTINO: The way they did the
20 investigation was they asked everybody who
21 was in this employee group to report to a
22 conference room. It was a large nice
23 conference room in their conference center.
24 There were approximately thirty-seven
25 employees there that day. There were about

1 forty who were being ---

2 THE COURT: I think the Complaint
3 said they kept them there for about six
4 hours?

5 MS. CUTTINO: Well, Your Honor, that
6 depended on who -- if you'll wait a second.
7 So everybody got asked to come to this nice
8 large conference room. Then they were asked
9 to go into a separate conference room one at
10 a time. They were called roughly in
11 alphabetical order. So depending on where
12 you fell in alphabetical order decided how
13 long you were in that room that day. So some
14 people were for fifteen minutes. Some people
15 there were there for long.

16 If we look at our plaintiffs who are
17 left, Your Honor, Ms. Sharper was interviewed
18 at 10:05.

19 Ms. Walker was interviewed at 10:30.

20 Ms. Sinsuat was interviewed at 11:20

21 Ms. Parker was interviewed at 1:05.

22 THE COURT: And what time did it
23 start?

24 MS. CUTTINO: It started at roughly
25 7:30, Your Honor.

1 THE COURT: Okay. All right. Go
2 ahead.

3 MS. CUTTINO: While they were in the
4 conference room, the testimony that we have
5 from the plaintiffs -- and we started this
6 case with twelve plaintiffs -- it varies
7 widely. But when you look at what was
8 testified from the group as a whole, we know
9 that they had coffee in the morning. We know
10 that snacks were brought in mid-morning. For
11 those that were still remaining by lunch
12 time, they brought them lunch. There was a
13 bathroom that everybody could use that was
14 right outside. People left to go smoke
15 outside the door on the outside of the
16 building. The doors remained open the whole
17 time.

18 THE COURT: Okay. All right.
19 Tell me why you think you're entitled to
20 summary judgment?

21 MS. CUTTINO: Sure, Your Honor.
22 And, Your Honor, one thing that's throughout
23 my Motion if you care to look at it, while
24 they were represented there was a plaintiffs'
25 expert that was deposed. And I think it's

1 important to acknowledge what the plaintiffs'
2 expert said about the investigation that day.
3 She said it was reasonable for SAIC to expect
4 the employees to give the awards for work-
5 related reasons. It was appropriate to
6 suspect misuse based on the emails that were
7 received. It was appropriate for the HR
8 Department to begin an investigation.

9 Your Honor, when they were in the
10 individual room ---

11 THE COURT: Well, what did the
12 expert say was inappropriate about the
13 conduct of the defendant?

14 MS. CUTTINO: There was nothing
15 inappropriate said about the investigation,
16 Your Honor.

17 THE COURT: All right. Why did
18 they even have the expert?

19 MS. CUTTINO: That is a question
20 that is very good, Your Honor.

21 THE COURT: Okay. Go ahead.

22 MS. CUTTINO: Ultimately, the
23 plaintiffs' expert conceded that every
24 terminated plaintiff misused the program and
25 there was an independent ---

1 THE COURT: Now, is this from the
2 deposition?

3 MS. CUTTINO: Yes, sir.

4 THE COURT: Have you got those
5 excerpts?

6 MS. CUTTINO: Yes, sir. They're all
7 attached.

8 THE COURT: They're attached to
9 your Motion?

10 MS. CUTTINO: Yes, sir.

11 THE COURT: All right. Go ahead.

12 MS. CUTTINO: It's important to
13 note, Your Honor, all these employees are
14 hourly employees and they were all paid for
15 the time that they were at the investigation
16 that day. When they went back for their
17 individual interviews, there was a template
18 of questions that everyone was asked. That
19 interview was conducted by Christina Broome.

20 John Kieesling, who's a named
21 individual defendant, was there as a witness.
22 The uniform testimony about Mr. Kieesling is
23 that he didn't even talk in the room. He was
24 truly there as a witness only.

25 All of the employees were paid for

1 their time at work that day. All of the
2 employees who were interviewed that day ---

3 THE COURT: Was Christina Broome
4 and Marcia Saari were they in the room or ---

5 MS. CUTTINO: So Marcia Saari ---

6 THE COURT: Saari.

7 MS. CUTTINO: --- is an HR
8 personnel, Your Honor.

9 THE COURT: Okay. All right.

10 MS. CUTTINO: The testimony
11 concerning Ms. Saari is that she checked in
12 on the larger conference room once or twice.
13 There was a male HR lead who sat in the room
14 with the employees while they waited their
15 turns for their individual interviews. Ms.
16 Saari covered for him once or twice when he
17 needed to take a break. And then the other
18 testimony regarding Ms. Saari is that she
19 brought in snacks.

20 THE COURT: She did what?

21 MS. CUTTINO: Brought snacks.

22 THE COURT: All right. What about
23 Christina Broome?

24 MS. CUTTINO: She conducted the
25 interviews, Your Honor, but she is no longer

1 an individual defendant in the case.

2 THE COURT: Okay.

3 MS. CUTTINO: Or she's never been
4 one. She's never been served.

5 THE COURT: She's never been
6 served? Okay.

7 MS. CUTTINO: No, sir. And all
8 statute of limitations ran over a year ago.

9 THE COURT: Okay. All right.

10 MS. CUTTINO: Like I said, all the
11 employees were paid for that day. All
12 employees who were investigated were put on
13 an administrative leave. Of the forty
14 employees, twelve were terminated. The rest
15 were all brought back to work.

16 The five remaining plaintiffs were
17 all in the terminated group.

18 At the end of the individual inter-
19 views, Your Honor ---

20 THE COURT: Well, were these
21 plaintiff's terminated or they were not?

22 MS. CUTTINO: Yes, sir. They were
23 terminated.

24 THE COURT: They were part of the
25 twelve?

1 MS. CUTTINO: Yes, sir.

2 THE COURT: Okay.

3 MS. CUTTINO: At the end of the
4 individual interviews, and this is important
5 for the defamation claim, Your Honor,
6 everyone was asked to read a confidentiality
7 statement and to keep the investigation
8 confidential.

9 When we go through, Your Honor, the
10 causes of action, it's our assertion that the
11 negligence cause of action, the negligent
12 misrepresentation cause of action, the
13 intentional infliction of emotional distress
14 cause of action, and those are causes of
15 action 3, 5, and 8, are all part of our
16 workers compensation. And there's Court of
17 Appeals state case law that supports that's
18 contention, all of which is listed in my
19 legal argument.

20 THE COURT: Well, have they filed
21 a workers comp?

22 MS. CUTTINO: No, sir.

23 THE COURT: Okay. All right. Go
24 ahead.

25 MS. CUTTINO: It's also our

1 contention that the false imprisonment claim
2 would be barred by workers compensation
3 because the only damage they've asked for,
4 and what they confirmed in their depositions
5 was that it was emotional distress damage.
6 So we contend that the false imprisonment
7 claim is also barred by workers compensation.
8 However, I don't want to mislead the Court.
9 There's no state case law where false
10 imprisonment has ever been considered under
11 workers compensation. And there is one
12 federal case that goes against that
13 proposition. However, based on the damages
14 they've requested, we believe it would still
15 be appropriate for dismissal based on workers
16 compensation law.

17 THE COURT: Okay.

18 MS. CUTTINO: The next cause of
19 action, Your Honor, is the seventh cause of
20 action for promissory estoppel. Based on
21 what's pled in the Complaint, it reads as if
22 the claim is saying, 'We were promised we
23 would get gift cards. I did not receive my
24 gift card. Therefore, you've broken a
25 promise to me.'

1 There's no testimony that any of
2 these plaintiffs did not receive the gift
3 cards that were given.

4 The uniform testimony is that no
5 gift cards were asked to be returned. If you
6 received a gift card during the process, you
7 kept your gift card. And if that is what the
8 cause of action is there, there's no damage.

9 If they said, 'I would like to give
10 Lucy a gift card' and then Lucy did not get
11 that gift card that wouldn't be their damage.

12 So the promissory estoppel claim
13 doesn't really make a whole lot of sense in
14 the context of the facts that came out during
15 the deposition. Everybody got to keep their
16 gift cards that they received during the
17 program. And no one was asked to return
18 them.

19 THE COURT: So they got their gift
20 cards and didn't return them; is that
21 correct?

22 MS. CUTTINO: No, they weren't asked
23 to return them.

24 THE COURT: Okay.

25 MS. CUTTINO: So everybody kept

1 their gift cards.

2 THE COURT: Okay. Go ahead.

3 MS. CUTTINO: Your Honor, the sixth
4 cause of action is for breach of contract.
5 One thing that I'd like to mention, following
6 the termination of Ann Nicholson, who's is
7 one of our plaintiffs, in addition to this
8 lawsuit, she also filed a federal lawsuit
9 based on the normal employment causes of
10 action: discrimination and so forth. She
11 specifically pled a breach of contract claim.
12 The court reviewed the handbook and her
13 signed disclosures and dismissed the breach
14 of contract claim for Ann Nicholson. So she
15 is barred from bringing that claim a second
16 time in this court. And that Order and the
17 lengthy report and recommendation from the
18 Magistrate Judge, is attached to the memo.

19 THE COURT: Okay.

20 MS. CUTTINO: When we look at the
21 other plaintiffs in the case, everyone signed
22 the same at-will documentation that Ann
23 Nicholson signed. It's clear that they were
24 all at-will employees, so there can be no
25 breach of contract claim for the same reason

1 that Ann Nicholson has no breach of contract
2 claim. And, again, there's a fairly lengthy
3 analysis of that in the magistrate's court's
4 Opinion.

5 I've attached all of their
6 disclosures and their pre-employment
7 documents that state that they're all at-will
8 employees. And we also have testimony from
9 the plaintiff's where they state that they
10 understand they could quit and take another
11 job at any time; again, proving their at-will
12 status.

13 That leaves us, Your Honor, with the
14 false imprisonment and the defamation causes
15 of action.

16 When we get to the defamation causes
17 of action, Your Honor, there is zero
18 testimony that they know of one single time
19 when anybody from SAIC made any statement to
20 any third party that was adverse to them.
21 They can't name who said it, when they said
22 it, what they said. There's nothing. So
23 there's no direct evidence of any defamatory
24 statement.

25 What we do have evidence of is

1 admissions by the plaintiffs that they told
2 other people that they were terminated based
3 on the iAppreciate Program.

4 That leaves us, Your Honor, with the
5 false imprisonment claim. Again, we believe
6 its barred based on workers compensation,
7 based on the damages that are being
8 requested. But even if you look at it on its
9 own, whether -- and I'm not talking about the
10 testimony the defendants gave. Whether you
11 look at the most positive testimony the
12 plaintiffs as a whole gave or you look at the
13 worst testimony the plaintiffs as a whole
14 gave or you look at it in total just from the
15 plaintiffs' standpoint, we're still left with
16 a couple of things:

17 Number one, they were paid for the
18 time that they were there.

19 Number two, they all admit that they
20 did not ask if they could leave.

21 We know the doors were open. We
22 know they were given snacks. What they
23 universally said was 'we were afraid to leave
24 because we might get fired if we left.' But
25 that's not enough for false imprisonment.

1 There are no South Carolina cases, Your
2 Honor, that we could find that directly
3 address this. But there's a plethora of case
4 law from other states. The fear of losing
5 your job is not false imprisonment. They
6 could have lost their job if they would have
7 walked out of -- you know, if they walked off
8 the job anytime. Job abandonment, you can
9 lose your job. The fear of it is not enough.

10 And when we asked them directly --
11 we have testimony from the plaintiffs that
12 they stayed because they wanted to see what
13 was going on. And, again, they were paid for
14 that. The doors were open. Bathrooms were
15 available. They were given food and drink.
16 They were asked to put their cellphones on
17 the table and to cut them off, but there's no
18 right to cellphones on the job. You do have
19 an obligation as an employee to participate
20 in a workplace investigation during your job.

21 It should also be noted, Your Honor,
22 Ann Nicholson, who's one of our plaintiffs
23 who's here today, was not in that room. She
24 was not part of the larger investigation.
25 She was interviewed a few days -- I think, it

1 was the next day, in a one-on-one telephone
2 interview. She was not in the room at all
3 that day. So the false imprisonment claim
4 cannot apply to her.

5 Those are all of the causes of
6 action for the defendants, Your Honor.

7 THE COURT: All right. You said
8 you filed a motion with all of your
9 attachments?

10 MS. CUTTINO: I did, Your Honor.

11 THE COURT: I don't see it in the
12 file. Do you have a clean copy of it that I
13 could mark as Court's Exhibit?

14 MS. CUTTINO: Your Honor, I believe
15 I have -- this is a clean copy. If I can
16 just flip through to make sure I don't have
17 any writings in here that I don't realize are
18 in there.

19 THE COURT: Okay.

20 MS. CUTTINO: While we're here
21 Judge, I'll just have to make sure there's
22 nothing there that I don't realized is there.

23 And, Your Honor, one thing you might
24 want to note about that file, these Motions
25 were filed when the other plaintiffs were

1 still in the case. So there are depositions
2 in there. You know, it's not quite as big
3 anymore as it was at the time we filed it
4 because everybody's deposition got filed.

5 THE COURT: Let me see if this is
6 it. I'll just use your copy. I'll mark it
7 Court's Exhibit. It has everything in it,
8 right, the excerpts and everything?

9 MS. CUTTINO: Yes, sir. Yes, sir.

10 THE COURT: Okay. All right.

11 MS. CUTTINO: I just wanted to make
12 sure I hadn't written anywhere. I believe
13 that's a clean copy, (tendering).

14 (SO MARKED AS COURT'S EXHIBIT 1)

15 THE COURT: All right. Anything
16 else on your argument?

17 MS. CUTTINO: Not on the direct,
18 Your Honor. Could I briefly address for
19 Kieesling and Saari, Your Honor?

20 THE COURT: Address what?

21 MS. CUTTINO: The two individual
22 defendants?

23 THE COURT: Address what? I'm
24 sorry?

25 MS. CUTTINO: Kieesling and

1 Saari, the two individual defendants.

2 THE COURT: Go ahead.

3 MS. CUTTINO: They have both
4 separately filed motion for summary judgment.
5 Within there, there is a summary of the
6 testimony against them. But, briefly, the
7 testimony against Kieesling is that he sat in
8 the interview room as a witness and did not
9 say anything. One plaintiff said he made one
10 phone call while he was in the room, but they
11 don't know what it was about. And that he
12 did nothing -- Ms. Nicholson stated that he
13 did nothing to harm the plaintiffs'
14 reputations. Everyone testified that they
15 had no firsthand knowledge of any defamatory
16 statements that were made. And there's
17 certainly no testimony that he did anything
18 outside of the scope of his job that would
19 give him individual liability.

20 Same thing for Ms. Saari, no
21 testimony there was anything outside the
22 scope of her job that would open her to
23 individual liability.

24 Plaintiff Walker testified that
25 Defendant Saari was "a sweetheart" and that

1 she only had positive things to say about
2 her. The other testimony was that she had no
3 direct interaction with the plaintiffs. They
4 have no knowledge of any defamatory
5 statements that were made by the plaintiffs.
6 She did come to the door of the conference
7 room a few times. Again, that was to check
8 on the guy that was in there. And that she
9 did purchase snacks and drinks for them that
10 day.

11 So there's clearly nothing special
12 or any special allegations about either Saari
13 or Kieesling that would give them individual
14 liability. And, again, a few of those points
15 are addressed in their separate memorandum.
16 But for the most part, the arguments are the
17 same. The global arguments are the same for
18 those two.

19 THE COURT: Okay. All right.
20 Thank you very much.

21 All right. Who would like to be
22 heard first.

23 MS. NICHOLSON: Your Honor ---

24 THE COURT: What's your name?

25 MS. NICHOLSON: Ann Nicholson.

1 THE COURT: Okay.

2 MS. NICHOLSON: Your Honor, are we
3 being recorded?

4 THE COURT: I'm sorry. What?

5 MS. NICHOLSON: Are we being
6 recorded?

7 THE COURT: Yes, ma'am. She
8 (court reporter) takes down everything that's
9 said.

10 MS. NICHOLSON: Okay.

11 THE COURT: Let me hear you on
12 your argument on summary judgment.

13 MS. NICHOLSON: Okay. I am the
14 beneficiary of a trust and I am appointing
15 you my trustee.

16 THE COURT: No, ma'am. You're not
17 appointing me as your trustee. Okay?

18 MS. NICHOLSON: For the record.
19 For the record, I am a beneficiary of a trust
20 and I am appointing you as my trustee. As my
21 trustee, I want you to discharge this matter
22 I am accused of and eliminate the record. I
23 wish to be compensated for one hundred
24 thousand dollars (\$100,000) in redemption.

25 THE COURT: Anything else?

1 MS. NICHOLSON: No, sir.

2 THE COURT: All right. Who's
3 next?

4 MS. WALKER: I'm Sabrina Walker.
5 And now that I know we are being recorded, I
6 am a beneficiary of the trust. I am
7 appointing you as my trustee. As my trustee,
8 I want you to discharge this matter I am
9 accused of and eliminate the record. I wish
10 to be compensated for a hundred thousand
11 dollars (\$100,000) in redemption.

12 THE COURT: You are Sabrina
13 Walker; is that correct.

14 MS. WALKER: Yes, sir.

15 THE COURT: Okay. Who's next?

16 MS. SHARPER: I am Reverend
17 Elizabeth Sharper.

18 THE COURT: Elizabeth what?

19 MS. SHARPER: Reverend Elizabeth
20 Sharper.

21 THE COURT: Okay. Ms. Sharper.

22 MS. SHARPER: And since we know that
23 it's being recorded, I am beneficiary of a
24 trust and I am appointing you as my trustee.
25 As my trustee, I want you to discharge this

1 matter I am accused of and eliminate the
2 record. I wish to be compensated for one
3 hundred thousand dollars (\$100,000) in
4 redemption.

5 THE COURT: Okay. Who's next?

6 MS. SINSUAT: My name is Gloria
7 Sinsuat.

8 THE COURT: I'm sorry, it is what
9 now?

10 MS. SINSUAT: Gloria Sinsuat, Your
11 Honor.

12 COURT REPORTER: Spelling?

13 THE COURT: Okay.

14 MS. SINSUAT: There is a genuine
15 issue of material facts. And all of what she
16 said is a lie, most of those that was said is
17 a lie. They never give us anything in that
18 room. They went -- they followed us to the
19 bathroom. We can't talk to each other. And
20 John Kieesling was talking in that room also.
21 He was not just there to witness. He was
22 also asking questions. I can testify to that
23 in court.

24 COURT REPORTER: And the spelling
25 of your name, please?

1 MS. SINSUAT: My name is Gloria
2 Sinsuat.

3 COURT REPORTER: Spell your last
4 name.

5 MS. SINSUAT: S-I-N-S-U-A.

6 THE COURT: All right. And you
7 say you dispute that no one was in ---

8 MS. SINSUAT: The things that ---

9 THE COURT: They brought you no
10 food or did anything. Is that what you
11 dispute?

12 MS. SINSUAT: Yes, sir. Because
13 they, they treat us like criminals. Like we
14 didn't even know what we did. They just call
15 us in the area, they put us in one room. We
16 have to turn over our phone. We can't talk
17 to each other. Every time we go to use the
18 bathroom, they have to follow us. And it was
19 -- when I went to bathroom how many times,
20 there was a black guy, a white guy, he was
21 the HR, assistant HR that follow me in the
22 bathroom. And I asked him, "Do you want to
23 come inside, because I'm going to use the
24 bathroom?" I don't have my cellphone with
25 me. I don't have anything with me. All I

1 need is to go to the bathroom. And I wasn't
2 -- because I am diabetic, so I complain about
3 I'm so hungry and everything.

4 And the HR -- what was her name?
5 There was an HR there, Marcia ---

6 THE COURT: So you weren't allowed
7 to go to the restroom, is that correct?

8 MS. SINSUAT: Yes, sir.

9 THE COURT: Okay.

10 MS. SINSUAT: We weren't allowed to
11 talk to each other. They follow us in the
12 restroom. And then Marsha give us box of
13 like, three pieces of chips. Everybody has
14 to, you know, it's not a lunch or a box of
15 chips, just like three individual cracker
16 chips that she was trying to give for anybody
17 who was hungry.

18 THE COURT: Anything else?

19 MS. SINSUAT: And also she lie about
20 me Mr. Kieesling is not interviewing. Yes,
21 he is interviewing, and Mr. Keesling told me
22 that.

23 THE COURT: Okay. Anything else?

24 MS. SINSUAT: And, sir, I have this,
25 one of the guidelines. It says here that the

1 immediate manager of an employee who received
2 an award, as well as the manager of the
3 employee who extends the award will receive
4 immediate notification. Even after
5 notification to HR when an award is made, in
6 the event that the award is being
7 inappropriate, the sending employee will be
8 counseled. But we never get counsel. They
9 just fire us.

10 And they did not fire twelve people.
11 They fired a lot of people and mostly -- I
12 have a nephew that works there. They said he
13 was supposed to be fired. He was in that
14 room with me but I can't talk to him. After
15 that, I called him and said, 'why didn't they
16 fire you' and he said 'Auntie, they need me,
17 it's up to the supervisor who they going to
18 get fired or not.'

19 But I think I'm number fourteen that
20 got fired because I send an iAppreciate award
21 to my nephew. But they didn't say that you
22 can't send to relatives. But we worked
23 together.

24 THE COURT: Okay. Thank you very
25 much. Yes, ma'am?

1 MS. PARKER: Hi. My name is Lois
2 Parker.

3 THE COURT: Lois Parker. Okay,
4 Ms. Parker.

5 MS. PARKER: I had something to say
6 but I have to support what she just said.
7 Because what Ms. Ashley, the lawyer, the
8 attorney over here said is a lie.

9 That day, Mr. Olin Pryor (phonetic)
10 was going around telling people of the 1602
11 to go to the conference room.

12 THE COURT: I'm sorry. Who was
13 telling who to go where now?

14 MS. PARKER: Mr. Olin Pryor, who is
15 the floor manager, was walking around the
16 plant which is 1602, building 1602, that's
17 where we work, to go to the main office,
18 which is on North Rhett. We didn't know what
19 was going on. We weren't counseled, we just
20 showed up. We were on the clock. We just
21 had punched in. Okay.

22 When we got there we were put in a
23 room and they and say 'shut up and put your
24 phone in the middle of the table.' Okay.
25 Then she came with a box and collected it.

1 They did not go in alphabetical
2 order. They start calling people in random
3 into the back room.

4 They give us sandwich, coffee and
5 all of that, that was a lie. When someone
6 complained that they were diabetic and they
7 were hungry, that's when Marcia Saari gone
8 out and got some water and some chip. And
9 that was like after what, 11:30, 12:00. So
10 it was past our lunch time.

11 The door was closed, yes, it was.
12 It was closed. And we had Marcia Saari and
13 Mr. Scott Wilson standing at the door where
14 we won't leave.

15 We couldn't even talk to each other,
16 okay? Then Ms. -- we had to go to the
17 restroom. And what happened to me, I asked
18 to be excused. And it was a lady, Caucasian
19 lady followed me into the restroom. And when
20 I went in the stall she grabbed the door and
21 held the door. And I said, "Excuse me, are
22 you going to watch me" do what I have to do?
23 And I'm not going to get expressive because
24 it was real personal, a female thing. It was
25 private. It was real personal. So I'm not

1 going to get explicit. And that's when she
2 took her hand off the door. I shut the stall
3 door and I did what I needed to do. And she
4 escorted me back into the room. That's what
5 happened.

6 The rules and regulations of the
7 iAppreciate, I have it here. All it was, was
8 colleague recognizing colleague, three
9 hundred (300) vendors. We submit their
10 names. You could have said why you submit
11 the name. That was option in the lower part,
12 optional. And you got the gift card through
13 Hallmark, but it had to go through the
14 supervisor for them to admit it, you know, to
15 approve it and it was mailed to us. Okay?

16 But you could have give as many
17 employees as you want. This was the original
18 guideline. They've revised it but we were
19 gone. My stepdaughter is still working there
20 and she told me they did revise it. But it
21 was as many employees as you wanted to give
22 to. You could give one or two hundred.

23 I only sent it to four people. When
24 she talk about a hundred people, I don't know
25 what she's talk about. I only sent four

1 people, you know? And to get fired for give
2 four twenty-five bucks (\$25) gift card, that
3 was crazy because some employees, it was
4 forty-plus that was part of iAppreciation;
5 she's saying that was two hundred and forty.
6 Twelve of us -- I mean, two hundred and forty
7 of us. There were twenty people in that room
8 that day. I was one of them, that was, you
9 know, interviewed. Okay?

10 They, uh, -- the people that was
11 called back to work that give out the gift
12 card, according to Wendell Richardson and Mr.
13 Randy Simmons, they say they took the money
14 back out their check for the twenty-five gift
15 card, the twenty-five dollars (\$25) gift
16 cards because they received two apiece.
17 That's what they did. And they paid them for
18 the remainder of the week.

19 They did put us on administrative
20 leave. We didn't sign no papers, no nothing.
21 They just said 'you on administrative leave
22 until further notice.' I worked for thirty-
23 three, been working for over thirty-three
24 years and never been fired in my life. To
25 get fired for a hundred and twenty-five

1 dollars worth of gifts is crazy.

2 And just like I told my supervisor,
3 Christine, my supervisor, and Christina
4 Broome, 'If you did not want the employees to
5 participate in the iAppreciate program, why
6 did you submit it?' And like one of the, uh,
7 a personnel manager said if he wasn't sure of
8 how this was going to work, you should have
9 did a test run. It was around Christmastime,
10 everybody saw it. It was a little after
11 Thanksgiving, I do remember that. When we
12 saw it it came in an email, sir. And a
13 newsletter that they used to mail us in the
14 mail. And we saw it. We sent that. That
15 was our way of recognizing everybody, okay?

16 I sent to four people. I didn't max
17 mine out to three. It was a total of six
18 because I got a new trainee and I said she
19 got two, because she was real good. But
20 that's what happened.

21 It took someone to complain before
22 they give us something.

23 For the slander part, we were
24 slandered because by the time I got back at
25 1602, the whole plant knew I was getting

1 fired. The whole plant. They told us to
2 hush, shut up. "Don't say anything. Go back
3 and get your stuff." That's what I did. I
4 jumped in Cindy's car. She was one of the
5 workers that went back -- Cindy Wade -- and I
6 jumped in her vehicle because my husband had
7 took my car because his car was in the shop.
8 And she took me home.

9 And when I got called in that office
10 for a interview it was 1:20. By the time I
11 left SAIC it was 2:00, because my husband
12 had to be at work at 2:30 and that's why I
13 remember it so well.

14 What she is saying is a lie. We all
15 was there, except Ann. But we was all there.
16 And we all was treated wrong.

17 Like I said, we didn't know anything
18 that was going on. I think I had been there
19 three years and two months. I'd never been
20 wrote up, never been counseled, nothing. I
21 work, I work hard, and what was done to me
22 and my coworkers was unfair.

23 Like I said, if they didn't want us
24 to participate in the program, why send an
25 email? They were wrong. Thank you for

1 listening, sir.

2 THE COURT: All right. Thank you
3 very much.

4 MS. SINSUAT: Your Honor, can I add
5 another thing?

6 THE COURT: Pardon?

7 MS. SINSUAT: Can I add more?

8 THE COURT: What do you want to
9 add?

10 MS. SINSUAT: Okay. What happened
11 is when I went -- a lot of people calling me
12 because they know me, because every time --
13 they trust me in that place. I'm one of
14 them. They said I'm one of the best
15 employees they have because every time
16 there's a new -- there's like a lot going on.
17 They trust me -- like on Monday, like there's
18 like a thousand dollars that we raffle off.
19 If somebody gets sick we, you know, we sell
20 tickets. And they trust me with that. And
21 all of a sudden when I got fired, I receive a
22 lot of calls from the others, 'Gloria, did
23 you steal something?' I said, 'What did I
24 steal? I didn't steal anything. I don't
25 even leave cash about.' And I sent out at

1 least twenty-nine or thirty. And I even
2 called the plant manager that night.

3 I said, 'Do you have anything to do with
4 this?'

5 He said Gloria, 'I have nothing to do
6 with this.'

7 I said what you going to do? 'Do you
8 want me to replace the money or they can take
9 it out my paycheck?' But after a week they
10 call me at home and they said report to the
11 office. When we get to the office, they give
12 me the resignation and they took my clearance
13 out. We have secret clearance.

14 THE COURT: You have a what?

15 MS. SINSUAT: A secret clearance.

16 THE COURT: Okay. All right.

17 MS. SINSUAT: And they took it out
18 from me and made me sign a paper that said
19 'you're fired, today's your last day.' I
20 said ---

21 THE COURT: Thank you so very
22 much. Yes, ma'am.

23 MS. CUTTINO: May I briefly respond,
24 Your Honor?

25 THE COURT: Yes, ma'am. Well --

1 yes, ma'am, go ahead.

2 MS. CUTTINO: I'll just be brief,
3 Your Honor. In response to what Ms. Sinsuat
4 said, and this is all attached to the
5 memorandum and then their deposition excerpts
6 are all included, talking about the food and
7 what time did they bring you the chips and
8 the water, she admitted that that was around
9 eleven o'clock. And that they normally had
10 lunch at eleven o'clock. So the food was
11 brought in at the appropriate time. We asked
12 if it was sitting in front of her and she
13 said, yes, nobody took it from her. Scott
14 Wilson, I believe, is the employee she was
15 alleging followed her to the restroom. In
16 her deposition she said, and "Scott was
17 really nice to me so I don't think he's going
18 to do anything to me."

19 When we look at when they were in
20 the room and I asked them in their
21 depositions, 'Why didn't you leave?' Ms.
22 Sinsuat, 'Why should I? I was waiting for
23 them to call me and see what was going on.'

24 Plaintiff Walker admitted that she
25 did not attempt to leave the conference room

1 because it was her job to stay as an employee
2 of SAIC and she might have lost her job if
3 she had left the premises.

4 Plaintiff Walker admitted that she
5 never requested to leave the conference room
6 and was not physically or verbally restrained
7 in any way.

8 Your Honor, as far as the reasons
9 that the company decided the awards they gave
10 were appropriate or inappropriate and who was
11 terminated and who wasn't terminated, is not
12 really before the Court. The only claim that
13 is pled having to do with their actual
14 termination and the decision to terminate is
15 the breach of contract claim.

16 And, again, federal court has
17 already decided that Ann Nicholson is an
18 at-will employee based on her at-will
19 documentation that she signed. She is
20 precluded from bringing that claim, which
21 means her reason for termination or not
22 termination is off the table.

23 For the others, they signed the
24 exact same at-will documents that Ms.
25 Nicholson signed. And, again, they're all

1 attached to the brief that we'll give you
2 that made clear that they're all at-will
3 employees. So the breach of contract claim
4 should come off the table if you also deem
5 them to be at-will as the federal court did.
6 And then the entire reason for the
7 termination or the non-termination doesn't
8 matter. And that's why for summary judgment
9 purposes, I don't think it's important to go
10 into the facts, but I'll be glad to answer
11 any other questions that the Court may have
12 following their comments.

13 THE COURT: Okay. Thank you so
14 very much.

15 Do any of y'all have any affidavits
16 y'all want to submit to the Court?

17 MS. NICHOLSON: (No verbal
18 response).

19 MS. PARKER: (No verbal response).

20 MS. SINSUAT: (No verbal response).

21 MS. SHARPER: (No verbal response).

22 MS. WALKER: (No verbal response).

23 THE COURT: You said you received
24 some affidavits?

25 MS. CUTTINO: Your Honor, I believe

1 they sent them to Ms. Butler on Friday or
2 they attempted to send to Ms. Butler.

3 THE COURT: Do y'all have copies
4 of those affidavits? Who did they try to
5 send them to?

6 MS. CUTTINO: I believe they tried
7 to send them to Valeria Butler on Friday.

8 THE COURT: Okay.

9 CLERK: I have one stack of them,
10 Your Honor.

11 THE COURT: Okay. You got a stack
12 of them?

13 MS. CUTTINO: Yes, sir.

14 THE COURT: Give it to her and
15 compare, see if she's got a full copy of
16 them. And is that a clean copy?

17 PLAINTIFF Yes, Your Honor.

18 THE COURT: Would you mind handing
19 it to the bailiff, please?

20 PLAINTIFF: Yes, sir, (tendering).

21 THE COURT: Thank you.

22 MS. CUTTINO: Your Honor, that's
23 some different stuff than I got on Friday
24 that was submitted to the Court. But I do
25 have a full copy of what was submitted or at

1 least that I was copied on, on Friday on
2 behalf of each of them.

3 THE COURT: All right. I'm going
4 to mark this as Court's Exhibit Number 1.

5 COURT REPORTER: Let's see.
6 Exhibit Number 1 is the Motion previously
7 marked.

8 THE COURT: All right. All right.
9 I'm going to mark number two as the
10 affidavits that the parties submitted
11 apparently -- when, last week? Is that
12 correct?

13 (SO ENTERED AS COURT'S EXHIBIT 2)

14 MS. CUTTINO: Your Honor, I know
15 that they were emailed to Ms. Butler. I
16 don't know if they were officially filed with
17 the Court. I believe that was probably their
18 intent in emailing them to her.

19 Your Honor, one of the things they
20 handed up is not something I've received a
21 copy of. If it's possible for me to contact
22 your later, to the extent I need to, to get a
23 copy?

24 THE COURT: Which is -- which?

25 MS. CUTTINO: The pack that has the

1 filed affidavits are paper clipped together,
2 Your Honor.

3 THE COURT: These?

4 MS. CUTTINO: Yes, sir. That's
5 everything I received.

6 THE COURT: Okay.

7 MS. CUTTINO: The iAppreciate
8 Frequently Asked Questions they handed up,
9 Your Honor, they're attached to the memo.

10 THE COURT: (Reviewing Court's
11 Exhibit 2) Ms. Walker, were you placed on
12 leave with pay or without pay? I thought it
13 was with pay. Which was it?

14 MS. WALKER: Without pay.

15 MS. CUTTINO: Your Honor, they were
16 placed on leave without pay. They were paid
17 for the day that they were in the
18 investigation. When everybody left that day,
19 they were placed on leave without pay. If
20 you were terminated you were only paid for
21 the last day that you worked. Their time and
22 pay records are attached to the Motion.

23 THE COURT: Okay.

24 MS. CUTTINO: Showing that they
25 received full pay for the day they were in

1 the investigation. If you were brought back
2 to work, you were paid for the time that you
3 were on leave. But if you were terminated,
4 your last day at work was the last day you
5 were paid.

6 THE COURT: Okay. All right.
7 Ms. Walker, reading your affidavit you say
8 here the defendants damaged your reputation
9 by messages to third parties which said that
10 you had committed crimes of moral turpitude.
11 Who did they make these statements to?

12 MS. WALKER: They were making
13 statements to each other.

14 THE COURT: To who?

15 MS. WALKER: To each other.

16 THE COURT: To each -- you talking
17 about the corporations, the employees from
18 the corporations?

19 MS. WALKER: And to supervisors and
20 managers at SAIC.

21 THE COURT: All right. Who in
22 particular did they make this -- who did they
23 accuse you of crimes, you state crimes of
24 moral turpitude. Who made those allegations
25 and who did they make them to?

1 MS. WALKER: One, when I got --
2 when I got back -- well, I got a phone call
3 from a John Sumter.

4 I got a phone call from, uh, -- I
5 can't remember the young lady's name. I'm
6 trying to remember her name.

7 But I did receive several calls
8 saying they're saying we are thieves, that we
9 stole something. And I'm like, "no, we
10 didn't steal anything."

11 THE COURT: You received calls
12 from other people?

13 MS. WALKER: From my coworkers.

14 THE COURT: Saying that you had
15 stole something?

16 MS. WALKER: Yeah. And one of them
17 was my supervisor, John Sumter. And he
18 called me and said that they're saying that
19 we stole, uh, funds from the company; which
20 was the gift cards that he was talking about.

21 THE COURT: All right. And you
22 also state in your affidavit you were
23 portrayed as a thief?

24 MS. WALKER: Yes.

25 THE COURT: All right. Who

1 portrayed you as a thief?

2 MS. WALKER: In their emails they
3 have it as us being ---

4 THE COURT: All right. What
5 emails are you referring to?

6 MS. WALKER: I'm looking for it
7 right now, sir. Okay. Here's that, you
8 know, that 'they have a scam.'

9 THE COURT: Do you have the
10 emails?

11 MS. WALKER: Yes, sir.

12 THE COURT: Would you hand them to
13 the bailiff, please?

14 MS. WALKER: (Tenders)

15 BAILIFF: (Tenders to judge)

16 THE COURT: (Upon review), this
17 stuff they handed up today, I'm going to give
18 back to them. I'm not going to consider it.
19 It's not really in affidavit form.

20 (Would you (bailiff) hand this back
21 to Ms. Walker and the other people?

22 BAILIFF: I will.

23 THE COURT: Thank you.

24 BAILIFF: (Returns documents to
25 plaintiffs.)

1 THE COURT: All right. Tell me
2 where you're referring to. I'm looking at
3 this about several pages. Where are you
4 referring to? Which one?

5 MS. WALKER: (No verbal response).

6 THE COURT: Ms. Walker?

7 MS. WALKER: You have the only copy
8 I have, sir. But it was stating throughout
9 the email that they were trying to -- they
10 were trying to, uh, -- they already had in
11 their minds before we even got to that
12 investigation part, that we are already
13 considered as scam artists, that somehow we
14 stole the gift cards, in so many words. And
15 that somehow -- I don't know how, that we
16 misused it.

17 But I also have a letter from the
18 Unemployment Commission.

19 THE COURT: I don't need anything
20 from the Unemployment Commission. Okay.

21 MS. WALKER: It's just a finding.

22 THE COURT: Do you have a copy of
23 these?

24 MS. CUTTINO: Yes, Your Honor. We'd
25 like to respond.

1 THE COURT: You've got copies of
2 them?

3 MS. CUTTINO: I know what you're
4 talking about.

5 THE COURT: All right. You know
6 what we're talking about. All right.

7 MS. WALKER: And the scam ---

8 THE COURT: Thank you, Ms. Walker.
9 I appreciate that. I'm sorry. What were you
10 going to say?

11 MS. WALKER: And a "scam" to me is
12 a person who steals. A scam artist is a
13 hustler, to me. And I'm not that.

14 THE COURT: All right. And who
15 accused you of being a scam artists?

16 MS. WALKER: It's in the email,
17 sir.

18 THE COURT: Okay.

19 MS. WALKER: That I scammed
20 iAppreciate.

21 THE COURT: Okay. Give me a
22 chance to look at them.

23 Madam Court Reporter, let me mark
24 this as Court's Exhibit Number 2, I believe.
25 That's the affidavits of the plaintiffs. And

1 I'll make these emails Plaintiff's [sic]
2 Number 3.

3 COURT REPORTER: Yes, two has
4 already been marked. The e-mails will be
5 Court's Exhibit 3.

6 (SO MARKED AS COURT'S EXHIBIT 3)

7 MS. WALKER: I also have a letter
8 from the South Carolina Department of
9 Employment and Work Force.

10 THE COURT: I'm not concerned --
11 I'm not interested in that, okay? That
12 doesn't have anything to do with this case.

13 MS. WALKER: Yes, it does.

14 THE COURT: Do you have any other
15 affidavits or any other information where
16 anybody from the company has accused you of a
17 crime?

18 MS. WALKER: Yeah. SAIC, Christina
19 Broome, Ms. O'Donnell.

20 THE COURT: Well, what do you
21 have? What was said and who they said it to?

22 MS. WALKER: They said it to each
23 other and to my supervisor, my old
24 supervisor, and to other people through
25 emails to each other.

1 THE COURT: Have you taken the
2 supervisor's deposition?

3 MS. WALKER: Sir, if I was an
4 attorney, I would be able to do that. But
5 being that I had representation that wasn't
6 ---

7 THE COURT: Well, unfortunately,
8 when you represent yourself, the Court --
9 you're obligated to know the law and follow
10 the rules. And follow the rules of law,
11 okay, and the rules of evidence. That's your
12 responsibility if you're going to represent
13 yourself. And that's fine if you want to
14 represent yourself.

15 MS. WALKER: I have representation.

16 THE COURT: Have you taken the
17 deposition of the supervisor?

18 MS. WALKER: Sir, like I said
19 before, I had representation but ---

20 THE COURT: That could be a yes or
21 a no. That's all I'm asking you. Have you
22 taken a deposition of your supervisor?

23 MS. WALKER: No, sir. I didn't.

24 THE COURT: Okay. All right.
25 Thank you so very much. Anything else?

1 MS. WALKER: Yes, sir. With my
2 unemployment form, like I was trying to
3 explain to you before, they had all
4 opportunities to come to the hearing. We had
5 a hearing. There was an attorney present for
6 the State of South Carolina. They failed to
7 even show up for that. The person was
8 sitting there. Her name was Christina Jones
9 was sitting there reading what we had, the
10 iAppreciate Program, and she was asking. It
11 stated that we can send as many as we want.
12 I sent thirty-five people gift cards because
13 I worked around three warehouses, over three,
14 over five hundred people. Twenty-eight
15 lines, each line had roughly about forty-five
16 people per each line, sometimes more. Okay.
17 They said they found that I did nothing
18 wrong. There was no way or form that I
19 misused the program like they stated. And
20 they, without cause terminated me. And
21 that's in black and white. Right here. When
22 I asked several times ---

23 THE COURT: Well, Ms. Walker, I'll
24 tell you again. I understand what they did.
25 And I know about your Unemployment Security

1 Commission, okay? That doesn't have anything
2 to do with this lawsuit, okay. I'll tell you
3 that now. I've told you again. I'll tell
4 you again. It doesn't have anything to do
5 with this lawsuit irregardless of whether she
6 said you were dismissed for cause or with
7 cause. It's immaterial as far as this
8 lawsuit's concerned, okay. Thank you so very
9 much.

10 All right. Does anybody else from
11 the plaintiff have any affidavits or anything
12 you want me to look at? (No verbal
13 response).

14 All right. Thank y'all very much.
15 All right. Just give me an opportunity to
16 read some of this.

17 As far as the individuals are
18 concerned, I will grant your summary judgment
19 Motion as to the individuals.

20 MS. CUTTINO: Thank you.

21 THE COURT: I'm going to take the
22 corporation under advisement to have an
23 opportunity to look at your motions and your
24 attachments as well as what the plaintiffs
25 have submitted to the Court today.

1 MS. CUTTINO: Thank you.

2 THE COURT: Thank y'all so very
3 much.

4 MS. CUTTINO: Your Honor, for your
5 clerk's notes you might note the Ms.
6 O'Donnell that she just referenced is a
7 corporate level manager. It's in the
8 memorandum but, just to help you work through
9 it and her response. She's a corporate level
10 HR professional.

11 THE COURT: Okay.

12 MS. CUTTINO: Do you want, Your
13 Honor, to look at their Motion that they
14 filed. I believe we've covered that in the
15 hearing today?

16 THE COURT: Well, they've got a
17 Motion to dismiss. That's yours.

18 MS. CUTTINO: It's called conspiracy
19 and constructive fraud. I know exactly what
20 it is, Your Honor, but we ---

21 THE COURT: And we've got a Motion
22 to waive the privilege. I don't know what
23 that's -- who filed that Motion? A Motion to
24 waive attorney-client.

25 MS. CUTTINO: That's mine, Your

1 Honor. When they filed their motion for
2 conspiracy and constructive fraud, they
3 attached as an exhibit a letter from their
4 former counsel to them. I did not look at
5 it. I don't need to look at it. But if they
6 were going to rely on it for their Motion, I
7 would want to have the Court address it.

8 THE COURT: All right. Do you
9 want me to take a look at it and see if it's
10 privileged?

11 MS. CUTTINO: That would be great.
12 Just so we would be able to have that one off
13 the table.

14 THE COURT: That'll be fine if you
15 have a copy of it.

16 MS. CUTTINO: This is a sealed
17 envelope. I believe it has the entire motion
18 attached, (tenders to court).

19 THE COURT: Okay.

20 MS. CUTTINO: Based on what my
21 secretary told me, Your Honor, I believe it's
22 a letter from their former counsel, Stuart
23 Hudson, to one of them.

24 THE COURT: Okay. All right.

25 Now, somebody on behalf of the

1 plaintiff filed a motion to suppress. Who
2 filed that motion?

3 MS. WALKER: I did, sir.

4 THE COURT: All right.

5 MS. WALKER: The evidence that
6 she's trying to bring in front of the Court
7 is incomplete. And we just ask the Court
8 look at all the depositions, starting from
9 the HR specialists. All of the ---

10 THE COURT: Well, Ms. Walker, I'll
11 tell you again. It's your responsibility to
12 submit excerpts of what depositions you want
13 me to look at. Do you understand that?

14 MS. WALKER: Okay. Your Honor,
15 here's the problem. I don't have -- we don't
16 have the means like a big company, like
17 Ogletree has. We don't have the contacts
18 like Ogletree may have. We don't even know
19 about what's presented in front of us and our
20 means. For one, we're working, single
21 mothers and parents and ---

22 THE COURT: I understand that.

23 MS. WALKER: We don't have three
24 hundred and something dollars.

25 THE COURT: I understand and I

1 sympathize with you on that issue. But it's
2 your responsibility to submit to the Court
3 whatever portions of the depositions you want
4 me to look at.

5 MS. WALKER: Okay. But we don't
6 know where to go, Your Honor. How we're
7 supposed to ---

8 THE COURT: Do you have copies of
9 the depositions?

10 MS. WALKER: We have what she sends
11 to us, which is not all the pages. We don't
12 have everything. We don't know where to go.
13 For one, there was no conflict of interest
14 for us to become *pro se* anyway.

15 THE COURT: Did they have lawyers
16 when they did the deposition?

17 MS. CUTTINO: Yes, that's a mixed-
18 bag answer, Your Honor. They've been
19 provided with the court reporter's contact
20 information. Ms. Walker and Ms. Sharper
21 became *pro se* first. They either had a
22 attorney for some of them before that or they
23 were getting notice of all the depositions
24 after. And, in fact, they attended some of
25 them by telephone. For the other three *pro*

1 se plaintiffs, Your Honor, I don't believe we
2 did any depositions after they became *pro se*.
3 I think we had done them all before that.

4 THE COURT: Before they became *pro*
5 *se*?

6 MS. CUTTINO: I believe so.

7 THE COURT: Okay. All right. Ms.
8 Walker, the only thing I can tell you, I will
9 leave the record open for ten days so you --
10 for the five of y'all to submit whatever
11 portions of the depositions you would like to
12 submit, okay?

13 MS. WALKER: Well, my thing is ---

14 THE COURT: Thank you so very
15 much. Have a good day.

16 MS. CUTTINO: Thank you, Your Honor.

17 MS. WALKER: Is that it?

18 THE COURT: That's it. You've got
19 ten days to submit it to the court.

20 MS. WALKER: We don't have the
21 money, Judge, ---

22 THE COURT: Ma'am, that's not my
23 problem. That's your problem, okay? That's
24 your problem.

25 MS. NICHOLSON: The fact that we

1 appointed you as our trustee ---

2 MS. WALKER: That's okay. I can
3 get those.

4 THE COURT: I'm sorry. What,
5 ma'am?

6 MS. NICHOLSON: Does it matter
7 that we appointed you as our trustee?

8 THE COURT: Ma'am, I'm not your
9 trustee.

10 MS. NICHOLSON: Yes, you are today
11 ---

12 THE COURT: I'm not your trustee.

13 MS. NICHOLSON: We appointed you
14 as our trustee.

15 (COURT IN RECESS)

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COUNTY OF CHARLESTON)

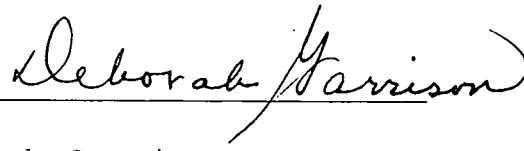
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SC Court of Appeals

I, the undersigned Deborah Garrison, Circuit Court Reporter for the 9th Judicial Circuit, hereby certify that the foregoing is a complete and accurate transcript of the hearing held in the within action heard on January 12, 2015, before The Honorable J.C. Nicholson, Jr.;

I further certify that I am neither kin nor counsel to any of the parties and have no interest in the outcome of this action.



Deborah Garrison

Greenville, South Carolina
October 17, 2015