

ORIGINAL

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM CHEROKEE COUNTY
Court of Common Pleas

J. Mark Hayes, II, Circuit Court Judge

Case No. 2014-CP-1100052
Appellate Case No. 2014-000981

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SC Court of Appeals

Lisa Randolph and George Randolph,

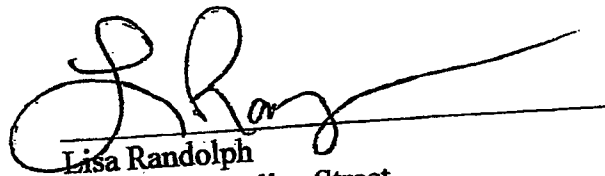
Appellants,

v.

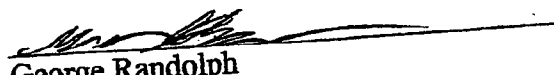
Dolgencorp, LLC, d/b/a Dollar General Store #76751, a/k/a Dollar General,
and Cherokee County, and Blacksburg Police Department, Defendants,
Of Whom Cherokee County and Blacksburg Police Department are Respondents.

BRIEF OF APPELLANTS

December 8, 2014



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* Under Rule 267(e), SCACR, the cover of the final briefs should be the following colors: brief of appellant - blue; brief of respondent - red; reply brief - gray; and amicus curiae or intervenor - green.



TABLE OF CONTENTS

Table of Authorities	iii
Statement of Issues on Appeal	7
Statement of the Case	7
Statement of Facts	8
Arguments	
1. THE TRIAL COURT ERRED DISMISSING THE STATUTORY LAW CONTROLLING THE RESPONDENTS CONDUCT IN ACTUAL FRAUD DISMISED ABSENT TRIAL BY JURY	9
2. THE TRIAL COURT ERRED IN DISMISSING GROUNDED IN QUALIFIED IMMUNITY AND BARRING PUNITIVE DAMAGES ABSENT ANY AFFIRMATIVE DEFENSE IN QUALIFIED IMMUNITY AND BARRED RECOVERY OF PUNITIVE DAMAGES	12
3. THE TRIAL COURT ERRED IN CIVIL RIGHTS LAW AND STATUTORY LAW BEING DISMISSED ABSENT A TRIAL VERDICT	16
Conclusion	46

dy

TABLE OF AUTHORITIES

UNITED STATES CONSTITUTION

U.S. Const. art. I, §§ 3, 8, 9, 10.....	29, 30
U.S. Const. art. IV, § 4.....	17
U.S. Const. art. VI, cl. 1 and 2	18
U.S. Const. amend. I.....	29, 31, 33
U.S. Const. amend. V.....	31, 32
U.S. Const. amend. VI	30
U.S. Const. amend. IX	18, 31
U.S. Const. amend. X.....	37
U.S. Const. amend. XI	31
U.S. Const. amend. XIV	29, 30, 33, 37

SOUTH CAROLINA CONSTITUTION

S.C. Const. art. I, § 2.....	29
S.C. Const. art. I, § 3	29
S.C. Const. art. I, § 4.....	30
S.C. Const. art. I, § 7.....	30
S.C. Const. art. I, § 8.....	30
S.C. Const. art. I, § 9.....	30
S.C. Const. art. I, § 10.....	31
S.C. Const. art. I, § 13.....	31
S.C. Const. art. I, § 14.....	31
S.C. Const. art. I, § 15.....	32

S.C. Const. art. I, § 16.....	32, 33, 41
S.C. Const. art. I, § 22.....	33
S.C. Const. art. I, § 23.....	37
S.C. Const. art. I, § 24.....	35

CASES

Bell Atlantic Corp. v. Twombly, 127 S. Ct. 1955, 550 U.S. 544, 167 L. Ed. 2d 929 (2007).....	13
Bolton v. Doe, 223 S.E.2d 187, 266 S.C. 344 (1976).....	13
Erickson v. Pardus, 127 S. Ct. 2197, 551 U.S. 89, 167 L. Ed. 2d 1081 (2007).....	14
Estelle v. Gamble, 429 U.S. 97, 97 S. Ct. 285, 50 L. Ed. 2d 251 (1976).....	14
Hall v. Bellmon, 935 F.2d 1106 (10th Cir. 1991).....	14
Huggins v. Winn-Dixie Greenville, Inc., 153 S.E.2d 693, 249 S.C. 206 (1967).....	27
Jarrell v. Petoseed Co., Inc., 500 S.E.2d 793, 331 S.C. 207 (Ct. App. 1998).....	12
Multi-Cinema, Ltd. v. SC Tax Commission, 357 S.E.2d 6, 292 S.C. 411 (1987).....	13
Seminole Tribe of Fla. v. Florida, 517 U.S. 44, 116 S. Ct. 1114, 134 L. Ed. 2d 252 (1996).....	43
Stephen v. Avins Const. Co., 478 S.E.2d 74, 324 S.C. 334 (Ct. App. 1996).....	13

STATUTES

18 U.S. Code § 16 (Supp. 2006).....	13, 20, 44
42 U.S. Code § 12181 (Supp. 2006).....	19
S.C. Code § 15-78-60 (2005).....	7, 16, 44
S.C. Code § 15-78-70 (2005).....	16, 28, 34, 35, 44
S.C. Code § 15-78-120 (2005).....	7, 44
S.C. Code § 16-5-10 (Supp. 2013).....	39, 41, 42, 45

S.C. Code § 16-5-30 (2003).....	45
S.C. Code § 16-7-150 (Supp. 2013)	33, 41
S.C. Code § 16-13-30 (Supp. 2013)	10, 20, 25, 28, 44
S.C. Code § 16-13-230 (Supp. 2013)	20, 25
S.C. Code § 16-13-290 (Supp. 2013)	43
S.C. Code § 16-17-410 (Supp. 2013)	28, 38, 41, 42, 44
S.C. Code § 16-17-560 (Supp. 2013)	41
S.C. Code § 16-17-640 (2013).....	41
S.C. Code § 16-17-722 (2003).....	40
S.C. Code § 16-17-725 (Supp. 2013)	40
S.C. Code § 16-17-735 (Supp. 2013)	27, 40, 42, 45
S.C. Code § 39-5-20 (Supp. 2013)	9, 14, 27, 35, 36, 37
S.C. Code § 39-5-140 (Supp. 2013)	9, 10, 20, 28, 36, 37
S.C. Code § 39-5-160 (Supp. 2013)	10

RULES

Fed. R. Civ. Proc. 8(f).....	13
South Carolina Rules of Civil Procedure: Rule 8, SCRCPP	13
South Carolina Rules of Civil Procedure: Rule 9, SCRCPP	21, 41
South Carolina Rules of Civil Procedure: Rule 11, SCRCPP	22
South Carolina Rules of Civil Procedure: Rule 12, SCRCPP	8
South Carolina Rules of Civil Procedure: Rule 19, SCRCPP	20

W

STATEMENT OF ISSUES ON APPEAL

1. **DID THE TRIAL COURT ERR DISMISSING THE STATUTORY LAW CONTROLLING THE RESPONDENTS CONDUCT IN ACTUAL FRAUD DISMISED ABSENT TRIAL BY JURY?**
2. **DID THE TRIAL COURT ERR IN DISMISSING GROUNDED IN QUALIFIED IMMUNITY AND BARRING PUNITIVE DAMAGES ABSENT ANY AFFIRMATIVE DEFENSE IN QUALIFIED IMMUNITY AND BARRED RECOVERY OF PUNITIVE DAMAGES?**
3. **DID THE TRIAL COURT ERR IN CIVIL RIGHTS LAW AND STATUTORY LAW BEING DISMISSED ABSENT A TRIAL VERDICT?**

lv

STATEMENT OF THE CASE

On January 24, 2014, Lisa Randolph and George Randolph, jointly filed this action in the Cherokee County Circuit Court alleging various violations of State and Federal statutory and civil right law, including conspiracy, fraud, defamation, *et alia*, against Dolgencorp, LLC ("Dolgencorp"), d/b/a Dollar General Store #76751, a/k/a Dollar General (Dolgencorp), and Cherokee County ("the County"), and Blacksburg Police Department ("BPD").

On February 21, 2014, the County, and on February 27, 2014, BPD, filed motions grounded to dismiss in qualified immunity and an absolute bar to punitive damages in law. The Randolph's filed two Responses in Opposition to Dismiss, one against the County and one against BPD, and both grounded in genuine questions of material facts relevant to the Complaint.

The facts necessary to determine controlling law, if any, and any relative weight of the controlling law, if any, in the judgment and Order of the Trial Court rests significantly, if not completely, on the County and BPD Motions to Dismiss. Written and oral arguments of the Appellants and Respondents to dismiss were joined and argued on March 31, 2014.

The Trial Court filed the Order to Dismiss in favor of the defendants Cherokee County and Blacksburg Police Department on May 1, 2014. The ruling was favorably grounded for the Respondents in barring three of forty exceptions to qualified immunity and in an absolute bar to recovery of punitive damage claims. *S.C. Code §§ 15-78-60(4), (5), and (6), S.C. Code § 15-78-120(b)*. The Trial Court's grounding provides for ruling



against the Randolph's pursuant to insufficient facts to constitute a cause of action. (Rule 12(b)(6), SCRCP.)

The Appellants filed for summary judgment and default against Dolgencorp on March 13, 2014, in failing to Answer the Randolph's Complaint in the time required by the Trial Court's rules. On March 19, 2014, Dolgencorp filed an Answer setting out fourteen defenses to the Complaint. Subsequently on March 21, 2014, Dolgencorp filed a motion to preclude entry of default and in the alternative set aside default judgment pursuant to Rules 55(c) and 60(b), SCRCP. Specific to the Dolgencorp motions and the Appellants motions were before the Trial Court on June 2, 2014, and have not been ruled on according to these Appellants awareness.

STATEMENT OF FACTS

The first group of facts occurred on October 19, 2013, and neither involved any awareness, acts, or omissions, of the County nor BPD. Mrs. Randolph entered the Dolgencorp Store and went to the rear where; Mrs. Randolph saw the advertised price on the shelf immediately below the merchandise on the shelf, made a decision and did move several boxes of cat litter to the register at the front and make a purchase. When Mrs. Randolph saw the register price being higher than advertised, she asked the register price be made the same as the advertised price her question concerning why the register price was higher than advertised. The cashier asked, and the manager refused her, permission to charge Mrs. Randolph the advertised price. The manager also refused to provide the alternate; the lawful burden of proof exemption required to show Mrs. Randolph she was not being defrauded in falsely advertised pricing schemes. Dolgencorp collects an amount higher on three occasions with Cherokee County and BPD acting and not acting.



The Store manager told me directly; she did not need to look at the advertised price, refused to provide any exemption to the advertised price, and the price was whatever she wanted it to be. The Randolphs called 911 to ask for police assistance in multiple clear violations in law fully grounded in facts.

ARGUMENTS

I. THE TRIAL COURT ERRED DISMISSING THE STATUTORY LAW CONTROLLING THE RESPONDENTS CONDUCT IN ACTUAL FRAUD DISMISED ABSENT TRIAL BY JURY.

On October 19, 2013, (Complaint ¶ 80) Mrs. Randolph was subject to the Dolgencorp manager and cashier engaged in deceptive and unlawful price advertising, as set forth in the South Carolina Unfair Trade Practices Act (SCUPTA). S.C. Code § 39-5-10. This Act makes unlawful deceptive and false public advertising in the price of merchandise, in so stating "Unfair methods of competition and unfair or deceptive acts or practices in the conduct of any trade or commerce are hereby declared unlawful." S.C. Code § 39-5-20.

The unlawful gain of Dolgencorp was the same in precise ascertainable loss suffered by Mrs. Randolph. S.C. Code § 39-5-140(a). Although this unlawful conduct had been completed in fact, when Mrs. Randolph informed them of her damages, the manager and cashier overrode the register, to display a second line-item register price to match the price advertised on the shelf in the back of the store; the manager and cashier correctly followed the law as opposed to the consequences so stated in law; that Dolgencorp and its employees should have already known that deceptive pricing was not lawful. S.C. Code § 39-5-140(d). The Randolph's asked for and received merchandise sold for the advertised price and bearing a receipt from the store register. Complaint ¶ 81.



A second occurrence of the same material facts occurred on November 23, 2013. (Complaint ¶ 78.) The material facts of this date are made subject to statutory repetition of unlawful conduct. S.C. Code § 39-5-140(a) and (d). Unlawful statutory conduct repeated in law allowed amplifying consequences in the controlling statute. S.C. Code § 39-5-160. The statutes were repeated in law in the same material facts that had occurred in October, occurred in November. Complaint ¶¶ 78, 79, 80, and 81. The fraud in larceny was repeated in taking money from Mrs. Randolph, and in so making larceny in October and November amplified. S.C. Code § 16-13-30.

On December 7, 2013, a third repetition in the same facts (Complaint ¶ 82) in controlling law again became subject to the facts in controlling law being amplified by three statutory violations of the same statutes, and so being "The powers and remedies provided by this article shall be cumulative and supplementary to all powers and remedies otherwise provided by law." S.C. Code § 39-5-160. Further, Dolgencorp made no attempt to meet it's statutory burden of proof in exemption (39-5-140), and knowingly chose to ignore the consequences of three repetitive violations of the same statutory law (39-5-160).

The store manager told Mrs. Randolph bluntly she would not receive the advertised price nor any alternate exemption to the advertised price. The manager further refused to look at the advertised price and said she did not care what the advertised price was at that time. Complaint ¶¶ 13, 14, 16, and 18. On the third occurrence of the Randolph's damages in ascertainable losses and with the Dolgencorp manager being fully aware and refusing to cooperate in complying with the law on multiple occasions; Mrs.



Randolph chose to, and did make the 911 personnel aware of this fraud and asked for police assistance and a police report. Complaint ¶¶ 24, 25, et alia.

In the 911 call, Mrs. Randolph verbally explained the circumstances. In being physical present after being dispatched to the store, Mrs. Randolph pointed to the advertised price (\$8.95) so the Police Officer could see it himself and gave over her store receipt so the Officer could see this himself (\$9.35). Complaint ¶ 84. Further, the Officer and Mrs. Randolph both observed a line-of-sight surveillance camera, heard the store manager claim that Mrs. Randolph had somehow changed the advertised price visible on the shelf, and watched and heard the Officer state that somehow this was all somehow possible. Complaint ¶¶ 88 and 89.

A printed receipt placed next to a store receipt, concurrent in causation, and in evidence as stated in the Complaint, was and is prima facie. The Randolph's have attempted, but are unable, to follow the facts to any rational reason to permanently remove Mrs. Randolph from the premises in good faith. The Randolph's can far to easily account for extreme duress, fear, embarrassment, mental and physical impairment in enduring financial damage and having the County and BPD begin discrediting and then to end with Mrs. Randolph's permanent removal from a public accommodation. Complaint ¶¶ 109 to 129.

The unlawful financial conduct of Dolgencorp was already criminal in conduct prior to the 911 call made by Mrs. Randolph. But the statutes in SCUTPA could have been the mitigating application also controlling in the SCUTPA statutes, as was intended in the Act to prevent public deception in a public accommodation. It is in the County,



BPD, and Dolgencorp, having completely disregarded statutory trade law, that the controlling law is now expanded to facts made relevant in controlling criminal statutes.

II. THE TRIAL COURT ERRED IN DISMISSING GROUNDED IN QUALIFIED IMMUNITY AND BARRING PUNITIVE DAMAGES ABSENT ANY AFFIRMATIVE DEFENSE IN QUALIFIED IMMUNITY AND BARRED RECOVERY OF PUNITIVE DAMAGES.

Respondents' claim, and the Randolph's having no reason to believe any party to this law suit disputes evidence showing a \$9.35 sale in an \$8.95 advertisement, the Appellants have the right to know any and all claims, charges, and any evidence to support keeping the Randolph's money. With the initial assistance of the County, BPD law enforcement acted to make criminal conduct into lawful conduct. In furtherance, BPD then moved to take Mrs. Randolph into detention until ejected by threat of force, in that the term 'crime of violence' means "*(a) an offense that has as an element the use, attempted use, or threatened use of physical force against the person or property of another, or (b) any other offense that is a felony and that, by its nature, involves a substantial risk that physical force against the person or property of another may be used in the course of committing the offense.*" 18 U.S. Code § 16.

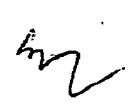
The Randolphs' filed a Complaint against the County and PPD. There is no response by proper Answer from the County and none from the BPD. Before discovery both Respondents did file a motion to dismiss without filing any such affirmative defense in qualified immunity.

In evaluating a motion to dismiss, the Court must base its decision solely upon the allegations set forth in the complaint. *Jarrell v. Petoseed Co., Inc.* As in meaning "could have disclosed the facts from his point of view, in advance of a trial if he [*id.*, at 1981] chose, by asking for a pre-trial hearing or by moving for a summary judgment with

supporting affidavits. But, as it stands, we do not see how the plaintiff may properly be deprived of his day in court to show what he obviously so firmly believes and what for present purposes defendant must be taken as admitting." *Id.*, at 775. *Bell Atlantic Corp. v. Twombly*.

In construing statutes, the Courts seek to effectuate legislative intent. Statutes are passed as a whole, not in parts or sections, and are animated by one general purpose and intent, in so as "*The cardinal rule of statutory construction is that words used be given their plain and ordinary meaning without resort to subtle or forced construction to limit or expand its operations. The language must also be read in a sense which harmonizes with its subject matter and accords with its general purpose.*" (*Stephen v. Avins Const. Co., Multi-Cinema, Ltd. v. SC Tax Commission*), always mindful "*It is a well established principal of statutory construction that the construction should be rational and reasonable and not lead to an absurd result.*" *Bolton v. Doe, Singletary v. SC Dep't of Education*.

Appellants-Plaintiffs, as Pro Se, acknowledge significant shortcomings while absent professional representation, and so have relied on the Courts' precedents wherever the Courts make them available. The Randolph's Appeal to the Courts so states that "*Federal Rule of Civil Procedure 8(a)(2) requires only a short and plain statement of the claim showing that the pleader is entitled to relief*", and similarly in South Carolina sets forth the requirement that a Complaint be "*a short and plain statement of the facts showing that the pleader is entitled to relief...*" (Rule 8(a)(2), SCRCP.) "*All pleadings shall be so construed as to do substantial justice*". Fed. R. Civ. Proc. 8(f) and Rule 8(a)(2), SCRCP. The Courts further provide that "*a document filed Pro Se is to be*



liberally construed" and "a pro se complaint, however inartfully pleaded, must be held to less stringent standards than formal pleadings drafted by lawyers", and "a judge must accept as true all of the factual allegations contained in the complaint." Erickson v. Pardus, Estelle v. Gamble. The Courts further provide clarity in that "A court reviewing the sufficiency of a complaint presumes all of plaintiff's factual allegations are true and construes them in the light most favorable to the plaintiff." Hall v. Bellmon.

The Trial Court erred in accepting the County and BPD as conclusions in facts absent the facts, without having presented any facts, in so stating *"In the complaint, the Plaintiffs allege that, after the Dollar General rang up the cat litter, for the \$.40 additional price, Ms. Randolph got on her cell phone and called 911 and talked to a dispatcher apparently."* Transcript Pg. 4, Lines 9, 10, and 11. The Trial Court disregarded material facts required to identify the controlling law. Prior to the County and BPD being informed of Dolgencorp's unlawful conduct, the controlling law was clearly the South Carolina Unfair Trade Practices Act (SCUTPA), in so stating *"Unfair methods of competition and unfair or deceptive acts or practices in the conduct of any trade or commerce are hereby declared unlawful."* S.C. Code 39-5-20(a). When the County and BPD joined Dolgencorp together in protecting the unlawful acts of Dolgencorp, the county and BPD joined in using government and law enforcement powers in stopping and preventing the Randolph's exercise of civil rights. In one of many examples, the County and BPD, do not state facts, they instead state opinions of Mrs. Randolph without stating facts. Complain ¶¶ 62, 63, and 64.

The County and BPD were aware, and made aware, of Dolgencorp's unlawful repetitive financial conduct, prior to any discretionary, and mandatory, acts and



omissions of the County and BPD. In carrying out these acts and omissions, the County and BPD did with discretion band together immediately in ignoring Dolgencorp engaging in multiple statutory violations in law, in conduct requiring moral turpitude. The Officer chose to stop Mrs. Randolph from asking for an exemption, did demeaned her in his acts and conduct, hold his hand up to her face to stop her narration of the facts being unlawful, did take control of her conduct, did take her into custody, did keep her arrested under close escort, did control her person, and until he could eject her from the premises, permanently.

The South Carolina Tort Claims Act (SCTCA) explicitly states the scope of the controlling law subject to the relevant facts defined in the Act, in part so stating inclusive application in that, *"(a) This chapter constitutes the exclusive remedy for any tort committed. . . is not liable therefor except as expressly provided for in subsection (b)."* except that *"(b) Nothing in this chapter may be construed to give an employee of a governmental entity immunity from suit and liability if it is proved that the employee's conduct was not within the scope of his official duties or that it constituted actual fraud, actual malice, intent to harm, or a crime involving moral turpitude."* The Trial Court errs in considering the SCTCA in grounding in a statute that must first be considered to determine if the Act is properly controlling in law.

The Randolph's have asserted that the County and BPD were made aware of Dolgencorp's actual fraud and conducted their own acts and omissions to further engage in, and contribute to, actual fraud. The County and BPD chose to adopt and show actual malice consistent with the same malicious conduct show by Dolgencorp. The County and BPD demonstrated an intent to harm the Randolph's, and in fact were successful in



harming the Randolph's. Larceny, fraud, conspiracy, intent to harm and malice are all genuine facts in the Case and Complaint and any questions raised in this many questions of statutory law also raise moral turpitude to serious questions of fact in controlling law amplified.

Absent a verdict in the facts determined in discovery and trial, the truth necessary to justice, and the assurance that the public immunities and protections effectively continue, will suffer in equal measure for each of us, and cannot but lead to damaging the very fabric of society.

The Order of the Court barred qualified immunity recovery citing three (3) protected immunities pursuant to S.C. Code §§ 15-78-60(4), (5), and (6) in law applicable in the SCTCA. The applicability of these qualified immunities excepted from the claims and facts alleged in the Randolph's Complaint has not yet been before the Court for judgment or verdict on the facts. Further, any qualified immunity claims have not been found relevant to the Complaint in the County and BPD failing to provide an affirmative filing of a defense file in a Complaint in response to filing a proper Answer. Even if immunity is found relevant to the Case, relevance on the surface of the Complaint to S.C. Code § 15-78-70(b) is obviously consistently with the claims in Complaint and requires a trial and verdict. The statutory consideration of relevance to the controlling law of the Trial Court's Order barring the Randolph's recovery against the County and BPD must not avoid any application of statute of the South Carolina Tort Claims Act, and cannot avoid § 15-78-70 without also avoiding § 15-78-60.

III. THE TRIAL COURT ERRED IN CIVIL RIGHTS LAW AND STATUARY LAW BEING DISMISSED ABSENT A TRIAL VERDICT.



It was with the apparent support of Dolgencorp and the County, that BPD acted to enforce, and not enforce, statutory law and civil rights law, and did so with malice and aforethought with intent to harm the Randolph's. The Randolph's, stated in their Complaint, that Mrs. Randolph suffered a sequence of events ending in her forced removal from the Dolgencorp property. That BPD engaged in such conduct is sufficient in the Police Report to be prima facie. Complaint ¶¶ 65, 66, and 68.

Mrs. Randolph explicitly reported this unlawful conduct to the County and BPD; did show her receipt to the BPD Police Officer while at the same time pointing out the same product advertised; for less than the amount on her receipt. The necessary information to prove the crimes already carried out by Dolgencorp was given directly to the County and BPD. The County was informed of this information verbally, and BPD was physically provided the only two elements necessary to prove criminal deception by Dolgencorp; a Dolgencorp purchase receipt higher than the price on Dolgencorp's shelf. Despite verbally informing the County, and despite physically showing the Police Officer illegal financial conduct of Dolgencorp in deceptive pricing, the County and BPD completely disregarded the material facts relevant in law. Despite having proof in material facts, Mrs. Randolph was denied equal protection of the law. Being clearly made aware and informed by Mrs. Randolph, both of these two government elements embarked on, and pursued, a series of omissions and acts designed to cause grave harm to Mrs. Randolph.

Mrs. Randolph did not receive the guaranteed benefit of the County and BPD in so being "The United States shall guarantee...Application of the Legislature...against domestic Violence." U.S. Const. art. IV, ¶ 4. Neither did Mrs. Randolph receive benefit

of "This Constitution, and the Laws of the United States...under the Authority of the United States, shall be the supreme Law of the Land" (U.S. Const. art. VI, cl. 2) and neither did the Court provide that "the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding." U.S. Const. art. VI, cl. 1.

The Appellants accept the only truth in the Respondents claim as extraordinary ignorance in stating that "And, with respect to the police department, alleges that they colluded with Dollar General to somehow destroy the Plaintiffs' right of due process; although they don't allege that there's any life, liberty, or property interest that was implicated or somehow denied by the police officer from the Blacksburg Police Department." Transcript Pg. 7, lines 14-18. The Appellants, and certainly the public, who accept an advertised price as true and then purchase the advertised merchandise, absolutely have and hold a property interest in such merchandise exchanged for financial gain by Dolgencorp. The County and BPD in claiming that the Randolph's cat litter is somehow not property having our interest, and regardless of having no interest to the County, BPD, or Dolgencorp, is a property interest of great interest to the Randolph's and neither shall "*The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained...by the people*" (U.S. Const. amend. IX.) to contravention or so impose against our rights both enumerated and unremunerated.

The Randolph's only state the Respondents statements are simply and invariable wrong. Prior to any County and BPD material involvement, the Randolph's stated an ascertainable property interest, *et alia*, and that this property interest holds financial value for the Randolph's. Complaint ¶ 13. When Mrs. Randolph informed the County of fraud

(Complaint ¶¶ 24 and 27), and acted to show the BPD Police Officer proof of this fraud (Complaint ¶ 59) beyond reasonable doubt, Mrs. Randolph suffered the acts and conduct of the Police Officer in being in custody, held detained, held denying her free speech, held denying her free movement, held denying her right to access a public accommodation ("Public Accommodation" defined as set forth in 42 U.S. Code § 12181) while threatened by the Police Officer's crime of violence. Complaint ¶¶ 45, 49, 61, 62, and 64, *et alia*. The Police Officer stated directly to Mrs. Randolph that he would arrest her on sight, without probable cause, with a firearm, and forcefully remove Mrs. Randolph, in a "crime of violence"; to further mean *"(a) an offense that has as an element the use, attempted use, or threatened use of physical force against the person or property of another, or (b) any other offense that is a felony and that, by its nature, involves a substantial risk that physical force against the person or property of another may be used in the course of committing the offense."* 18 U.S. Code § 16.

The Appellants cannot separate discovery and trial from the very acts made joint by the County and BPD with Dolgencorp's joinder in these acts. Except for the acts of the County and BPD made solely within their respective powers and authorities, there can be no accounting of the Randolph's damages claimed unlawful without joinder of the County and BPD. In the Complaint, material facts are and would be set aside orphaned absent controlling law. In dismissing the Respondents in direct contravention of long standing statutory and civil rights damages, the Trial Court removed relief from the Randolph's, regardless of those unlawful acts and omissions causing such damage. The statutes are clear and the Trial Court must follow those statutes to judgment. Otherwise it is the Trial Court who renders justice to injustice. The Randolph's incur bias beginning



in the Complaint, as so stated that *"joinder will not deprive the court of jurisdiction over the subject matter of the action [and] in his absence complete relief cannot be accorded among those already parties"*. Rule 19, SCRCP.

The Respondents' claim above is a material omission of criminal conduct and proscribed in statutory law. The Appellants made clear in the Complaint a cause and action of damages in Dolgencorp's larceny (Complaint ¶ 14) and so stated as *"simple larceny of...bank bills...of personalty of which by law larceny may be committed...is petit larceny"*. S.C. Code § 16-13-30(A). Further, Mrs. Randolph did not get *"on her cell phone and call[ed] 911"* until attempting to mitigate the damages caused by Dolgencorp's conduct (Complaint ¶¶ 14 through 24) in part so stated as *"committing a breach of trust with a fraudulent intention...[and] who hires or counsels another person to commit a breach of trust with a fraudulent intention"*. S.C. Code § 16-13-230(A). The County and BPD began their material acts and omissions after, and not before, Dolgencorp had damaged the Appellants in criminal financial conduct having ascertainable loss. S.C. Code § 39-5-140.

Further, Respondents' claims in their motion and arguments, and adopted in error by the Trial Court in grounding his Order, the three elements of qualified immunity (S.C. Code §§ 16-78-60(4), (5), and (6)) are not sufficient to dismiss the Randolph's claims against the County and BPD. In grounding qualified immunity in the legal standard to dismiss, the Courts have affirmed precedent in so stating (with internal quotations removed) *"Qualified or good faith immunity is an affirmative defense that must be pleaded by a defendant official"* [and] *"Decisions of this Court have established that the good faith defense has both an objective and a subjective aspect. The objective element*



involves a presumptive knowledge of and respect for basic, unquestioned constitutional rights. The subjective component refers to permissible intentions. Characteristically the Court has defined these elements by identifying the circumstances in which qualified immunity would not be available. Referring both to the objective and subjective elements, we have held that qualified immunity would be defeated if an official knew or reasonably should have known that the action he took within his sphere of official responsibility would violate the constitutional rights of the [plaintiff], or if he took the action with the malicious intention to cause a deprivation of constitutional rights or other injury.” Harlan v. Fitzgerald.

The Appellants further acted to ensure additional Trial Court visibility into the seriousness of the facts made plain in the Alternative Dispute Resolution (ADR) certificate. The ADR certificate of exemption, with the Complaint, were filed on January 24, 2014, and so states in part “...the Plaintiffs civil actions having causes in criminal conduct and actions intertwined inseparable in business conduct with parties in governing authority and victims as might be in the general public and with the Plaintiffs having such elements as state and federal rights in and within the general public...” ADR Exemption Pg. 1, Para. 1. The Appellants have thus been denied certification of fraud, mistake, libel, slander, et alia. Allowing the Trial Court to remove a conflict in the existing statutes grounded in material facts (Complaint ¶¶ 83 and 84., et alia.) as is made precedent (Rule 9(c), SCRC.P.) by the Court allows. As such, the Trial Court makes moot any elements grounded in special pleading. Rule 9(b), (d), (e) and (h), SCRC.P. The pleadings cannot be verified as proper in facts grounded in law. Rule 9(i), SCRC.P.



Counsel has no duty to communicate with an adverse Pro Se party, but does have a duty to the Trial Court to so advise the Trial Court in a writing signed and filed by Counsel. Without counsel providing this matter in writing, provided and signed by counsel in a filing set before the Trial Court, prejudice and bias are present and unavoidable. When counsel is compelled to file before the Trial Court, on what grounds does the Trial Court allow an adversarial party to be excluded in what may be of good faith or bad, solely in being a layman in the tribunal, except to interfere in substantial due process, in part stating that *"There is no duty of consultation...with pro se litigants."* Rule 11, SCRPC. No duty of counsel to communicate with Pro Se parties is a required writing that must be provided to the Trial Court, and is regardless of whether counsel communicates to a Pro Se adversarial party or not. Rather, the Trial Court must receive the counsel's writing even if counsel certifies *"There is no duty of consultation...with pro se litigants"* otherwise bias results from the tribunal, and not the Pro Se party.

The controlling law in statute is made relevant in the facts of the Complaint. These facts state the Appellants' financial losses on October 19, 2013, (Complaint ¶ 80) and November 19, 2013, (Complaint ¶ 78) were previously absent from the County's and BPD's awareness of the facts relevant to the statutes of the South Carolina Unfair Trade Practices Act (SCUTPA). But the controlling law in the material facts was relevant upon the County, BPD, and Dolgencorp, in the joint acts and omissions claimed lawful, but being acts and omissions unlawful by statute. In addition to proscribed law, a government employee and being a Police Officer, who acts prescribing law, in the facts being, first holding Mrs. Randolph in a public accommodation against her will; second, physically removing Mrs. Randolph from a public accommodation against her will.

Controlling law expands in the joinder of the County or BPD or both Respondents, in any acts or omissions of Dolgencorp. The Respondents make relevant the material facts and so make relevant in controlling law, the statutes of multiple Chapters of Title 16 – Crimes and Offenses. An element bearing facts in the Complaint and relevant to criminal conduct and unfair trade practice, rests in the test of a public price advertised and the transacted price, with the public and within a public accommodation; the test for deception in law is made unlawful in a falsely advertised price in fact, in both Unfair Trade Practices law and Criminal law. For a member of the public, false advertising occurs when any advertised price is lower than the price transacted during a sales transaction; any exception to deceptive pricing is solely by lawful exemption; and the burden of proving the exemption rests solely with the person claiming the exemption. As multiple statutes following controlling law shift in relevance to the Complaints' sum of material facts, we observe the next two elements tested in controlling law. In law to test a 'guilty mind joined with a guilty hand'; the elements of conduct and acts relevant to deception in advertising are defined by statute, and in part so stated as "*knew or should have known*" the advertised price was deceptive and false. The acts to engage in selling deceptively priced merchandise to the public is prohibited by multiple statutes and in multiple controlling laws. In this Case, the next element we examine in the facts is concurrence between *mens rea* and *actus reus*; where the guilty mind is proximate in or to the wrongful conduct carried out. The next element is the construction in law proscribing or prescribing by penalties, if any, in violations of the controlling law of the statutes.



The Order of the Trial Court dismissing the Respondents is simply not dispositive in the Complaint's claims against the Respondents. The facts as evidenced in receipts issued by Dolgencorp, were not in dispute in October and November, 2013, but on December 7, 2013, the County and BPD did far more than accept Dolgencorp contentions. The County and BPD were informed, and observed conduct and acts, attempting and succeeding in selling merchandise, for more than advertised, and despite Mrs. Randolph already having challenged this conduct as unlawful. Complaint ¶¶ 28 and 87. Because of Mrs. Randolph's prior lawful challenge of deception in pricing, Dolgencorp acted to mitigate unlawful conduct, but on December 7, 2013, the County and BPD fully subverted statutory law and engaged in acts unlawful in commission and omission. Complaint ¶ 83, et alia.

On December 7, 2013, continuing the same material facts resulted in Mrs. Randolph being accused of criminal conduct entirely absent any proof; because there was no proof of Mrs. Randolph behaving in any manner different from that expected of any other member of the public acting in a public accommodation. Despite already suffering from illegal acts causing ascertainable financial damages, Dolgencorp, the County, and BPD set about and together to ensure Mr. and Mrs. Randolph were effectively destroyed in being able to defend themselves from financial fraud. There are no members of the general public who can withstand this degree of criminal assault. This authority and power is reserved to such as the County and BPD joining with and supporting Dolgencorp in sustained criminal conduct. The Complaint is replete with allegations of fact showing conspiracy at work. Complaint ¶¶ 24, 36, 49, 58, and 106, et alia.



The Appellants' assert that controlling law in this Case must be identified in the facts of the Complaint intersecting in law. The facts in the Appellants Complaint begin with damages recognized unlawful in S.C. Title 16, Chapter 13. From here, damages in multiple criminal acts issue forth into many other chapters of Title 16 criminal acts and conduct. The criminal acts described in the Complaint's material facts are narrowly constructed in law both prescriptive and proscriptive by statute. Where these facts and the law intersect, we find the controlling law. The Randolph's allege a series of grievances grounded in criminal offenses beginning in the first of eleven causes of action as a 'victim of larceny' occurring on December 7, 2013. Dolgencorp *"having set the electronic purchase price of this cat litter to \$9.35 and knowing the physically advertised price still being \$8.95 did sell Plaintiff, Lisa Randolph, the cat litter at a price higher than the advertised price"*. Complaint ¶ 14. The *"Simple larceny of any...of which by law larceny may be committed...by an unlawful act...has a value of two thousand dollars or less, is petit larceny"*. S.C. Code § 16-13-30(a).

In the second cause of action Mrs. Randolph verbally informed both the manager and the cashier of being deceived by the advertised price of the merchandise after seeing the higher register price. Complaint ¶¶ 18, 19, 20, and 21. In response, the Dolgencorp manager and cashier acted together in *"committing a breach of trust with a fraudulent intention or a person who hires or counsels another person to commit a breach of trust with a fraudulent intention is guilty of larceny."* S.C. Code § 16-13-230(A)

In the third cause of action, the Complaint grieves for the Randolph's against the Respondents and Dolgencorp being together engaged in felony conduct and acts intersecting with the damages done to Mr. and Mrs. Randolph. The County, BPD, and



Dolgencorp, acted to falsely join as actors in the facts to the Appellants' damages and contributed jointly with Dolgencorp. Complaint ¶¶ 31, 32, and 33. To be clear, a public right is simply a public right. As the Randolph's assert the right to petition for relief from criminal law violations, nothing in a public right in law is changed. The Randolph are only victims by right if there is proof in law of a victim in fact. The Randolph's grievance is in the facts of the Complaint read as true, with additional facts deduced from such. The Complaint reads true where the Randolph's losses are financially attributable to the County, BPD, and Dolgencorp on December 7, 2013. The Randolph's have a right to shop where the public shops. The Randolph's also have a right to complain as the public complains. The Randolph's also have a right to not get taken advantage of while publicly shopping. And the Randolph's have a right to both complain as the public complains without being persecuted in unlawful public accommodations conduct. And certainly with the public being without fear of unlawful permanent ejection from a public accommodation, the Randolph's fear of retaliation is without precedent in the same circumstances being lawful in the public in being unlawful for the Randolph's.

Many of the legal theories in the Complaint are criminal in application. As such, the County and BPD have made no claims in, and shed no light on, facts tending to good faith or bad faith. With any genuine questions of material fact tending to determine "*mens rea*" and "*actus reus*", such are lost to the Respondents' dismissals by the Trial Court. BPD has the authority and used that authority to permanently remove Mrs. Randolph from a public accommodation. Complaint ¶ 103. The County has the authority and used it to prepare, convey, and engage the Police Officer with the information he used to physically remove Mrs. Randolph. Complaint ¶ 27. And in furtherance on the



third occurrence in as many months, not only is Mrs. Randolph's money taken, so is her dignity when she stated her money had been taken and she needed her money back. Complaint ¶¶ 49 and 59(a). If the Police Officer believed the Store Manager as the unlawful for a person to impersonate a state or local official or employee or a law enforcement officer in connection with a sham legal process." S.C. Code § 16-17-735(A). "It is unlawful for a person falsely to assert authority of state law in connection with a sham legal process. S.C. Code § 16-17-735(B). "It is unlawful for a person to act without authority under state law as...a magistrate, or other authorized official, in determining a controversy, adjudicating the rights or interests of others, or signing a document as though authorized by state law." S.C. Code § 16-17-735(C). "It is unlawful for a person falsely to assert authority of law, in an attempt to intimidate or hinder a state or local official or employee or law enforcement officer in the discharge of official duties, by means of threats, harassment, physical abuse, or use of a sham legal process." S.C. Code § 16-17-735(D). "To cause process to issue without justification is an essential element of malicious prosecution, but not of abuse of process. In the latter, the issuance of the process may be justified in itself, it is the malicious misuse or perversion of the process for an end not lawfully warranted by it that constitutes the tort known as abuse of process." *Huggins v. Winn-Dixie Greenville, Inc.*

Multiple state and private actors found to have engaged in unlawful conduct resulting proximate to the Randolph's damages remains insufficient for a fact trier to determine the good faith or bad faith of such actors; a jury is made sufficient in issuing a verdict. The Complaint states damages and evidence narrowly constructed in the controlling law in the facts of October and November 2013. S.C. Code § 39-5-20. But



Criminal law intersects with the facts on December 7, 2013, and being the County and BPD acting to make criminal law controlling the Complaint in actual fraud (S.C. Code § 15-78-70(b)), conspiracy against civil rights (S.C. Code § 16-16-510), and common law conspiracy (S.C. Code § 16-17-410). The Randolph's ascertainable losses in October and November (S.C. Code § 39-5-140) were made permanent in December, 2013, solely by the addition of the power and authority of the County and BPD to support blatant unlawful Dolgencorp acts. S.C. Code § 16-13-30. A single outcome in fact became controlling law, accomplished in acts by multiple persons, is legally controlling where the legal outcome remains the same for each of them individually and severally. Mrs. Randolph provided explicit awareness to the County in her call to 911 and to the BPD Police Officer in-person. Having such information and acting with the informed consent of Dolgencorp, the County and BPD acted in complete unlawful disregard of Mrs. Randolph's rights, privileges and immunities. The County and BPD voluntarily engaged with Dolgencorp to join in conduct having actual malice against Mrs. Randolph, intending to harm Mrs. Randolph, and in crimes against Mrs. Randolph involving moral turpitude.

Mrs. Randolph asked for a Police Report of an unlawful charge. Dolgencorp advertised and register prices are not under any control of the Appellants. Charging exactly \$9.35 and advertising exactly \$8.95 is something Dolgencorp does to the public. The Randolph's, and principally Mrs. Randolph, were not allowed, and in fact prevented, from petitioning the County and BPD for relief from actual fraud, actual malice, intent to harm, and crimes involving moral turpitude conducted by the County, BPD, and Dolgencorp, in violations set forth by the Legislature stating they "shall make no law



...abridging the freedom of speech or the right of the people peaceably to assemble and to petition the government or any department thereof for a redress of grievances." S.C. Const. Art. I, § 2. U.S. Const. amend. I.

Mrs. Randolph was taken into custody, detained, and ejected by being threatened with a crime of violence and so made unlawful conduct in *"The privileges and immunities of citizens of this State and of the United States under this Constitution shall not be abridged, nor shall any person be deprived of life, liberty, or property without due process of law, nor shall any person be denied the equal protection of the laws."* S.C. Const. Art. I, § 3. U.S. Const. amend. XIV. The Randolph's estate cannot lawfully be subject to any punishment of person or property rights absent a right to trial. The Randolph's suffered tainted due process in the County and BPD acting to violate and withhold from the Randolph's proper court proceedings, and so stated in part as *"No bill of attainder, ex post facto law, law impairing the obligation of contracts...shall be passed, and no conviction shall work...forfeiture of estate."* S.C. Const. art. I, § 4. And in part further so stated as *"No...ex post facto Law shall be passed."* (U.S. Const. art. I, § 9, cl. 3), and *"No State shall...pass any Bill of Attainder, ex post facto Law..."* U.S. Const. art. I, § 10, cl. 1.

Mrs. Randolph's money was taken by deception in claiming the merchandise cost one amount and taking a larger amount. The County and BPD suspended the law, despite being unlawful conduct reported to the County, and directly observed by the BPD Police Officer in physical evidence, this conduct is prohibited in constitutional law, in so being *"The power to suspend the laws shall be exercised only by the General Assembly or by its*



authority in particular cases expressly provided for by it." S.C. Const. Art. I, § 7, U.S.

Const. amend. XIV.

Mrs. Randolph gave the Police Officer her receipt and showed him the physical shelf price. The price on the receipt was higher than the price on the shelf. This is legislated as financial crime and Mrs. Randolph reported the financial loss to the Police Officer. Mr. Randolph offered the same Police Officer the two previous receipts where the Officer refused to examine the receipts. The three frauds occurred prior to the Police Officer being present or having knowledge of such, and yet the Police Officer claims the authority and power to select, apply, impose, and dispense justice in judicial powers unlawful in so being "*In the government of this State, the legislative, executive, and judicial powers of the government shall be forever separate and distinct from each other, and no person or persons exercising the functions of one of said departments shall assume or discharge the duties of any other.*" S.C. Const. Art. I, § 8, U.S. Const. art. I, §

10.

The Randolph's were denied the right to maintain and receive a properly speedy trial in the jurisdiction proper to a small claims action without suffering damages imposed in false judicial proceedings, and in so being "*All courts shall be public, and every person shall have speedy remedy therein for wrongs sustained.*" S.C. Const. Art. I, § 9, U.S. Const. amend. VI.

Mrs. Randolph was removed from the Dolgencorp premises in violation of her personal rights in her person and property. Her rights to the privacy of her person and property are not subject to Police invasion done in public and openly observed by the public. The Police officer has no right to allow Dolgencorp to maintain possession of her

money and certainly has no right to separate her from her property and leave it abandoned within the premises she was being ejected from and all without probable cause. Mrs. Randolph was falsely denied *"The right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures and unreasonable invasions of privacy shall not be violated, and no warrants shall issue but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, the person or thing to be seized, and the information to be obtained."* S.C. Const. Art. I, § 10, U.S. Const. amend. IX.

Mrs. Randolph's money being her property was illegally taken for use by Dolgencorp with far more than simple awareness of the County and BPD; this taking of her property was sanctioned, approved and protected by the power and authority of the County and BPD, for the benefit of Dolgencorp, and is unlawful as so stated in part that *"private property shall not be taken for private use without the consent of the owner"*. S.C. Const. Art. I, § 13, U.S. Const. amend. V.

Mrs. Randolph's removal from a public accommodation was without due process. She was not fully informed, not allowed to know the reason for her removal, and not allowed any reasonable justification in maintaining and in holding that *"The right of trial by jury shall be preserved inviolate. Any person charged with an offense shall enjoy the right to a speedy and public trial by an impartial jury; to be fully informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to be fully heard in his defense by himself or by his counsel or by both."* S.C. Const. Art. I, § 14. U.S. Const. amend. XI.



Mrs. Randolph was arrested and removed from the Dolgencorp property by a law enforcement Officer without lawful and proper cause, and certainly without providing probable cause. Removing Mrs. Randolph, as a member of the public from a public accommodation, without a lawful reason is not lawful. Further, the Appellants cannot be denied access to this public accommodation without also damaging them economically and denying their public freedom to economic choice. The very economic choice made available to the public, cannot be withheld in the public's right to challenge deception in public conduct and processes. This is a violation in the liberty to determine such choice, a violation of the right to pursue happiness in the same rights as available to the public, and privilege and immunities given to all members of the public in this State and so stated in part as *"All persons shall be, before conviction, defined by the General Assembly, giving due weight to the evidence and to the nature and circumstances of the event... nor shall cruel, nor corporal, nor unusual punishment be inflicted, nor shall witnesses be unreasonably detained."* S.C. Const. Art. I, § 15. U.S. Const. amend. V.

The Trial Court erred in excluding by dismissal in that "In all indictments or prosecutions for libel, the truth of the alleged libel may be given in evidence, and the jury shall be the judges of the law and facts." S.C. Const. Art. I, § 16. The Complaint states evidence as libelous beginning with Mrs. Randolph claiming a lawful advertised price, and subsequently claimed by the County, BPD, and Dolgencorp, as lawful solely in her mind, in exhibiting extremely poor judgment, in the County confirming her involved in a civil disturbance and BPD confirming her in a verbal altercation, et alia. Complaint ¶¶ 50, 51, 52, 53, 54, and 55. The Randolph's had to be, and were, defamed by libel made necessary to the maintenance of conspiracy, and in part so stated that "Any person who

shall with malicious intent originate, utter, circulate or publish any false statement or matter concerning another the effect of which shall tend to injure such person in his character or reputation shall be guilty..." S.C. Const. Art. I, § 16. S.C. Code § 16-7-150. U.S. Const. amend. I.

Mrs. Randolph was made the subject of an administrative Police Report, bound by the order of BPD, and a BPD law enforcement officer, claimed financial fraud victimization, and is still being maintained under a standing trespass order to arrest with force. Further, Mrs. Randolph has suffered prosecution and adjudication by a single person and without proper notice, all unlawful in that *"No person shall be finally bound by a judicial or quasi-judicial decision of an administrative agency affecting private rights except on due notice and an opportunity to be heard; nor shall he be subject to the same person for both prosecution and adjudication; nor shall he be deprived of liberty or property unless by a mode of procedure prescribed by the General Assembly, and he shall have in all such instances the right to judicial review."* S.C. Const. Art. I, § 22. U.S. Const. amend. XIV.

The Randolph's claim a right in public the same as provided in the public Victim's Rights given to all citizens of this State. There is no private claim to Victim's Rights. The Randolph's do have a right to be free and immune to the crimes that give rise to a Victim's Rights. It is our damages and the crimes that caused them, in both civil rights and fraud, that we seek to prove. It is the Respondents' assertion of a private claim, not the Appellants. Our Victim's Rights are no different than any other member of the public holding such rights in this State and compromise more than ten violations of State Civil Rights. The Complaint does not make a private claim on any State Rights, it



makes clear the facts inherent to State Rights. BPD has the authority and power to act in many ways affecting Victim's Rights. Because of this broad authority and power, the Complaint addresses the abuse in denying and withholding Victim's Right and was always paired in violations being both civil (Constitutional Rights) and statutory (Conspiracy to Larceny) rights. A violation of the Randolph's statutory rights Without discovery, and proceeding to trial, the Randolph's are unable to make clear the intersections of fact and law. We are absolutely certain that Victim's Rights should be afforded but are denied by the very persons having the power to provide or deny such. Because of this, it is the larceny to the Randolph's that proves the material facts to apply the controlling law of Victims Rights as victim's rights in fact. The material questions before the County and BPD are unlawful violations in statutory rights and immunities by omission and commission. And to sit in judgment of our civil rights after incurring statutory damages, undermines the Constitution of this State and the Constitution of the United States. Our statutory and civil rights have been violated by criminal conspiracy in so being *"Nothing in this chapter may be construed to give an employee of a governmental entity immunity from suit and liability if it is proved that the employee's conduct was not within the scope of his official duties or that it constituted actual fraud, actual malice, intent to harm, or a crime involving moral turpitude."* S.C. Code § 15-78-70(b).

But we must make proper claims and cannot do so without the joinder of the Respondents. There is no justice in claiming obstruction where a claim of perjury is only proper. It is the proper identification of facts and conduct in the wrongs done to the Randolph's, that we intend made available to a jury for verdict. The Trial Court's Order

denies us an essential element of our Case; discovery provides us the only means and methods so as *"To preserve and protect victims' rights to justice and due process regardless of race, sex, age, religion, or economic status, victims of crime have the right to...(1) be treated with fairness, respect, and dignity, and to be free from intimidation, harassment, or abuse, throughout the criminal and juvenile justice process, and informed of the victim's constitutional rights, provided by statute."* S.C. Const. art. I, § 24. The error of the Trial Court in dismissing the Randolph's Complaint against the County and BPD rests in the Tort Claims Act statutes. For the fact trier to determine the SCTCA as controlling law requires the fact trier to determine if it is *"proved that the employee's conduct was not within the scope of his official duties or that it constituted actual fraud, actual malice, intent to harm, or a crime involving moral turpitude."* S.C. Code § 15-78-70(b).

Question of controlling law made relevant in the facts and inferences stated in the Complaint must be used by the fact trier to first determine the SCTCA as controlling law. The Tort Claims Act is not controlling law in the facts when the same Act's light is shed on these five elements: *"...[1] not within the scope of his official duties, [2] that it [the employee's conduct] constituted actual fraud, [3], actual malice, [4] intent to harm, or [5] a crime involving moral turpitude."* S.C. Code §15-78-70(b).

Prior to the acts and omissions of the Respondents, controlling law in this Case is made relevant in the statutes made relevant to the facts, in the South Carolina Unfair Trade Practices Act ("SCUTPA"), as provided by the statute's definitions, *"Trade" and "commerce" shall include the advertising, offering for sale, [and] sale [of] any property*



... wherever situate, and shall include any trade or commerce directly or indirectly affecting the people of this State." S.C. Code § 39-5-10.

In this State "Unfair methods of competition and unfair or deceptive acts or practices in the conduct of any trade or commerce are hereby declared unlawful." S.C. Code § 39-5-20. But repetition in unlawful 'unfair trade practice' is not controlled in law except to so allow trade law to supplement other existing law, which gives necessary elegance to expand the law of facts amplified and those people expanded by consequences of law. This necessity of amplified law also provides expansion to those who are subject as people to the same law. The Randolph's suffered 'sham legal process' being a process that the Randolph's being subject to a lawful process for unlawful reason. Also being relevant to the Randolph's damages; conspiracy to violate civil rights is an unlawful process to participate in interfering with another individuals public rights, privileges or immunities.

Mr. and Mrs. Randolph maintain that Dolgencorp's register charges must be as advertised or made lawful by providing lawful exemption. The right to bring civil action against Dolgencorp begins and is made plain in part so stating "*Any person who suffers any ascertainable loss of money or property, real or personal, as a result of the use or employment by another person of an unfair or deceptive method, act or practice declared unlawful by Section 39-5-20 may bring an action individually*". S.C. Code § 39-5-140(a).

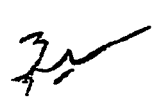
On October 19, 2013, (Complaint ¶ 80), November 23, 2013, (Complaint ¶ 78.) and December 7, 2013, (Complaint ¶ 82) the Randolph's challenged deceptive advertising when overcharged at the register. But on December 7, 2013, Dolgencorp, BPD, and the County willfully chose noncompliance with Unfair Trade Practices and as

proscribed in taking an ascertainable sum from the Randolph's and proscribed in failing to provide exemption. Mrs. Randolph informed Dolgencorp of this illegal conduct as she had on the previous two occasion. As stated in the Complaint, the SCUTPA proscription and prescription of this conduct is unlawful. Mrs. Randolph clearly informed the Store Manager and Cashier that this conduct was illegal, and is as set forth in statute stating *"For the purposes of this section, a willful violation occurs when the party committing the violation knew or should have known that his conduct was a violation of Section 39-5-20."* S.C. Code § 39-5-110. Despite knowing the Randolph's had incurred direct damages in unlawful business profit, Dolgencorp acted to retain unlawful profit as necessary even if prohibited by statute, and regardless of being criminal conduct. Complaint ¶ 83, et alia. The Randolph's have ascertainable losses and they are recoverable, in part so stated *"Any person who suffers any ascertainable loss of money or property, real or personal, as a result of the use or employment by another person of an unfair or deceptive method, act or practice declared unlawful by Section 39-5-20 may bring an action..."* S.C. Code § 39-5-140(d). But the controlling law is made proper in relevance by narrow construction when the facts against the County, BPD, and Dolgencorp are joined in law in the equal protection clause, and specifically any member of the public being present in a public accommodation. S.C. Const. art. I, § 3. S.C. Const. art. I, § 23. U.S. Const. amend. XIV. U.S. Const. amend. X. U.S. Const. amend. IX. 42 U.S. Code § 12182.

Having suffered ascertainable loss from Dolgencorp's unlawful conduct, Mrs. Randolph called 911 to report the conduct leading to the damages, and requested a Police Report describing the facts. Instead of being treated as a member of the public suffering

ascertainable loss, Mrs. Randolph was treated significantly as a suspected criminal subject by the County, BPD, and Dolgencorp. In addition to proof of ascertainable dollar loss, the County, BPD, and Dolgencorp, engaged in far more serious criminal conduct in common law conspiracy to larceny (Complaint ¶¶ 84, 85, 86, 87, 88, and 89) and so made unlawful in stating *"The common law crime known as 'conspiracy' is defined as a combination between two or more persons for the purpose of accomplishing an unlawful object or lawful object by unlawful means."* S.C. Code § 16-17-410.

The County and BPD claim the Randolph's are simply angry that the County and BPD believe the claims of the Dolgencorp Store Manager and do not believe the Randolph's claims, and more particularly Mrs. Randolph. Transcript Pg. 8, Line 18. But this is not a civil matter of opinions absent genuine questions of material facts and those material facts not in dispute. Ascertainable loss occurred on three occasions prior to the awareness, presence or relevant conduct of the County and BPD. The County and BPD set aside the facts (Complaint ¶¶ 24, 27, 49 and 54) of Dolgencorp's conduct along with Mrs. Randolph's proof of ascertainable loss. Complaint ¶¶ 59, 59(a) and (b). Further, in oral argument to dismiss, the Respondents' state that *"With respect to Cherokee County and Blacksburg, this case, as best I can tell, from the very lengthy complaint, is about \$1.20."* Transcript Pg. 3, Lines 24 and 25. We combine both of counsel's conclusions of fact in oral argument to mean the Complaint grievances are simply a verbal altercation valued at \$1.20. Counsel's assertion in conclusion of facts becomes extraordinary and substantial in counsel failing to recognize genuine questions of material facts in statutory rights and civil rights violations as relevant to the material facts in the Complaint. S.C. Const. S.C. Const. art. I, §§ 3, 4, 7, and 8, *et alia*. Immediately after Mrs. Randolph had



reported her ascertainable loss to the County and BPD, Dolgencorp initiated a 911 call alleging that Mrs. Randolph was behaving in a manner not allowed in the Dolgencorp public accommodation. And as soon as the County and BPD actively engaged in what Mrs. Randolph thought was a response to her plea for assistance, she lost the third element of what is permanently afforded to all citizens of this State and the United States; Mrs. Randolph lost her rights, her privileges, and lastly, her immunities held in the public rights and privileges (Complaint ¶¶ 90, 91, and 92, et alia.) and in part so states "It is unlawful for two or more persons to band or conspire together...upon the premises of another with the intent to injure, oppress, or violate the person or property of a citizen because of...his expression or exercise of the same or attempt by any means, measures, or acts to hinder, prevent, or obstruct a citizen in the free exercise and enjoyment of any right or privilege secured to him by the Constitution and laws of the United States or by the Constitution and laws of this State." S.C. Code § 16-5-10.

Dolgencorp requested that Mrs. Randolph's permanent public access to the Dolgencorp Store as a public accommodation be permanently revoked as quickly as could be accomplished. Dolgencorp stated directly to the BPD Police Officer that Mrs. Randolph changed the advertised price of the merchandise. The County stated a "civil disturbance" was ongoing. BPD stated a "verbal altercation" in progress. If the Randolph's are not allowed discovery and trial, the questions in law left remaining as genuine questions of material facts, are many and significant to the public and these Appellants. Legally abandoned are the cause of Mrs. Randolph ascertainable loss prior to any government employee being present. Abandoned is the cause of deviation in selling as advertised or providing proper exemption so as not to engage in unlawful conduct.



Abandoned is the cause of why material evidence is omitted in a Police Report by supplanted subjective claims issuing from the government. Abandoned is the cause of Mrs. Randolph already bearing ascertainable loss, Dolgencorp's unlawful gain, and BPD identifying her as a subject of another Complainant, the Dolgencorp Store Manager. Abandoned, *inter alia*, is the cause of Mrs. Randolph's being threatened, detained, and ejected under threat of violence by an individual displaying a firearm. S.C. Code § 16-17-720, S.C. Code § 16-17-722, S.C. Code § 16-17-725, S.C. Code § 16-17-735.

With malicious intent, Dolgencorp sold merchandise for more than advertised without any proof showing a lawful exemption. With malicious intent, and with the County knowing ascertainable losses are being alleged, the County creates a record of "civil disturbance", to BPD who makes record of a verbal altercation, and completely omits any references to ascertainable losses. With further malicious intent, BPD accepted and allowed Mrs. Randolph to be defamed in public by the Dolgencorp Store Manager, and then with malice chose to omit reporting the defamation. And the BPD Police Officer added defaming statements to Mrs. Randolph's defamation in claiming she was a suspected thief in being a member of the public easily capable of altering advertised pricing. Contemporaneous with this conduct, the Police Officer held her in his custody until such time as he could remove her by threatening arrest in a public accommodation bearing a deadly weapon. In the course of removing Mrs. Randolph from the Dolgencorp Store premises, he directed and instructed her that his orders were official and permanent in effect and he would arrest and jail Mrs. Randolph into the future if she were observed or reported as ever being on the Dolgencorp premises. Mr. Randolph inquired several days later at the BPD to the same Police Officer of this



permanent "trespass list". Enforcement of such a list, if it exists, would be subject to the law of the public for public accommodations. Mr. Randolph's several questions on this permanent "trespass list" received no verbal response whatsoever. S.C. Code § 16-5-10, S.C. Code § 16-17-410, S.C. Code § 16-17-560, S.C. Code § 16-17-640.

The County, BPD, and Dolgencorp engaged in a legal process for unlawful purposes. Mrs. Randolph complained about register charges being higher than advertised. The County, BPD, and Dolgencorp conspired together and individually, in that Dolgencorp could take and keep money taken from Mrs. Randolph; in that the County could cite the 911 caller Mrs. Randolph without acknowledging understanding Mrs. Randolph except other than defaming her in their descriptions; and in that BPD treated her maliciously in detaining her, restricting her public movements, defaming her verbally and in public writing, and removing her right to enter a public accommodation permanently. S.C. Const. art. I, § 16, S.C. Code § 16-7-150, Rule 9(h), SCRCF.

The County, BPD, and Dolgencorp, initiated, engaged in, and continue maintaining a sham legal process in Mrs. Randolph held absent the right to access Dolgencorp as a public accommodation. The County, BPD, and Dolgencorp, set forth "the reliance on as lawful authority, or other use of an instrument that is not lawfully issued, whether or not the instrument is produced for inspection or actually exists, which purports to: (a) be a summons, subpoena, judgment, lien, arrest warrant, search warrant, or other order of a court of this State, a law enforcement officer, or a legislative, executive, or administrative agency established by state law; (b) assert jurisdiction or authority over or determine or adjudicate the legal or equitable status, rights, duties, powers, or privileges of a person or property; or (c) require or authorize the search,



seizure, indictment, arrest, trial, or sentencing of a person or property." S.C. Code § 16-17-735.

In maintaining an unlawful sham legal process, the County, BPD, and Dolgencorp, engaged in conspiracy against the civil rights of the Randolph's and so acting *"to band [and] conspire together upon the premises of another with the intent to injure, oppress, [and] violate the person [and] property of the Randolph's as citizens because of [their] expression [and] exercise of the same [and] attempt[s] by sham legal process] to hinder, prevent, [and] obstruct [the Randolph's] in the free exercise and enjoyment of any right or privilege secured to [them] by the Constitution and laws of the United States or by the Constitution and laws of this State."* S.C. Code § 16-5-10.

The County, BPD, and Dolgencorp, acted together jointly and severally in furthering actual larceny. Dolgencorp reversed and matched as advertised on the Randolph's complaint in deception in advertising in October and November, 2013. The County, BPD, and Dolgencorp conspired to take money from the Randolph's and conspired to suppress and interfere with her civil rights in the public to public accommodation. This conspiracy is so being *"defined as a combination between two or more persons for the purpose of accomplishing an unlawful object or lawful object by unlawful means"*. S.C. Code § 16-17-410.

The County, BPD, and Dolgencorp, severally and jointly, engaged in actual fraud ensuring the Randolph's were defrauded so as to suffer permanent ascertainable loss. This unlawful conduct is proscribed so stating in part *"it is unlawful for a person, with intent to defraud either the State, a county, or municipal government or any person, to act as an officer and demand, obtain, or receive from a person or an officer of the State,*



county, or municipal government any money, paper, document, or other valuable things."

S.C. Code § 16-13-290.

In furthering the conspiracy against the civil rights of Mrs. Randolph, the BPD Police Officer threatened Mrs. Randolph with unlawful arrest using a firearm. In falsely claiming *trespass* in a *sham legal process* with malice against Mrs. Randolph, the BPD Police Officer engaged in a "*crime of violence*" against Mrs. Randolph, in so being described a "*crime of violence*" and further meaning "*an offense that has as an element the use, attempted use, or threatened use of physical force against the person or property of another*". 18 U.S. Code § 16.

The Trial Court ruled in law absent any proceedings in trial by a jury of peers. Further absent is the Appellants right to place evidence before the Court's trier of fact and a jury for verdict. Further absent is any Answer from any Respondent in defense of the Appellants'-Plaintiffs' Complaint regardless of being affirmative defense or otherwise. The Trial Court ruled in law citing immunity (*Trial Court Order, Pg. 5, ¶ 2*) and barring punitive damages (*Trial Court Order, Pg. 5, ¶ 2*) in a thirty-seven page Complaint alleging facts and evidence in support of what the State already supports in statute. The State has made clear in statute the five elements acceptable by the State to bring suit against the State. The County and BPD in addition must abide and conform to the same State law where the State allows itself as a State Defendant. "*Jurisdiction over a State that does not consent to be sued*" cannot be sued in law except where the State grants otherwise. *Seminole Tribe of Fla. v. Florida*. The State has made clear that the following elements are excluded from the Tort Claims Act as controlling law insofar as



being "not within the scope of his official duties or that it constituted actual fraud, actual malice, intent to harm, or a crime involving moral turpitude." S.C. Code § 15-78-70(b).

The Trial Court erred in its' Order barring the Appellants claims in exceptions to waivers of sovereign immunity and punitive damages. S.C. Code §§ 15-78-60(4), (5), (6), and 15-78-120. The law controlling facts and reasonable deductions therein, cannot be found in the South Carolina Tort Claims Act (SCTCA) where causation is proximate to any of the elements proscribed or prescribed by controlling criminal law, grounded in, and so stated as, being excluded from the tort claims of SCTCA, the Trial Court must rule in other controlling law.

Dolgencorp conducted "actual fraud" on three occasions. The Randolph's incurred damages in these first two occurrences of actual fraud. These damages were immediately reversed at the Dolgencorp Store register pursuant to State law. Dolgencorp chose to maintain this unlawful conduct on the third occasion and conspired with the County and BPD in furthering actual fraud, in common law conspiracy to petit larceny. S.C. Code §§ 16-17-410 and 16-13-30.

Due to the absence of the County and BPD, the Randolph's money was returned by Dolgencorp in the first two larcenies. On the third occasion of Dolgencorp's three larcenies, with the criminal assistance of the County and BPD, Dolgencorp kept the money they had taken, permanently, and, altogether with the County and BPD, concealed the deception done upon the Randolph's, violated the rights and privileges of the Randolph's in altering so as to destroy evidence, and in furtherance of conspiracy to suppress and deny the Randolph's public immunity in seeking lawful relief from damages, denying them immunity to public persecution and false prosecution of the



Randolph's, acting so to claim defaming behavior and character, and so to keep them silent, fearful of another future false arrests, and fearful of violence. The County and BPD failed to protect the property of the Randolph's when reported at risk, joined in ensuring the property was lost permanently, and acted to prevent the Randolph's from seeking any further relief, restitution, or recovery. S.C. Code §§ 16-5-30, 16-17-735, and 16-5-10.

The Trial Court erred in ruling absent facts in matters requiring them. In the third cause of action, the County, BPD, and Dolgencorp joined together engaging in criminal conduct and in false claims of legal harmony. The accord in legal harmony of conduct, in the Respondents and Dolgencorp joint acts and conduct, only retains harmony in the controlling laws of Title 16 - Crimes and Offenses, Title 17, Chapter 25 (Judgment and Execution), Title 39, Chapter 5 (South Carolina Unfair Trade Practices Act, the South Carolina Constitution Declaration of Rights, and the U.S. Constitution with articles and as amended, and U.S. Code, Title VII. SC Title 16 controlling law in the Case and Complaint is particular to, but not limited to, S.C Title 16, Chapter 5 (Offenses Against Civil Rights), Chapter 7 (Offenses Against the Peace), Chapter 8 (Offenses Promoting Civil Disorder), Chapter 9 (Offenses Against Public Justice), Chapter 11 (Offenses Against Property), Chapter 13 (Forgery, Larceny, Embezzlement, False Pretenses, and Cheats), and Chapter 17 (Offenses Against Public Policy).

[CONCLUSION next Page]

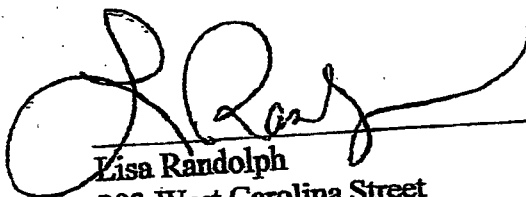


CONCLUSION

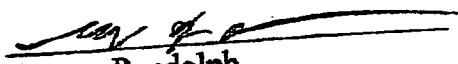
Based on the foregoing arguments and citations of authority, the Appellants, Lisa Randolph and George Randolph, respectfully request that this Court reverse the Trial Court's Order granting the Respondents summary judgment and remand this case for trial on the merits.

Respectfully Submitted,

December 8, 2014



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THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM CHEROKEE COUNTY
Court of Common Pleas

J. Mark Hayes, II, Circuit Court Judge

Case No. 2014-CP-1100052
Appellate Case No. 2014-000981

Lisa Randolph and George Randolph,

Appellants,

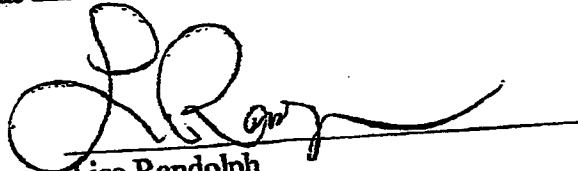
v.

Dolgencorp, LLC, d/b/a Dollar General Store #76751, a/k/a Dollar General,
and Cherokee County, and Blacksburg Police Department, Defendants,
Of Whom Cherokee County and Blacksburg Police Department are Respondents.

CERTIFICATE OF COUNSEL

The undersigned certifies that this Brief of Appellants complies with Rule 211(b),
SCACR.

December 8, 2014



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Of Whom Cherokee County and Blacksburg Police Department are Respondents.

PROOF OF SERVICE

We certify that on this date we served a copy of the Brief of Appellants on the
following Attorneys of Record and the Office of Court Administration, by depositing into
the United States Postal Service (USPS) Mail with proper USPS first class postage, on
December 8, 2014, addressed to:

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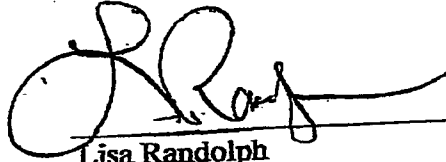
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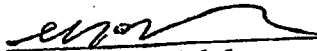


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