

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM OCONEE COUNTY
Court of Common Pleas
J. Cordell Maddox, Jr., Circuit Court Judge

Case No. 2011-CP-37-279
Appellate Case 2014-001282

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APR 21 2016

SC Court of Appeals

Mariam R. Noorai.....Appellant,

v.

School District of Pickens County, School District of Oconee County, and
Gary Culler, Donald Boggs, Richard Hudak, Earnestine Williams, Marilyn
Raines and Dr. Kelly Pew in their individual capacities,

Of whom the School District of Pickens County and Gary Culler

areRespondents.

PETITION FOR REHEARING FROM APPELLANT MARIAM R. NOORAI

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Attorney for Appellant Mariam R.
Noorai

TABLE OF AUTHORITIES

Cases

Gattison v. S.C. State Coll., 318 S.C. 148, 151, 456 S.E.2d 414, 416 (Ct. App. 1995).....2,3

Hansson v. Scalise Builders of S.C., 374 S.C. 352, 355, 650 S.E.2d 68, 73 (2007).....2

Statutes

S.C. Code Ann. § 59-24-60.....2

S.C. Code Ann. § 59-25-159.....1

S.C. Code Ann. § 59-25-160.....1

S.C. Code Ann. § 59-25-170.....1

S.C. Code Ann. § 59-26-40.....1

S.C. Code Ann. § 59-63-330.....2

S.C. Code Ann. § 59-63-3352

ARGUMENT

Appellant respectfully submits that the Court may have failed to consider or afforded the improper weight to Appellants' evidence submitted to the Court, and therefore Appellant petitions this Honorable Court for a rehearing based on the following:

1. Appellant provided sufficient evidence to show a genuine issue of material fact about whether she suffered a pecuniary loss as a proximate cause of Respondents' misrepresentations.

This Court failed to consider many pieces of evidence showing that Respondents made actionable misrepresentations to Appellant. This Court failed to consider that (1) Respondent Culler misrepresented to Appellant that Appellant was required to sign a letter of resignation "that day" because she chose not to renew her contract, and (2) Respondent Culler would automatically "pull" her teaching certificate if she failed to sign the forced resignation letter. These representations are false. First, Appellant's contract contains no term requiring her to sign a letter of resignation. S.C. Code Ann. § 59-26-40, the statute that governs Appellant's contract, does not require a letter of resignation. The contract expires automatically. Second, Respondents did not have the authority to *automatically* revoke Appellant's teaching certificate if she failed to sign a resignation letter. S.C. Code Ann. §§ 59-25-159 to -160 provide that Appellant's certificate could only be revoked for "good cause" and lists twelve categories, none of which contains the failure to sign a resignation letter. S.C. Code Ann. § 59-25-170 provides that Appellant's certificate could not be revoked or suspended without written notice to Appellant and a hearing. These misrepresentations to Appellant effectively forced her resignation and led to the negative references that Respondent Culler provided to other schools. Accordingly, but for the misrepresentations, Appellant never would have left the school, and never would have suffered the pecuniary loss of continually being denied employment due to the

false information. Appellant requests that the Court grant a rehearing to reconsider this evidence.

2. Appellant provided sufficient evidence to show a genuine issue of material fact about whether Respondents breached the contract between Appellant and Respondents.

Appellant had a contract with Respondent School District of Pickens County (“SDPC”). This contract provided for employment for the 2008-2009 school year. Implied into this contract are S.C. Code Ann. §§ 59-24-60 & 59-63-335, which impose a *mandatory* duty on school administrators to report criminal conduct to law enforcement authorities. Appellant testified that the criminal conduct was never reported to law enforcement. (Supp. R. p. 89, lines 3-6, p. 107, lines 1-12.) Also implied into Appellant’s contract is S.C. Code. Ann. § 59-63-330 imposes a mandatory duty on SDPC to report school-related crimes to the South Carolina Department of Education. SDPC did not do so. (Supp. R. p. 122, lines 12-17). Accordingly, there is a genuine issue of material fact, and Appellant requests that this Court grant a rehearing to reconsider this evidence.

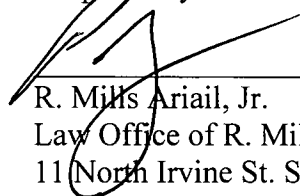
3. Appellant provided sufficient evidence to show a genuine issue of material regarding Appellant’s intentional infliction of emotional distress claim.

Respondent Culler repeatedly berated, belittled, and yelled at Appellant for reporting the incidents that happened to her. When Culler forced Appellant to sign a resignation letter, he was so worked up and excited that he had an erection. This incident alone is extreme and outrageous, and is certainly so when considered as systematic pattern of conduct. This incident “exceed[s] all possible bounds of decency . . . [and is] utterly intolerable” in a civilized community. *Gattison v. S.C. State Coll.*, 318 S.C. 148, 151, 456 S.E.2d 414, 416 (Ct. App. 1995).

Second, Appellant provided sufficient evidence to show that her emotional distress was sufficiently severe. In *Hansson v. Scalise Builders of S.C.*, 374 S.C. 352, 355, 650 S.E.2d 68, 73

(2007), cited by the Court in its opinion, the appellant's emotional damages "rested on his testimony that he lost sleep at night and [was] grinding his teeth in his sleep." The *Hansson* appellant never received treatment or medication from any other physician or counselor, did not lose any time from work, and did not affect his ability to perform his job. *Id.* Here, Appellant developed post-traumatic stress disorder. Here, Appellant can no longer find work as a result of Respondent Culler's systematic abuse. These cases are distinguishable. Appellant requests that this Court reconsider the substantial evidence showing the emotional distress that Respondent Culler's caused Appellant.

Respectfully submitted,



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April 20, 2016
Greenville, South Carolina

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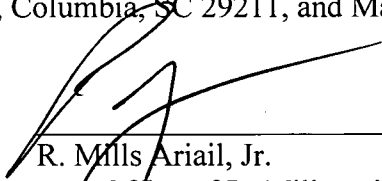
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PROOF OF SERVICE

I certify that I have served the Appellant's Petition for Rehearing on all interested parties by sending a copy via email and US Mail on April 20, 2016, addressed to the Respondents' attorneys of record, Laura Callaway Hart and David T. Duff, PO Box 1486, Columbia, SC 29202, Thomas Kennedy Barlow, PO Box 11367, Columbia, SC 29211, and Mary Allison Caudell, PO Box 11367, Columbia, SC 29211.



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