

**FORM 14  
DESIGNATION OF MATTER TO BE  
INCLUDED IN THE RECORD ON APPEAL**

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

APPEAL FROM CHARLESTON COUNTY  
9<sup>th</sup> Circuit Court of Common Pleas

R. Markley Dennis, Circuit Court Judge

Case No. 2015-001331

MUSC

Respondent,

v.

Jack Powell,

Appellant,

**DESIGNATION OF MATTER TO BE  
INCLUDED IN THE RECORD ON APPEAL**

Appellant proposes to include the following in the record on Appeal

John Arthur Jones, Esquire  
288 Meeting St. Ste 200  
Charleston, S.C. 29401  
(843)577-7700  
Attorney for Respondent

Jack Powell  
1402 Camp Road Unit 8-A  
Charleston, S.C. 29412  
(843)952-4762  
Pro se Appellant

**RECEIVED**

MAY 02 2016

**SC Court of Appeals**

## **APPELLANTS PROPOSED RECORD ON APPEAL**

### **INDEX**

Orders	p.1
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### **ORDERS**

1. Order Court Granted Defendants Motion for Summary Judgment on 7-30-15
2. Order Granting Motion for Summary Judgment filed on 9-25-2014

### **JUDGMENT**

1. Granted Summary Judgment on 7-30-15
2. Appellants Motion to Amend Reconsideration Denied on 5-19-2015

### **DECISIONS**

1. Motion to Amend Reconsideration, p.1 is Judge J.C. Nicholson Jr. Reversal of Appellants charge of Trespassing: Refusal to Leave due to loitering about the premises and was filed on 3-6-2015. Submitted as Exhibit A of Appellants Motion to Amend Reconsideration, and also on p. 1 & 2.

2. Defendants Supplemental Memorandum in Support of Motion filed 11-07-14 on the Charleston County Circuit Court Public Index for Respondent to prove they had a legal right to arrest Appellant for trespassing at a public hospital.
3. Appellants Response to Defendants Supplemental Memorandum filed 11-12-2014
4. Appellants Motion to Amend Reconsideration p.7, no.8 is the failure of Judge Dennis to recognize that he himself did not know the MUSC procedures and erred when he granted Summary Judgment for Respondent and also on p.8, no.9.

**TRANSCRIPT  
MSJ HEARING**

1. p.7, L. 18-25; Inflammatory Untruth
2. p.15, L. 11-19; Improper ruling by Judge Dennis
3. p.9, L. 8-11 & p.11, L. 25; Untruth about Hostile discharge
4. p.9, L. 8-16; Untruth about pending medication
5. p.7, top para. Untruth by omitting Security Guards & Public Safety
6. p.16, L. 7-12; Untruth concerning Security Guards & Public Safety
7. p.8, L.3-8; Untruth to confuse the Court
8. p.9, L. 8-16; Untruth about pain medication
9. p.13, L. 14-19; Untruth about Plaintiff admitting to leave the hospital
10. p.9, no. 9-11 & p.8, L. 2-14 Untruth about Appellant, refused to leave
11. p.7, L. 14-18 & p.6, L. 12-14 & p11, L. 12-25.; Untruth concerning a statement by an EMT

12. p.13, L. 1-4 & 9-11; p.8, L.1-8; Untruth by trying to convince the court the touching was only defensive
13. p.13, L 6-10; Untruth about when Appellant was touched
14. p.8, L. 9-24; Untruth about Appellant who was in pain
15. p.14, L. 4-25; Improper ruling because of evasive discovery
16. p.15, L. 5-8; Improper opinion about statements
17. p.17, L. 11-23; Not allowed to submit evidence even though on p.14 L.10 &15  
Judge Dennis asked what is it you think they may have that would help you and then wouldn't allow the submission of evidence.
18. p.14, L. 12-25, p.15, L. 1-11, p17. L. 11-25; Failure to properly state record

**COURT RECORDS OF; STATE/PUBLIC SAFETY V. JACK POWELL**  
**TRANSCRIPT OF TRESPASSING HEARING**  
Motion to Amend Reconsideration

1. p.25, no. 25 thru p.26, no. 1-10; Public Safety did not help Appellant out of his wheelchair when he asked for help.
2. p. 26, no. 20 -25 thru p.27, no. 1-19; Public Safety admits telling Appellant they would take him to Roper Hospital while he was in the ER.
3. p.28, no. 5-9; improper discharge and false arrest.
4. p.28, no. 18-23; Public Safety had Dr. Instructions for Appellant and did not follow it. Also unaware of medication given just before discharge and makes clear their

not doctors.

### **Respondents Deposition to Appellant**

1. Appellants Motion to Amend Reconsideration; p19 [Dep. J. Powell, p. 154-156]

Q. Because you did cuss and yell at them; correct?

**A. Well, if their name is asshole then I guess I was talking to them. Because anybody that gets abused and attacked like this—just like they did this 75 year old woman right here and then punch her in the chest – what do you expect people to do.? [Dep. J. Powell, pp. 154-156]**

Q. Did you let them know that you were fearful that they were a bunch of nuts and going to do this again to you?

A. Yeah. I called them a bunch of assholes and crazy assholes and everything else. Okay. Let's put the horse in front of the cart. The yanking and pulling came before the cussing. [Dep. J. Powell pp. 101-103]

### **MOTIONS**

1. Motion for Summary Judgment filed on 7-14-14
2. Motion to Reconsider filed on 8-8-2014
3. Motion to Amend Motion to Reconsider filed on 5-6-2015 at 9:29 a.m.
4. Motion to Recuse Judge Dennis filed on 5-6-2015 at 9:35 a.m.
5. Motion to Compel Discovery filed on 4-18-2014

### **DOCUMENTS & OTHER MATERIALS**

#### **Admissions**

1. Appellants Complaint p.28, 4-12, Admit from 1<sup>st</sup> case
2. Appellants Request to Admit filed on 2-14-2014
3. Motion to Amend Reconsideration p. 16, no. 1, 5, 12, 13, 14... p. 15, no.21.  
p.14, no.14 and Exhibit K is the Respondents Admit request to Appellant.

### **Interrogatories**

1. Respondents return of discovery in first case used throughout 2<sup>nd</sup> Complaint.
2. Appellants Complaint; p. 9 Security Officer Mckinnie stated he stopped trying to assist patient from a lying to a seated position because patient stated he would not put anymore pain on himself and Public Safety Report states cannot move without feeling pain, became agitated and stated he would sue the hospital and wanted a second opinion
3. Appellant Complaint p.13
4. Motion to Amend Reconsideration p.29, 2, 3, 7, 10 with Dr. Watson stating "Mr. Powell never pulled from bed" "Officer Mckinnie stopped trying to assist Plaintiff from a lying to a seated position because Plaintiff stated that he would not put any more pain on himself for the hospital" "No one attempted to pull Mr. Powell from the bed at any time" "assisted Mr. Powell from the bed" and p.7, no.8 Exhibit J, para.2 states "After speaking with in charge physician, the suspect was taken from the bed"
5. Same Motion revealing untruth by MUSC nurse, Exhibit H, no.18, 20,23, 24
6. Appellants Interrogatories Request was filed on 12-16-2014

### **PRODUCTION OF DOCUMENTS**

1. Appellants Request for Production of Documents filed on 12-16-2013 ref. Motion to Amend Reconsideration, Exhibits N & O and p.16

### **MUSC Radiology Report**

1. Complaint p.22, 23, 24; Appellants injuries and x-rays results.

### **MUSC Nursing Assessment 'Triage'**

1. Motion to Amend Reconsideration, Exhibit F; p.6, no. 7 is the untruth by MUSC ER Nurse.
2. MUSC version of refusing to leave the ER; he will not leave he "can't move".
3. Appellant was given medication a second time after Security Guards attempted to pull Plaintiff from the ER bed. Appellants Motion to Amend Reconsideration p.6, no.6 p.11, B and p.10, no.11-A

### **Public Safety Incident Report**

1. Appellants Complaint p.9, 25 & 26 stating Powell still complained pain was unbearable, Dr. Watson gave Powell medication and was taken before discharge. Discharged at 12:25:10 and also Dr. Watson gave Powell pain medication at 1:00 am. Also has multiple relevant statements by Public Safety officers about their failure to help Appellant out of his wheelchair and properly discharge him, handcuffed in front because of medical issues and the actual time Appellant was forced to lay in their back seat unattended in their parking lot for 34 minutes.
2. Officer Radford stated he wasn't a Doctor on p.11, F of Appellants Motion to Amend Reconsideration.

### **MUSC Doctor Instructions to patient Jack Powell**

1. Appellants Complaint p.21, the Public Safety had in their possession and intentionally did not follow.

**This drug is an narcotic, it will impair judgment, slow reaction time, make sleepy and should not drive or work with machinery including blenders, knives, lawn mowers or sewing machines for six to eight hours. Don't do anything requiring mental alertness until the effects of the medication are gone. Do not take any alcohol or sedatives, and don't use any other medication without checking with our physician, you should call the doctor or go to the hospital if you develop severe neck pain, severe light headedness, numbness in any extremity or pain radiating down an arm or leg.**

2. Also, Motion to Amend Reconsideration p.9, D. p.11, C and p.30

### **Crave Reference to**

1. Appellants Complaint p. 6, 7, 8 is the list of under oath statements 1-26 by Respondent from the beginning to when Public Safety Officer Warner told Appellant he had to go.

### **Charleston County Circuit Court Public Index**

1. Appellants Motion to Recuse was filed improperly by the Charleston Clerk of Court before Appellants Motion to Amend Motion for Reconsideration and Judge Dennis ruled on Reconsideration first and didn't rule on Motion to Recuse.

**Exhibit D, Motion to Amend Reconsideration Untruth**

1. Respondent Attorney recreated the Appellants Complaint to create an inflammatory opinion towards the Appellant. p.3 beginning with no.2 & thru p.5 and Exhibit C.

**Judge Dennis Inconsistent Ruling of Memorandum**

1. Appellants Motion to Amend Reconsideration p.5, no. 3-5 compared to this MSJ response of Memorandum by Appellant and p.15, no19.

**Improper Scheduling by Clerks Office**

1. Appellants Motion to Amend Reconsideration p.14, no.17

**Preponderance of undiscovered evidence**

1. Appellants Motion to Amend Reconsideration p. 14, no. 14-16...p.15, no.21 & 22

**Judge Dennis Inflammatory Insult**

1. Appellants Motion to Amend Reconsideration p.15, no.19
2. Transcript p.5, L. 19-25 and p.6, L.1-10

**Al Cannon Detention Center Video**

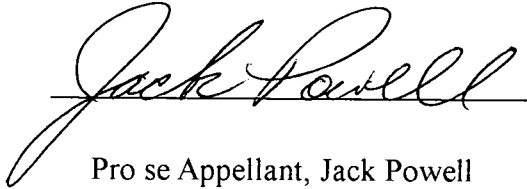
1. Exhibit A, Real time medical condition of Appellant just minutes after leaving Public Safety parking lot and being pushed into the jail, in a wheelchair.

**Having considered the arguments and submissions of council**

1. Appellant wasn't allowed to submit any argument or submissions of evidence submitted in Appellants Motion to Amend Reconsideration, p.22, 2<sup>nd</sup> para., Order

Granting Medical University of South Carolina Summary Judgment.

Signed & mailed on 4-30-2016



Pro se Appellant, Jack Powell

cc; Deputy Clerk, V. Claire Allen  
Attorney, John Arthur Jones

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**DESIGNATION OF MATTER CERTIFIED**

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

**RECEIVED**

MAY 02 2016

APPEAL FROM CHARLESTON COUNTY  
9<sup>th</sup> Circuit Court of Common Pleas

**SC Court of Appeals**

R. Markley Dennis, Circuit Court Judge

Case No. 2015-001331

MUSC

Respondent,

v.

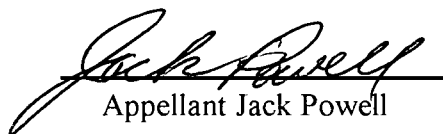
Jack Powell,

Appellant,

**DESIGNATION OF MATTER CERTIFIED**

Appellant Jack Powell hereby certifies that his Designation of Matter does not contain any matter that is not relevant to the Appeal.

Signed & dated on; 4-30-2016



Appellant Jack Powell  
1402 Camp Road Unit 8-A  
Charleston, S.C. 29412  
(843)952-4762

cc; Deputy Clerk, V. Claire Allen  
Attorney, John Arthur Jones.

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**FORM 7  
PROOF OF SERVICE**

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals  
[In The Supreme Court]

**RECEIVED**

APPEAL FROM CHARLESTON COUNTY  
Court of Common Pleas

MAY 02 2016

**SC Court of Appeals**

R. Markley Dennis, Circuit Court Judge

Case No. 2015-001331

MUSC Respondent,

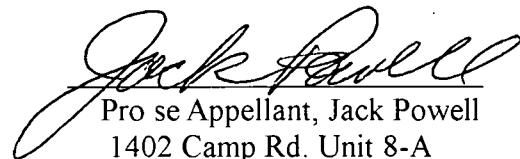
v.

Jack Powell, Appellant.

**PROOF OF SERVICE**

I certify that I have served my Designation of Matter and the Designation of Matter is Certificate on the Medical University of South Carolina by depositing a copy in the United States Mail, postage prepaid on April 30th, 2016 and addressed to their attorney of record, Barnwell & Whaley located at 288 Meeting Street Ste. 200, Charleston S.C. 29401.

April 30th, 2016



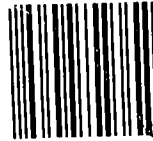
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SOUTH CAROLINA COURT OF APPEALS  
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