THE STATE OF SOUTH CAROLINA
In the Supreme Court

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas

RECEIVED
JUN 26 2015
S.C. Supreme Court

Joseph M. Strickland, Special Circuit Court Judge

Circuit Court Case No. 2010-CP-40-1249
S.C. Court of Appeals Case No. 2013-001581
Unpublished Opinion No. 2015-UP-201, Filed April 15, 2015

James W. Trexler,

Petitioner,

v.

The Associated Press; Barrington Broadcasting South Carolina Corp.; Raycom TV Broadcasting, Inc.; The Spartanburg Herald Journal, Inc.; and The Pacific & Southern Co., Inc.,

Respondents.

APPENDIX

Volume 2 of 3

William H. Johnson
Law Offices of William H. Johnson, LLC
411 North Brooks Street
Post Office Box 137
Manning, South Carolina 29102
(803) 435-0909 (telephone)
(803) 435-2858 (facsimile)
-and-
W. Westbrook Wills III
Attorney at Law
38 Broad Street

Suite 200
Charleston, SC 29401
(843) 805-6300 (telephone)
(843) 278- 9333 (facsimile)
-and-
Matthew D. Hamrick
Attorney at Law
1524 Ashley River Rd.
Charleston, SC 29407
(843) 693-4700 (telephone)
(877) 524-5023 (facsimile)
ATTORNEYS FOR PETITIONER

Other counsel of record:

Jay Bender
Baker, Ravenel & Bender LLP
Post Office Box 8057
Columbia, South Carolina 29202
(803) 799-9091 (telephone)
(803) 779-3423
ATTORNEYS FOR RESPONDENTS

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This Equine Infectious Anemia (EIA) test was processed by an NVSL Accredited Laboratory — GlobalVetLink's eEIA test form contains all data fields as found on federal form VS 10-11

GlobalVetLink - EQUINE INFECTIOUS ANEMIA LABORATORY TEST

EIA-354049
CERTIFIED COPY

SERIAL NO.	ACCESSION NO.	DATE COMMITTED	COUNTY
SC-354049	EM721010	11/22/07	

Forms Without Adequate Descriptions Of The Horse and Complete Addresses Including Zip Codes, and Telephone Numbers Will Not Be Processed.

NAME & ADDRESS OF OWNER	NAME & ADDRESS OF VETERINARIAN	NAME & ADDRESS OF STABLE/MARKET
Trexler, Hazel 9151 803-518-3304	Equine Medical Services,LLC Mitch Lowrey, DVM PO Box 2693 Bluffton, SC 29910 843-304-3723	Trexler, Hazel 803-518-3273

VETERINARY LICENSE OR ACCREDITATION NO.	TEST TYPE	REASON FOR TESTING
SC2190/GA6968 / GA:6968	ELISA	Annual

CERTIFICATION OF FEDERALLY ACCREDITED VETERINARIAN I certify the specimen submitted with this form was drawn by me from the horse described below on the day indicated above.

SIGNATURE OF FEDERALLY ACCREDITED VETERINARIAN	SIGNATURE NAME	DATE BLOOD DRAWN
	Mitch Lowrey, DVM	11/18/07

CERTIFICATION OF OWNER OR OWNER'S AGENT I certify that I have examined this form and, to the best of my knowledge and belief, this form is true, correct and complete.

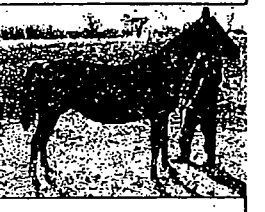
SIGNATURE OF OWNER OR OWNER'S AGENT	SIGNATURE NAME	SIGNATURE DATE
	Trexler, Hazel	11/22/07

NAME OF HORSE	ID1	ID2	ID3
Triumph	N/A	N/A	N/A

COLOR	AGE OR DOB	BREED	GENDER
Bay	6 year(s)	Arabian	Mare

REMARKS: See photos





NARRATIVE DESCRIPTION *(See animal photograph(s) above)*

HEAD	OTHER MARKS AND BRANDS
LEFT FORELIMB	RIGHT FORELIMB
LEFT HINDLIMB	RIGHT HINDLIMB

FOR LABORATORY USE ONLY

LABORATORY	TUBE NO.	DATE RECEIVED	DATE REPORTED	TEST RESULTS
Laboratory Solutions Inc. 495 Sheppard Drive Suite No. 1 North Augusta, SC 29860 803-278-0117	417512-0	11/21/07	11/21/07	Negative

TECHNICIAN	SIGNATURE OF TECHNICIAN
Gobal, Beverly	Beverly Gobal MT (ASCP) MLT

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DEFENDANT'S EXHIBIT
8 TREXLER
9/14/11 aa
PENGAD 800-631-6989

8441-A-0114

This Equine Infectious Anemia (EIA) test was processed by an NVSL Accredited Laboratory — GlobalVetLink's eEIA test form contains all data fields as found on federal form VS 10-11

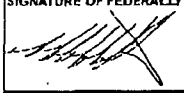
GlobalVetLink - EQUINE INFECTIOUS ANEMIA LABORATORY TEST			EIA-354047 CERTIFIED COPY
SERIAL NO. SC-354047	ACCESSION NO. EM721034	DATE COMMITTED 11/22/07	COUNTY

Forms Without Adequate Descriptions Of The Horse and Complete Addresses Including Zip Codes, and Telephone Numbers Will Not Be Processed.

NAME & ADDRESS OF OWNER	NAME & ADDRESS OF VETERINARIAN	NAME & ADDRESS OF STABLE/MARKET
Trexler, Hazel 803-518-3304	Equine Medical Services,LLC Mitch Lowrey, DVM PO Box 2693 Bluffton, SC 29910 843-304-3723	Trexler, Hazel 434 803-518-3273

VETERINARY LICENSE OR ACCREDITATION NO.	TEST TYPE	REASON FOR TESTING
SC2190/GA6968 / GA:6968	ELISA	Annual

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	Mitch Lowrey, DVM	11/18/07

CERTIFICATION OF OWNER OR OWNER'S AGENT I certify that I have examined this form and, to the best of my knowledge and belief, this form is true, correct and complete.

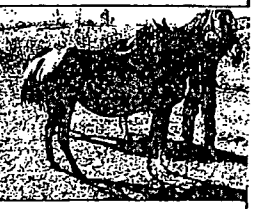
SIGNATURE OF OWNER OR OWNER'S AGENT	SIGNATURE NAME	SIGNATURE DATE
	Trexler, Hazel	11/22/07

NAME OF HORSE	ID1	ID2	ID3
Sweet Promise	N/A	N/A	N/A

COLOR	AGE OR DOB	BREED	GENDER
Sorrel	19 year(s)	Arabian	Mare

REMARKS: See photos





NARRATIVE DESCRIPTION *(See animal photograph(s) above)*

HEAD	OTHER MARKS AND BRANDS
LEFT FORELIMB	RIGHT FORELIMB
LEFT HINDLIMB	RIGHT HINDLIMB

FOR LABORATORY USE ONLY

LABORATORY	TUBE NO.	DATE RECEIVED	DATE REPORTED	TEST RESULTS
Laboratory Solutions Inc. 495 Sheppard Drive Suite No. 1 North Augusta, SC 29860 803-278-0117	417514-0	11/21/07	11/21/07	Negative

TECHNICIAN	SIGNATURE OF TECHNICIAN
Gobal, Beverly	Beverly Gobal MT (ASCP) MHE

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#18?

8441-A-0115

This Equine Infectious Anemia (EIA) test was processed by an NVSL Accredited Laboratory —GlobalVetLink's eEIA test form contains all data fields as found on federal form VS 10-11

GlobalVetLink - EQUINE INFECTIOUS ANEMIA LABORATORY TEST

EIA-354045
CERTIFIED COPY

SERIAL NO.	ACCESSION NO.	DATE COMMITTED	COUNTY
SC-354045	EM721008	11/22/07	

Forms Without Adequate Descriptions Of The Horse and Complete Addresses Including Zip Codes, and Telephone Numbers Will Not Be Processed.

NAME & ADDRESS OF OWNER	NAME & ADDRESS OF VETERINARIAN	NAME & ADDRESS OF STABLE/MARKET
Trexler, Hazel 1151 803-518-3304	Equine Medical Services,LLC Mitch Lowrey, DVM PO Box 2693 Bluffton, SC 29910 843-304-3723	Trexler, Hazel 134 803-518-3273

VETERINARY LICENSE OR ACCREDITATION NO.	TEST TYPE	REASON FOR TESTING
SC2190/GA6968 / GA:6968	ELISA	Annual

CERTIFICATION OF FEDERALLY ACCREDITED VETERINARIAN I certify the specimen submitted with this form was drawn by me from the horse described below on the day indicated above.

SIGNATURE OF FEDERALLY ACCREDITED VETERINARIAN	SIGNATURE NAME	DATE BLOOD DRAWN
	Mitch Lowrey, DVM	11/18/07

CERTIFICATION OF OWNER OR OWNER'S AGENT I certify that I have examined this form and, to the best of my knowledge and belief, this form is true, correct and complete.

SIGNATURE OF OWNER OR OWNER'S AGENT	SIGNATURE NAME	SIGNATURE DATE
	Trexler, Hazel	11/22/07

NAME OF HORSE	ID1	ID2	ID3
Affair	N/A	N/A	N/A

COLOR	AGE OR DOB	BREED	GENDER
Grey	9 year(s)	Arabian	Mare

REMARKS: See photos



NARRATIVE DESCRIPTION *(See animal photograph(s) above)*

HEAD	OTHER MARKS AND BRANDS
LEFT FORELIMB	RIGHT FORELIMB
LEFT HINDLIMB	RIGHT HINDLIMB

FOR LABORATORY USE ONLY

LABORATORY	TUBE NO.	DATE RECEIVED	DATE REPORTED	TEST RESULTS
Laboratory Solutions Inc. 495 Sheppard Drive Suite No. 1 North Augusta, SC 29860 803-278-0117	417516-0	11/21/07	11/21/07	Negative

TECHNICIAN	SIGNATURE OF TECHNICIAN
Gobat, Beverly	Beverly Gobat MT (ASCP) MLS

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#17

8441-A-0116

RICHLAND COUNTY SHERIFFS DEPT
SC0400000

INCIDENT REPORT

INFORMATION ONLY

CASE NUMBER 0802114413

INQ | ENTD

INCIDENT TYPE	COMPLETED	FORCED ENTRY	PREMISE TYPE	UNITS ENTERED
ALL OTHER OFFENSES - 90Z	YES NO	YES NO	RESIDENCE/HOME	
	YES NO	YES NO		
	YES NO	YES NO		

TYPE VICTIM: Individual, Business, Financial Inst, Government, Relig Orgn, Soc/Fraternal, Other, Unknown, Police Of

INCIDENT LOCATION (SUBDIVISION, APARTMENT AND NUMBER, STREET NAME AND NUMBER): 1820 ZEIGLER ROAD SOUTH, SC — ZIP CODE 29044 — WEAPON TYPE

INCIDENT DATE	24 HR. CLOCK	TO	DATE	24 HR. CLOCK	DISP. DATE	DISP. TIME	TIME ARRIVED	DEPART TIME	LOCATION NO
02/13/2008	11:30		02/13/2008	11:46	02/13/2008	11:48	11:52	12:31	2

COMPLAINANT'S NAME (LAST, FIRST, MIDDLE)	RELATIONSHIP TO SUBJECT #1	#2	#3	RESIDENT	RACE	SEX	AGE	ETH	DAYTIME PHONE	EVENING PHONE
TREXLER, HAZELENE	ST			S	W	F	70 /	N	8035183304 H	

ADDRESS	CITY	STATE	ZIP CODE	LOCATION NO
500 E. BREWINGTON ROAD	SUMTER	SC	29153	

VICTIM'S NAME (LAST, FIRST, MIDDLE)	RELATIONSHIP TO SUBJECT #1	#2	#3	RESIDENT	RACE	SEX	AGE	ETH	DAYTIME PHONE	EVENING PHONE
TREXLER, JAMES, ALFORD	ST			S	W	M	47 /	N	8035183273 H	

HEIGHT	WEIGHT	HAIR	EYES	FACIAL HAIR, SCARS, TATTOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC.
504	125	RED	BLU	Gave DOB as

ADDRESS	CITY	STATE	ZIP CODE	LOCATION NO
920 E. BREWINGTON ROAD	SUMTER	SC	29153	

VISIBLE INJURY/VICT.? YES NO EXPLAIN: — COMPLAINT OF ANY NON-VISIBLE INJURIES? YES NO

VICTIM/O 1) USING: ALCOHOL YES NO UNK. DRUGS: YES NO UNK. TYPE:

TYPE-MANNER: ONE-MAN/VEH, DETECTIVE/PLASMT, OTHER, ALONE, ASSISTED — *J-This Jurisdiction, S-State, O-Out of State, U-Unknown

	NAME (LAST, FIRST, MIDDLE)	RACE	SEX	AGE	ETH.	DATE OF BIRTH	HEIGHT	WEIGHT	HAIR	EYES
SUSPECT / RUNAWAY / WANTED / WARRANT / ARREST / JAIL / SUMMONS	HART, MICHELE	W	F	48 /	N	09/23/1959	511	180	BRO	BRO

FACIAL HAIR, SCARS, TATTOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC. — DAYTIME PHONE — EVENING PHONE

ADDRESS	CITY	STATE	ZIP CODE	LOCATION NO
121 HUMANE LANE	COLUMBIA	SC	29209	

SUBJECT/NO 1) USING: ALCOHOL YES NO UNK. DRUGS: YES NO UNK. TYPE: — ARRESTED NEAR OFFENSE SCENE YES NO — TOTAL # ARRESTED — DATE/TIME OF OFFENSE 02/13/2008 11:30:00 — DATE/TIME OF ARREST

DAY OF THE WEEK: S M T W T F S UNK — HOW REPORTED: A= OFFICER DISPATCHED ON CALL, B= REPORT TAKEN BY PHONE, C= COMPLAINANT WALKED IN, D= COMPLAINT WRITTEN IN, E= OFFICER INITIATED, F= OTHER — DIFF. FACTOR: A= RESISTANCE/HOSTILITY, B= WEAPONS, C= UNFOUNDED CALLS, D= MENTAL SUBJECT, E= COMPLAINANT PRE-/GLEENTLY INTOXICATED, F= DOMESTIC, H= NORMAL

REPORTING OFFICER RESPONDED TO INCIDENT LOCATION IN REFERENCE TO AN ACTIVE CIVIL DISTURBANCE. UPON ARRIVAL REPORTING OFFICER WAS MET BY HAZELENE AND JAMES TREXLER WHO STATE THAT HART WAS TRESPASSING ON THEIR LAND AND TAKING PICTURES OF THEIR HORSES. REPORTING OFFICER THEN MADE CONTACT WITH HART, A CRUELTY INVESTIGATOR WITH THE HUMANE SOCIETY, WHO STATES THAT SHE WAS ON THE PROPERTY OF DR. LORI STOKES, A VETERINARIAN (803-730-2149), WHO GAVE HER PERMISSION TO ENTER ONTO HER PROPERTY IN ORDER TO CONDUCT HER INVESTIGATION. HART ADDED THAT SHE WAS INVESTIGATING A COMPLAINT OF CRUELTY TO HORSES WHICH BELONG TO THE TREXLER'S. JAMES TREXLER STATED THAT THE PROPERTY HART WAS ACTUALLY ON WAS THAT WHICH HE RENTED FROM JAMES QUINN. BOTH HAZELENE AND JAMES TREXLER REQUESTED REPORT.

	JURISDICTION OF THEFT LAW ENFORCEMENT AGENCY			JURISDICTION OF RECOVERY LAW ENFORCEMENT AGENCY			TOTAL VALUE
TYPE/GROUP							0
STOLEN							0
DAMAGED							0
PLANTED							0
RECOVERED							0
USED							0

SUBJECT IDENTIFIED YES NO — SUBJECT LOCATED YES NO — S F — ACTIVE UNFOUNDED — ADM CLOSED — ARRESTED UNDER 18 — EX-CLEAR UNDER 18 — ARRESTED 18 AND OVER — EX-CLEAR 18 AND OVER

CLEARANCE: 1 = EXCEPTIONAL CLEARANCE, 2 = DEATH OF OFFENDER, 3 = NO PROSECUTION, 4 = EXTRADITION DENIED, 5 = VICTIM DECLINES COOPERATION, 6 = JUVENILE/NO CUSTODY

REPORTING OFFICER'S	DATE	UNIT NUMBER	APPROVING OFFICER	DATE	UNIT NUMBER
Simpson, Dooley	02/13/2008	1250	Kilcoyne, Shawn	02/13/2008	

FOLLOW-UP INVESTIGATION YES NO — OFFICER

DEFENDANT'S EXHIBIT 9 TREXLER 9/14/11 aa

PENGAD 800-631-6989

8441-A-01

ADDITIONAL NARRATIVE

Agency Name	ORI #:	Report Date/Time:	OCA #
RICHLAND COUNTY SHERIFFS DEPT	SC0400000	02/13/2008 11:30:00	0802114413

I/T: ALL OTHER RESPONSES
I/L 1820 ZEIGLER ROAD SOUTH

WHEN REPORTING OFFICER FIRST ARRIVED, HAZELENE TREXLER WAS YELLING THAT SHE WANTED A WARRANT RIGHT THEN FOR HART TRESPASSING- BECAUSE HER SON EATS WITH SHERIFF LOTT ALL THE TIME AND IF I DIDN'T GIVE IT TO HER, SHE WAS GOING TO CALL SHERIFF LOTT. HAZELENE TREXLER WAS VERY UNCOOPERATIVE AT FIRST, EVEN TELLING REPORTING OFFICER THAT SHE WAS NOT GIVING ANY IDENTIFICATION CARDS OR HER INFORMATION BECAUSE I DID NOT NEED IT. SHE WOULD THEN SAY THAT AN INVESTIGATOR BETTER CONTACT HER AND THAT SHE WANTED A REPORT. HAZELENE TREXLER FINALLY LISTENED TO REPORTING OFFICER AND UNDERSTOOD WHY THAT INFORMATION WAS NEEDED AND PROVIDED IT.

HART ALSO STATED THAT HAZELENE TREXLER HAD CALLED HER A "B***H" NUMEROUS TIMES. HAZELENE TREXLER ADMITTED THAT SHE DID CALL HER THAT BECAUSE SHE SHOULD NOT HAVE BEEN ON THEIR PROPERTY.

JAMES TREXLER STATED HE DID NOT HAVE ANY FORM OF IDENTIFICATION, BUT DID PROVIDE A NAME AND DATE OF BIRTH. REPORTING OFFICER CHECKED THE SC DMV FILES AFTER LEAVING THE SCENE FOR HIS ADDITIONAL INFORMATION WHICH REVEALED THE NAME WAS NOT ON FILE, BUT THE NAME TERRY ALFRED TREXLER WITH THE SAME DATE OF BIRTH APPEARED WITH A STATUS OF WANTED. THE PROFILE MATCHED THAT OF JAMES TREXLER. THE STATUS OF WANTED WAS FROM THE SUMTER COUNTY SHERIFF'S DEPARTMENT FOR FRAUDULENT CHECKS AND CRUELTY TO ANIMALS. REPORTING OFFICER THEN CONTACTED INVESTIGATOR WAGNER TO MAKE HER AWARE OF THE SITUATION. HART STATED THAT SHE HAD ALREADY BEEN IN CONTACT WITH INVESTIGATOR WAGNER IN REFERENCE TO THE TREXLER'S ANIMALS.

THE TREXLER'S WERE RIDING IN A NAVY BLUE FORD TRUCK, SC TAG: 323TMP.

8441-A-02

2/13/2008

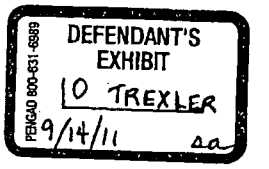
I received a call from Deputy Simpson. She told me she had been out on a call on Zeigler Rd and the complainant gave her the wrong name. She said he told her his name was James Alfred Trexler DOB /1963. He would not provide her with any ID. After she left the I/L. She ran the information in NCIC and it came back as Terry Alfred Trexler who is wanted out of Sumpter County. She told me she called me because the Humane Society was involved in the call and after she left she found out the complainant was wanted. I told her I would follow up on the incident. She gave me the incident number.

A short time later Inv. Michele Hart of the HSPCA called and told me she was investigating a complaint about some neglected horses on Zeilger Rd South. Michele told me she was on DVM Lori Stokes' property trying to take pictures of the horses on the adjoining property when a man and an older woman showed up and started to yelling and cussing at her. The woman stood between her and the horses and waived her hands in the air and shouted profanity at her. They told her she was trespassing and tried to get her to give them her camera. Michele tried to explain to them that she was with the Humane Society and that she was on Lori Stokes property with Stokes' permission to be there. Michele said when she realized she was not going to get any more pictures or any cooperation from the two people she decided to leave. While she was walking thru the pasture back to her truck the man drove his truck over behind her truck and blocked her in. He actually told her there was no way she was going to leave. He told her he had called the police and the police had told him to keep her there. I told Michele I had received a call from the deputy who had responded and I would follow up on the incident. We decide to meet on Monday at the Humane Society.

2/19/2008 1000

I met with Inv. Michele Hart, Inv. Liz Perry and Mary Ellen Tobias at the HSPCA to discuss getting a SW to evaluate the horses on Zeigler Rd.
Michele told me the first time she went to investigate the property on Zeigler Rd no one was around and the gate was locked so she posted the property. Then she received a call from a man who said he was James Trexler with the SC Department of Agriculture. He was very belligerent and told her he owned the horses and she could not go on his property to look at the horses. That is why she had gone on Lori Stokes' property to try to take pictures of the horses.
Michele also gave me a written statement about how the man calling himself James Trexler blocked her in and would not let her leave. I showed her DMV pictures of James Trexler and Terry Trexler. She immediately pointed to Terry Trexler and said that is the man who told me he was James Trexler and would not let me leave.

On 2/25/2008 at 0930 RCSD assisted the HSPCA serve a search warrant at 1248 Zeigler Rd South. RCSD secured the property. A DVM Mike Privett and HSPCA checked on the condition of the 23 horses found on the property. There was a 15-gallon water tub that only had a few inches of water in the bottom. All other tubs and buckets on the property were empty. There was no feed, hay or any evidence that there had been any hay on the property. Most of the horses were extremely



8441-A-031

underweight with ribs and hipbones showing. Some of the younger horses had on halters that had been on so long that they were growing into the skin. There were two female dogs and 5 puppies on the property. They did not have any food or water. After a preliminary evaluation of the animals and property it was decided to seize all the animals. The 23 horses, two female dogs and 5 puppies were all taken into custody by the HSPCA.
The HSPCA had information that Terry and Hazel Trexler owned the horses. Hazelene Trexler arrived on the property during the search warrant. She was very upset. At one point she yelled at Michele Hart of the HSPCA "I am going to get you" while pointing her finger at her. Hazel Trexler claimed ownership of all the horses while being interviewed by the media.

The horses were taken to Mike Privett's to be evaluated and cared for.
All the horses were numbered and photographed.
DVM Mike Privett evaluated and documented the body condition of all the horses seized.

The HSPCA had also received information that there were horses in a barn at the home of James Trexler 412 Derby Ln. Hopkins SC. The HSPCA obtained a warrant for that property.
On 2/26/08. RCSD assisted the HSCPA in serving that warrant. One horse was in a pasture. Four horses were found in stalls in the barn. The horses were standing in mud soaked with urine and feces. There was no food, hay or clean water seen on the property. One of the horses was in an emaciated state with ribs and hipbones protruding. The other horses were slightly under nourished. The horses were taken into custody by the HSPCA

The horses were taken to Mike Privett's to be evaluated and cared for.
All the horses were numbered and photographed.
DVM Mike Privett evaluated and documented the body condition of all the horses seized.

On 2/27/2008 I received the warrants from the Humane Society. I received a tip that Hazelene and Terry were in the house at 412 Derby Ln. I called Capt Lanier of the Fugitive Team and told him about the tip. The Fugitive Team responded to the location and observed a man matching the description of Terry Trexler in the house. He would not answer the door. I faxed a SW to bond court. Once I received the SW I called Capt. Lanier. I responded to 412 Derby Ln and served the SW. Hazelene and Terry Trexler were arrested. James Trexler was arrested a short time later when he returned to the house.

Case Closed By Arrest
CN

On 2/29/2008 at 1000 DVM Nicole Swineheart evaluated the 28 horses at Mike Privett's.

On 2/29/2008 Mike Privett called and told me he had received a tip that there may be more horses on Misty Medows Rd in Hopkins. He had driven by the location and found 17 horses in a pasture.

Some of the animals were malnourished. There were rib and hipbones showing. Three of the horses had halters on so tight they were rubbing sores on their heads. The pasture was eaten down had there was no hay or grass. I made contact with who lives at 207 Misty Medows Rd. He told me he had let Terry and Hazelene Trexler put some horses on his land. He said he did not have a contract with them because he had known Terry's father and they only wanted to put the horses there for a few months. did not know the exact date the horses showed up but it was about two months ago. v gave Mike Privett and the HSPCA permission to go on his property to care for the animals until a SW could be obtained.

was very nervous and wanted to make sure he was not in trouble for the animals. He said he had ask his neighbor to call the HSPCA about the horses. y is somewhat evasive during questioning. I believe he is a friend of the Trexler's and did not want to turn them in but wanted to make sure he was no in trouble for the condition of the horses on his property.

On 3/3/08 at 1410 a SW was served on 207 Misty Medows Rd along with an on site seizure of the 17 horses. I gave a copy of the SW and On-site seizure to s wife because he was not home. came home before we had left and I spoke to him about the search warrant and seizure. He said he understood that the horses could not be taken off the property. He agreed to call the sheriff's department if he saw anyone around the horses.
Michele Hart and I went by 412 Derby Lane. in an attempt to notify James Trexler of the SW and seizure. No one would come to the door. I believe he was in the house but would not come to the door. I saw the dark truck in the garage and the bull dogs were in the back yard.
I called James Trexler's cell phone and spoke to him. I advised him of the warrant and seizure. He told me the horses on Misty Medows Rd were his mother's and he had told his attorney Todd Rutherford about the horses and ask what he should do. He said he had fed the horses on Saturday and Sunday but they were not his and he was waiting on his attorney to tell him what to do about the horses. I ask him about the dogs at 412 Derby Ln. He told me he was taking care of them. He said the bulldogs are in the back yard right now.
I also took copies of the search warrant and on-site seizure to the office of Attorney Todd Rutherford.

3/9/2008
The 17 horses on Misty Medows were transported to DVM Mike Privett's farm.
All the horses were numbered and photographed.
DVM Mike Privett evaluated and documented the body condition of all the horses seized.

3/10/2008
Seventeen warrants each for Terry and Hazelene Trexler were signed for the 17 horses on Misty Medows.

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

SEARCH WARRANT

Date: 02/26/2008

412 Derby Lane
Hopkins, SC 29061

OLYMPIA MAGISTRATE
2008 FEB 26 PM 2:12

~~OLYMPIA MAGISTRATE~~
~~2008 FEB 27 PM 4:00~~

DEFENDANT'S EXHIBIT
11 TREXLER
9/14/11 aa
PENGAD 800-631-6989

8441-A-0134

STATE OF SOUTH CAROLINA)
)
COUNTY OF RICHLAND)

SEARCH WARRANT

2008 FEB 26 P 4:12

TO ANY BONDED LAW ENFORCEMENT OFFICER OF THIS STATE OR COUNTY OR OF THE MUNICIPALITY OF RICHLAND COUNTY, SOUTH CAROLINA.

It is appearing from the attached affidavit that there are reasonable grounds to believe that certain property subject to seizure under provisions of Section 17-13-140, 1976 Code of Laws of South Carolina, as amended, located on the following premises.

DESCRIPTION OF PREMISES
(PERSON, PLACE OR THING TO BE SEARCHED)

The residence and surround curtilage to be searched is located at 412 Derby Lane in the County of Richland, South Carolina. The residence is further described as a single family home, dark in color, and is in close proximity to the intersection of Saddlebrook Lane and Derby Lane. The search also includes any and all buildings, offices, outbuildings, vehicles, shelters, barns, shanties or stables where animal life and/or records and/or items used in the care and keeping ~~of such animals may be housed or kept.~~

NOW, THEREFORE, you are hereby authorized to search the subject premises for the property described below, and to seize such property if found.

DESCRIPTION OF PROPERTY

Any and all living vertebrate creatures (except homo sapiens), including but not limited to, equines, and any other domestic animals, any animal carcasses, unborn young, or remains of any type or species, located on said premises; and, any and all foodstuff, medications, any and all documentation, including but not limited to bills of sale, registration documents, veterinary medical records, and any other documents or items related to the care, treatment, and keeping of said animals.

This Search Warrant shall not be valid for more than ten days from the date of issuance.

A written inventory of all property seized pursuant to this Search Warrant shall be made to _____ within ten (10) from the date of this warrant, such inventory to be signed by the officer executing this warrant, and a copy of such inventory shall be furnished to the person whose premises are searched if demand for such copy is made.

A copy of this Search Warrant shall be delivered to the person in charge of the premises searched at the time of such search if practicable, and, if not, to such person as soon thereafter as is practicable; in the event the identity of the person in charge is not known, or if such person cannot be found after reasonable diligence in attempting to locate the person, a copy shall be attached to a prominent place on such premises.

Columbia, SC
26 February 2008

Signature of Judge

8441-A-0135

STATE OF SOUTH CAROLINA)
)
COUNTY OF RICHLAND)

AFFIDAVIT

Personally appeared before me, _____, who, being duly sworn, says that there is probable cause to believe that certain property subject to seizure under provisions of Section 17-13-140, 1976, Code of Laws of South Carolina, as amended, is located on the following premises in this County:

DESCRIPTION OF PROPERTY SOUGHT

Any and all living vertebrate creatures (except homo sapiens), including but not limited to, equines, and any other domesticated animals, any animal carcasses, unborn young, or remains of any type or species, located on said premises; and, any and all foodstuff, medications, any and all documentation, including but not limited to bills of sale, registration documents, veterinary medical records, and any other documents or items related to the care, treatment, and keeping of said animals.

DESCRIPTION OF PREMISES
(PERSON, PLACE OR THINGTO BE SEARCHED)

The residence and surround curtilage to be searched is located at 412 Derby Lane, in the County of Richland, South Carolina. The residence is further described as a single family home, dark in color, and is in close proximity to the intersection of Saddlebrook Lane and Derby Lane. The search also includes any and all buildings, offices, outbuildings, vehicles, shelters, barns, shanties or stables where animal life and/or records and/or items used in the care and keeping of such animals may be housed or kept.

REASON FOR AFFIANT'S BELIEF THAT THE
PROPERTY SOUGHT IS ON THE SUBJECT PREMISES

See attachment labeled "Exhibit A" attached hereto and made a part hereof by reference.

RICHLAND MAGISTRATE
2008 FEB 26 PM 2:12

Sworn to and Subscribed before me)
this 26 day of February, 2008)
)

Michelle Hunt
Affiant
Address:

K. A. [illegible]
Signature of Judge

8441-A-0136

EXHIBIT "A"

Your affiant states that she is an agent for the Humane Society for the Prevention of Cruelty to Animals, (hereinafter HSPCA), and in that capacity is acting on complaints, as well as additional documentation of neglect and ill-treatment in reference to the animals, owned, leased, managed, boarded, or otherwise maintained at a residence located at 412 Derby Lane in the County of Richland, and State of South Carolina.

On or about February 8 2008, a complaint of horses in bad condition was received by the HSPCA. On or about February 12 2008, affiant went to 1248 Zeigler Road, but the gate was locked. A notice to call was posted. On or about February 12 2008, the affiant spoke with the owner of the horses by phone and was refused access to the property to view the horses. On or about February 13 2008, the affiant traveled to 1134 Zeigler Rd and entered the property with prior permission from Dr. Stokes. A confrontation with the horse owners, Terry and Hazelene Trexler, occurred and only 3 pictures were taken at that time. There was no food or water seen. On February 18 2008, Dr Stokes was able to take pictures of the horses and e-mailed them to the affiant. The pictures show that many of the horses are in substandard condition. Dr Stokes reports approximately 26 horses were seen and that approximately ¾ of the herd are in substandard condition.

On February 26, 2008, the HSPCA seized 23 horses and 7 dogs from 1248 Zeigler Rd. Eastover, SC. After finding some additional information, the HSPCA has learned that Hazelene and Terry Trexler are wanted for 61 counts of animal cruelty in Jefferson County, Georgia. We believe that there are additional horses, possibly in poor condition, on the property listed that belong to the Trexler family. James Trexler, is the brother of Terry Trexler and the son of Hazelene Trexler and the person said to be living at 412 Derby Lane.

Based on this information and photographic evidence, it is believed that the horse owners are in violation of South Carolina State Code Title 47.

Dated: 2/26/08

Michele Hart

OLYMPIA MAGISTRATE
2008 FEB 26 PM 2:12

8441-A-0137

RETURN

I have received the attached Search Warrant on Feb 26, 2008, and have executed it as follows:

On Feb 26, 2008, at 1600 o'clock P.M. I searched (the person) described in the warrant and (the premises).

I left a copy of the Warrant with In Barn, name of person searched or "at the place of search" with, together with a receipt for the items seized.

The following is an inventory of property taken pursuant to the Warrant:

1 Black Stallion
1 Gray Stallion
2 Bay Stallions
1 Bay Filly
~~1 White + Black Bonney~~ Not Taken Dead
~~2 White English Bulldogs~~ Not Taken

This inventory was made in the presence of Jay Wagner, Jr. Biddy and Liz Parry, Michelle Hart. I swear that this inventory is a true and detailed account of all the property taken by me on the warrant.

SWORN to before me this 27 day of February, 2008.

Signature of Judge
Phone:

Signature of Officer Executing Warrant

2008 FEB 27 PM 4:00
DUMPHIS MAGISTRATE

8441-A-0138

AGENCY I.D.	DATE	TIME OF ARREST
SCO 400000	02272008	2042

RICHLAND COUNTY SHERIFF'S DEPARTMENT

CASE NUMBER: 0918518888

SINGLE ARREST REPORT

DEFENDANT NAME (LAST, FIRST, MIDDLE)	RACE	SEX	DATE OF BIRTH	PHOTO NUMBER
TREXLER, JAMES WILLIAM	W	M		

AGE	HEIGHT	WEIGHT	HAIR	EYES	SOCIAL SECURITY NUMBER	SCARS, MARKS OR TATTOOS
48	509	165	S	BL		

ADDRESS (NUMBER AND STREET)	CITY	STATE	ZIP CODE	RES?	PHONE NUMBER
412 DERBY LANE	HOPKINS	SC	29061	J	5106123

ALIAS	PLACE OF BIRTH	DRIVERS LICENSE NUMBER OR ID	STATE
	HORRY COUNTY		SC

EMPLOYER OR OCCUPATION OR SCHOOL	PARENT/GUARDIAN	ADDRESS (CITY AND STATE)
SC DEPT OF AGRICULTURE		COLUMBIA, SC

BOOKING OFFICER'S NAME	ARRESTING OFFICER	S. NUMBER	AGENCY
RICHLAND COUNTY DETENTION CTR.	Johnson, Monica	MJOHNSON	RCSD

ARRESTEE ARMED: ☐ YES ☒ NO | WEAPON TYPE: | ☐ SEMI AUTO ☐ FULL AUTO | ☒ ON VIEW ARREST ☐ SUMMONED ☐ CUSTODY

JUVENILE DISPOSITION: 1. ☐ HANDLED, RELEASED 2. ☐ REFERRED TO OTHER

ARREST LOCATION: ADDRESS (NUMBER AND STREET)	CITY	STATE	ZIP CODE
412 DERBY LANE	HOPKINS	SC	29061

CHARGE	ILL TREATMENT/ANIMALS	ILL TREATMENT/ANIMALS	ILL TREATMENT/ANIMALS
STATUTE	47-01-0040(A)	47-01-0040 (A)	47-01-0040(A)
WARRANT NUMBER	1891851	1891850	1891849
ENTERED DATE	02272008	02272008	02272008
ISSUING MAGISTRATE	OLYMPIA	OLYMPIA	OLYMPIA
BOND AMOUNT			
BOND TYPE/MAGISTRATE			
VICTIM	HSPCA	HSPCA	HSPCA
DATE OF INCIDENT	02262008	02262008	02262008
ADDITIONAL CASE NUMBER			

CHARGE	ILL TREATMENT/ANIMALS	ILL TREATMENT/ANIMALS	
STATUTE	47-01-0040(A)	47-01-0040(A)	
WARRANT NUMBER	1891848	1891847	
ENTERED DATE	02272008	02272008	
ISSUING MAGISTRATE	OLYMPIA	OLYMPIA	
BOND AMOUNT			
BOND TYPE/MAGISTRATE			
VICTIM	HSPCA	HSPCA	
DATE OF INCIDENT	02262008	02262008	
ADDITIONAL CASE NUMBER			

CHARGE			
STATUTE			
WARRANT NUMBER			
ENTERED DATE			
ISSUING MAGISTRATE			
BOND AMOUNT			
BOND TYPE/MAGISTRATE			
VICTIM			
DATE OF INCIDENT			
ADDITIONAL CASE NUMBER			

VICTIM NAME OR NEXT OF KIN (LAST, FIRST, MIDDLE)	ADDRESS (NUMBER AND STREET NAME)			
HSPCA	121 HUMANE LANE			
CITY	STATE	ZIP CODE	HOME PHONE NUMBER	WORK PHONE NUMBER
COLUMBIA	SC	29209		7831200
WAS VICTIM NOTIFIED OF ARREST: YES ☒ DATE 02272008 / NO ☐ TIME 2042		VICTIM OR NEXT OF KIN WISHES TO BE PRESENT AT BOND HEARING: YES ☐ / NO ☐		

S. NO.	ARRESTING OFFICER	DATE	S. NO.	APPROVING OFFICER	DATE
1193	Johnson, Monica	02272008			
			FOLLOW-UP INVESTIGATION ☐ YES ☐ NO	S. NO.	OFFICES / DATE

DLSCN 26/07/10

DEFENDANT'S EXHIBIT 12 TREXLER 9/14/11 pa

PRINTED BY PRINCIPAL CASE SYSTEMS, INC. 800-631-6989

8441-A-024

Home Support Contact Us Log Out

[You are logged in as investigator@xxx.net]

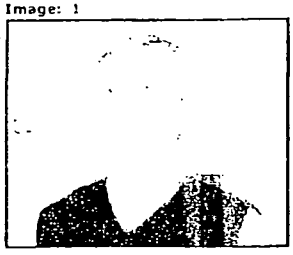
Offender Demographics
Contact Information
Image History
Initiate Lineup
Research Offenders
Develop Lineup

Offender is currently detained

2/28/2008 1:09:48 PM

Offender : TREXLER, JAMES WILLIAM (3D

Image: 1



OffenderID:	
SSN:	
Last Name:	TREXLER
First Name:	JAMES
Middle Name:	WILLIAM
Sex:	Male
Race:	White
Date of Birth:	
Hair:	Brown

Current Charges		Criminal History
Warrant: 1894847	Bond: 10000 - PR	BondCourt: COUNTY
ILL TREATMENT OF ANIMALS		
Warrant: 1891848	Bond: - PR	BondCourt: COUNTY
ILL TREATMENT OF ANIMALS		
Warrant: 1891849	Bond: - PR	BondCourt: COUNTY

2/28/08
1545
will call me once he has counsel

Home 518 6123
Contact Julie Trexler
867-0785

DEFENDANT'S EXHIBIT 13 TREXLER 9/14/11 aa
PD(CAD 800-631-6989)

8441-A-049

I-891851

STATE OF SOUTH CAROLINA

[X] County/ [ ] Municipality of

Richland / Olympia Magistrate

THE STATE

against

James W Trexler

Address: 412 Derby Lane

Hopkins, SC 29061-

Phone: SSN:

Sex: M Race: W Height: 5 11 Weight: 130

DL State: SC DL #:

DOB: Agency ORI #:

Prosecuting Agency: Hspca/ The Humane Society

Prosecuting Officer: Elisabeth Perry - 122

Offense: Animals / Ill treatment of animals, in general, overworking - 1st offense (Tried

Offense Code: 0610

Code/Ordinance Sec: 47-01-0040(A)

This warrant is CERTIFIED FOR SERVICE in the [X] County/ [ ] Municipality of

. The accused is to be arrested and brought before me to be dealt with according to the law.

(L.S.)

Signature of Judge

Date:

RETURN

A copy of this arrest warrant was delivered to defendant James W Trexler on 02/27/08

Signature of Person Law Enforcement Officer

RETURN WARRANT TO:

Olympia Magistrate
1601 Shop Road
Columbia, SC 29201

ORIGINAL

[X] County/ [ ] Municipality of)

Richland / Olympia Magistrate)

AFFIDAVIT

ORIGINAL

Personally appeared before me the affiant Elisabeth Perry who being duly sworn deposes and says that defendant James W Trexler did within this county and state on or about 02/26/2008 violate the criminal laws of the State of South Carolina (or ordinance of [X] County/ [ ] Municipality of Richland / Olympia Magistrate) in the following particulars:

DESCRIPTION OF OFFENSE Animals / Ill treatment of animals, in general, overworking - 1st offense (Tried

I further state that there is probable cause to believe that the defendant named above did commit the crime set forth and that probable cause is based on the following facts:

That on 02/26/2008 while at 412 Derby Lane in the Olympia Magisterial District of Richland County, one James Trexler did commit the crime of III /Treatment of Animals in that he is the owner of a 20 year old Gray Stallion with a body score of 3.5 (#31). He knowingly and intentionally deprived the animal of necessary quantities of wholesome foodstuff suitable for the species and age, at suitable intervals and sufficient to maintain a reasonable level of nutrition to allow for proper growth and weight. There was no feed or hay on the property. The animal was separately confined in a barn with 3 other horses, standing in 4 or more inches of feces, urine, and mud. The water bucket was filled with feces and other organic debris. One horse was also found wandering the muddy, wet property. Affiant and others are witness to prove same.

Signature of Affiant

STATE OF SOUTH CAROLINA)

[X] County/ [ ] Municipality of)

Richland / Olympia Magistrate)

Affiant's Address 121 Humane Ln
Columbia, SC 29209

Affiant's Telephone (783)126-7 x

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds on or about 2/26/2008 defendant James W Trexler did violate the criminal laws of the State of South Carolina (or ordinance of [X] County/ [ ] Municipality of Richland / Olympia Magistrate) as set forth below:

DESCRIPTION OF OFFENSE: Animals / Ill treatment of animals, in general, overworking - 1st offense (Tried

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him or her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as soon thereafter as is practicable.

Sworn to and subscribed before me)

on 02/27/2008)

(L.S.))

Signature of Issuing Official)

Harold A. Cuff)

Judge Code: 5906)

Judge's Address 1601 - B Shop Road
Columbia, SC 29201-4847

Judge's Telephone (803)576-2550

Issuing Court: [X] Magistrate [ ] Municipal [ ] Circuit

ORIGINAL ORIGINAL ORIGINAL

DEFENDANT'S EXHIBIT 14 TREXLER 9/14/11 aa

PERIGAD 800-631-6989

APP. 516

426

8441-A-0204

WITNESSES

(S) Investigator Holly Wagner, RCSD

ARREST WARRANT NUMBER

DP08060

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury
Date: MAR 13 2008

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. 2008-GS-40-02283

The State of South Carolina

County of Richland

COURT OF GENERAL SESSIONS

MARCH TERM 2008

101

THE STATE
vs.

James W. Trexler

Indictment for

ILL TREATMENT OF ANIMALS

SC Code: 47-01-40(B)
CDR Code: 2804
Class F/F

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

I _____ hereby appear in my own proper person and plead guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. AND G.S.

8441-A-0260

STATE OF SOUTH CAROLINA)
)
COUNTY OF RICHLAND)

INDICTMENT

At a Court of General Sessions, convened on March 12, 2008, the Grand Jurors of Richland County present upon their oath:

ILL TREATMENT OF ANIMALS

That James W. Trexler did in Richland County, on or about February 26, 2008, inflict excessive or repeated unnecessary pain or suffering upon a 20 year old Gray Stallion, or by omission or commission caused this to be done, all in violation of SC Code of Laws § 47-1-40.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

WARREN B. GIESE, SOLICITOR

8441-A-0261

I-891850

STATE OF SOUTH CAROLINA

[X] County/ [ ] Municipality of

Richland / Olympia Magistrate

THE STATE

against

James W Trexler

Address: 412 Derby Lane

Hopkins, SC 29061-

Phone: SSN:

Sex: M Race: W Height: 5 11 Weight: 130

DL State: SC DL #:

DOB: Agency ORI #:

Prosecuting Agency: Hspca/ The Humane Society

Prosecuting Officer: Elisabeth Perry - 122

Offense: Animals / Ill treatment of animals, in general, overworking - 1st offense (Tried

Offense Code: 0610

Code/Ordinance Sec: 47-01-0040(A)

This warrant is CERTIFIED FOR SERVICE in the

[ ] County/ [ ] Municipality of

. The accused is to be arrested and brought before me to be dealt with according to the law.

(L.S.)

Signature of Judge

Date:

RETURN

A copy of this arrest warrant was delivered to defendant James S Trexler on 2-27-08

Signature of Law Enforcement Officer

RETURN WARRANT TO:

Olympia Magistrate
1601 Shop Road
Columbia, SC 29201

ORIGINAL ORIGINAL ORIGINAL ORIG. L

[X] County/ [ ] Municipality of)

Richland / Olympia Magistrate)

AFFIDAVIT

ORIGINAL

Personally appeared before me the affiant Elisabeth Perry who being duly sworn deposes and says that defendant James W Trexler did within this county and state on or about 02/26/2008 violate the criminal laws of the State of South Carolina (or ordinance of [X] County/ [ ] Municipality of Richland / Olympia Magistrate) in the following particulars:

DESCRIPTION OF OFFENSE Animals / Ill treatment of animals, in general, overworking - 1st offense (Tried

I further state that there is probable cause to believe that the defendant named above did commit the crime set forth and that probable cause is based on the following facts:

That on 02/26/2008 while at 412 Derby Lane in the Olympia Magisterial District of Richland County, one James Trexler did commit the crime of Ill /Treatment of Animals in that he is the owner of a 7 year old Black Stallion with a body score of 4 (#32). He knowingly and intentionally deprived the animal of necessary quantitites of wholesome foodstuff suitable for the species and age, at suitable intervals and sufficient to maintain a reasonable level of nutrition to allow for proper growth and weight. There was no feed or hay found on the property. The animal was found wandering around on the muddy, wet property. Four other horses were confined separately inside a barn standing in 4 or more inches of feces, urine and mud. Their water buckets were filled with feces and other organic debris. Affiant and others are witness to prove same.

Signature of Affiant

STATE OF SOUTH CAROLINA)

[X] County/ [ ] Municipality of)

Richland / Olympia Magistrate)

Affiant's Address 121 Humane Ln
Columbia, SC 29209

Affiant's Telephone (783)126-7 x

DEFENDANT'S EXHIBIT 15 TREXLER 9/14/11 aa

PERGAD 800-631-6989

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that on or about 2/26/2008 defendant James W Trexler did violate the criminal laws of the State of South Carolina (or ordinance of [X] County/ [ ] Municipality of Richland / Olympia Magistrate) as set forth below:

DESCRIPTION OF OFFENSE: Animals / Ill treatment of animals, in general, overworking - 1st offense (Tried

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him or her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as soon thereafter as is practicable

Sworn to and subscribed before me)

on 02/27/2008)

(L.S.))

Signature of Issuing Judge)

Harold A. Cuff)

Judge Code: 5906)

Judge's Address 1601 - B Shop Road
Columbia, SC 29201-4847

Judge's Telephone (803)576-2550

Issuing Court: [X] Magistrate [ ] Municipal [ ] Circuit

ORIGINAL ORIGINAL ORIGINAL

APP. 519

429

8441-A-0203

I-891849

STATE OF SOUTH CAROLINA

[X] County/ [ ] Municipality of

Richland / Olympia Magistrate

THE STATE

against

James W Trexler

Address: 412 Derby Lane

Hopkins, SC 29061-

Phone: SSN:

Sex: M Race: W Height: 5 11 Weight: 130

DL State: SC DL #:

DOB: Agency Case #:

Prosecuting Agency: Hspca/ The Humane Society

Prosecuting Officer: Elisabeth Perry - 122

Offense: Animals / Ill treatment of animals, in general, overworking - 1st offense (Tried

Offense Code: 0610

Code/Ordinance Sec: 47-01-0040(A)

This warrant is CERTIFIED FOR SERVICE in the

[ ] County/ [ ] Municipality of

The accused is to be arrested and brought before me to be dealt with according to the law.

(L.S.)

Signature of Judge

Date:

RETURN

A copy of this arrest warrant was delivered to defendant James Trexler on 2-27-08

Signature of Law Enforcement Officer

RETURN WARRANT TO:

Olympia Magistrate
1601 Shop Road
Columbia, SC 29201

ORIGINAL

[X] County/ [ ] Municipality of)
Richland / Olympia Magistrate)

AFFIDAVIT

Personally appeared before me the affiant Elisabeth Perry who being duly sworn deposes and says that defendant James W Trexler did within this county and state on or about 02/26/2008 violate the criminal laws of the State of South Carolina (or ordinance of [X] County/ [ ] Municipality of Richland / Olympia Magistrate) in the following particulars:

DESCRIPTION OF OFFENSE Animals / Ill treatment of animals, in general, overworking - 1st offense (Tried

I further state that there is probable cause to believe that the defendant named above did commit the crime set forth and that probable cause is based on the following facts:

That on 02/26/2008 while at 412 Derby Lane in the Olympia Magisterial District of Richland County, one James Trexler did commit the crime of Ill /Treatment of Animals in that he is the owner of a 15-20 year old Bay Stallion with a body score of 3 (of 9). He knowingly and intentionally deprived the animal of necessary quantities of wholesome foodstuff suitable for the species and age, at suitable intervals and sufficient to maintain a reasonable level of nutrition to allow for proper growth and weight. There was no feed or hay found on the property. The animal was separately confined in a barn with 3 other horses, standing in 4 or more inches of feces, urine, and mud. The water bucket was filled with feces and other organic debris. One horse was also found wandering the muddy, wet property. Affiant and others are witness to prove same.

Signature of Affiant Elisabeth Perry

STATE OF SOUTH CAROLINA)
[X] County/ [ ] Municipality of)
Richland / Olympia Magistrate)

Affiant's Address 121 Humane Ln
Columbia, SC 29209

Affiant's Telephone (783)126-7 x

DEFENDANT'S EXHIBIT 16 TREXLER 9/14/11 PENGAD 800-631-6989

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that on or about 2/26/2008 defendant James W Trexler did violate the criminal laws of the State of South Carolina (or ordinance of [X] County/ [ ] Municipality of Richland / Olympia Magistrate) as set forth below.

DESCRIPTION OF OFFENSE: Animals / Ill treatment of animals, in general, overworking - 1st offense (Tried

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him or her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as soon thereafter as is practicable

Sworn to and subscribed before me on 02/27/2008 (L.S.)

Signature of Issuing Judge

Harold A. Cuff

Judge Code: 5906

Judge's Address 1601 - B Shop Road
Columbia, SC 29201-4847

Judge's Telephone (803)576-2550

Issuing Court: [X] Magistrate [ ] Municipal [ ] Circuit

ORIGINAL ORIGINAL ORIGINAL ORIG. L ORIGINAL ORIGINAL ORIGINAL

APP. 520

430

8441-A-0202

WITNESSES

(S) Investigator Holly Wagner, RCSD

ARREST WARRANT NUMBER

DP08062

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury
Date: MAR 13 2008

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. 2008-GS-40-02285

The State of South Carolina

County of Richland

COURT OF GENERAL SESSIONS

MARCH TERM 2008

101

THE STATE
vs.

James W. Trexler

Indictment for

ILL TREATMENT OF ANIMALS

SC Code: 47-01-40(B)
CDR Code: 2804
Class F/F

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

I _____ hereby appear in my own proper person and plead guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. AND G.S.

8441-A-0264

STATE OF SOUTH CAROLINA)
)
COUNTY OF RICHLAND)

INDICTMENT

At a Court of General Sessions, convened on March 12, 2008, the Grand Jurors of Richland County present upon their oath:

ILL TREATMENT OF ANIMALS

That James W. Trexler did in Richland County, on or about February 26, 2008, inflict excessive or repeated unnecessary pain or suffering upon a 15-20 year old Bay Stallion, or by omission or commission caused this to be done, all in violation of SC Code of Laws § 47-1-40.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

Warren B. Giese

WARREN B. GIESE, SOLICITOR

8441-A-0265

I-891848

STATE OF SOUTH CAROLINA

[X] County/ [ ] Municipality of

Richland / Olympia Magistrate

THE STATE

against

James W Trexler

Address: 412 Derby Lane
Hopkins, SC 29061-

Phone: SSN:

Sex: M Race: W Height: 5 11 Weight: 130

DL State: SC DL #:

DOB: Agency ORI #:

Prosecuting Agency: Hspcal/ The Humane Society

Prosecuting Officer: Elisabeth Perry - 122

Offense: Animals / Ill treatment of animals, in general, overworking - 1st offense (Tried

Offense Code: 0610

Code/Ordinance Sec: 47-01-0040(A)

This warrant is CERTIFIED FOR SERVICE in the

[ ] County/ [ ] Municipality of

This accused is to be arrested and brought before me to be dealt with according to the law.

(L.S.)

Signature of Judge

Date:

RETURN

A copy of this arrest warrant was delivered to defendant James Trexler on 2-27-08

Signature of Person Executing Warrant (Law Enforcement Officer)

RETURN WARRANT TO:

Olympia Magistrate
1601 Shop Road
Columbia, SC 29201

ORIGINAL ORIGINAL

[X] County/ [ ] Municipality of

Richland / Olympia Magistrate

AFFIDAVIT

ORIGINAL

Personally appeared before me the affiant Elisabeth Perry

being duly sworn deposes and says that defendant James W Trexler did within this county and state on or about 02/26/2008 violate the criminal laws of the State of South Carolina (or ordinance of [X] County/ [ ] Municipality of Richland / Olympia Magistrate) in the following particulars:

DESCRIPTION OF OFFENSE Animals / Ill treatment of animals, in general, overworking - 1st offense (Tried

I further state that there is probable cause to believe that the defendant named above did commit the crime set forth and that probable cause is based on the following facts:

That on 02/26/2008 while at 412 Derby Lane in the Olympia Magisterial District of Richland County, one James Trexler did commit the crime of Ill /Treatment of Animals in that he is the owner of a 6 year old Bay Stallion with a body score of 4 (#3d). He knowingly and intentionally deprived the animal of necessary quantities of wholesome foodstuff suitable for the species and age, at suitable intervals and sufficient to maintain a reasonable level of nutrition to allow for proper growth and weight. There was no feed or hay found on the property. The animal was separately confined in a barn with 3 other horses, standing in 4 or more inches of feces, urine, and mud. The water bucket was filled with feces and other organic debris. One horse was also found wandering the muddy, wet property. Affiant and others are witness to prove same.

Signature of Affiant Elisabeth Perry

STATE OF SOUTH CAROLINA

[X] County/ [ ] Municipality of

Richland / Olympia Magistrate

Affiant's Address 121 Humane Ln
Columbia, SC 29209

Affiant's Telephone (783)126-7 x

DEFENDANT'S EXHIBIT 17 TREXLER 9/14/11 aa

PENCAD 800-631-6989

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe the on or about 2/26/2008 defendant James W Trexler did violate the criminal laws of the State of South Carolina (or ordinance of [X] County/ [ ] Municipality of Richland / Olympia Magistrate) as set forth below:

DESCRIPTION OF OFFENSE: Animals / Ill treatment of animals, in general, overworking - 1st offense (Tried

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him or her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as soon thereafter as is practicable

Sworn to and subscribed before me on 02/27/2008 (L.S.)

Signature of Judge/Magistrate

Harold A. Cuff

Judge Code: 5906

Judge's Address 1601 - B Shop Road
Columbia, SC 29201-4847

Judge's Telephone (803)576-2550

Issuing Court: [X] Magistrate [ ] Municipal [ ] Circuit

ORIG. L ORIGINAL ORIGINAL ORIGINAL

WITNESSES

(S) Investigator Holly Wagner, RCSD

ARREST WARRANT NUMBER

DP08061

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury
Date: MAR 13 2008

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. 2008-GS-40-02284

The State of South Carolina

County of Richland

COURT OF GENERAL SESSIONS

MARCH TERM 2008

101

THE STATE
vs.

James W. Trexler

Indictment for

ILL TREATMENT OF ANIMALS

SC Code: 47-01-40(B)
CDR Code: 2804
Class F/F

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

I _____
hereby appear in my own proper person and plead guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. AND G.S.

8441-A-0262

I-891847

STATE OF SOUTH CAROLINA

[X] County/ [ ] Municipality of

Richland / Olympia Magistrate

THE STATE

against

James W Trexler

Address: 412 Derby Lane
Hopkins, SC 29061-

Phone: SSN:

Sex: M Race: W Height: 5 11 Weight: 130

DL State: DL #:

DOB: Agency ORI #:

Prosecuting Agency: Hspca/ The Humane Society

Prosecuting Officer: Elisabeth Perry - 122

Offense: Animals / III treatment of animals, in general, overworking - 1st offense (Tried

Offense Code: 0610

Code/Ordinance Sec: 47-01-0040(A)

This warrant is CERTIFIED FOR SERVICE in the

[ ] County/ [ ] Municipality of

. The accused is to be arrested and brought before me to be dealt with according to the law.

(L.S.)

Signature of Judge

Date:

RETURN

A copy of this arrest warrant was delivered to defendant: James Trexler on 2-27-08

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

Olympia Magistrate
1601 Shop Road
Columbia, SC 29201

ORIGINAL

[X] County/ [ ] Municipality of)
Richland / Olympia Magistrate)

AFFIDAVIT

Personally appeared before me the affiant Elisabeth Perry who being duly sworn deposes and says that defendant James W Trexler did within this county and state on or about 02/26/2008 violate the criminal laws of the State of South Carolina (or ordinance of [X] County/ [ ] Municipality of Richland / Olympia Magistrate) in the following particulars:

DESCRIPTION OF OFFENSE Animals / III treatment of animals, in general, overworking - 1st offense (Tried

I further state that there is probable cause to believe that the defendant named above did commit the crime set forth and that probable cause is based on the following facts:

That on 02/26/2008 while at 412 Derby Lane in the Olympia Magisterial District of Richland County, one James Trexler did commit the crime of III /Treatment of Animals in that he is the owner of a 2 year old Bay Female with a body score of 1.5 (#35). He knowingly and intentionally deprived the animal of necessary quantities of wholesome foodstuff suitable for the species and age, at suitable intervals and sufficient to maintain a reasonable level of nutrition to allow for proper growth and weight. There was no feed or hay found on the property. The animal was separately confined in a barn with 3 other horses, standing in 4 or more inches of feces, urine, and mud. The water bucket was filled with feces and other organic debris. One horse was also found wandering the muddy, wet property. Affiant and others are witness to prove same.

Signature of Affiant Elisabeth Perry

STATE OF SOUTH CAROLINA)
[X] County/ [ ] Municipality of)
Richland / Olympia Magistrate)

Affiant's Address 121 Humane Ln
Columbia, SC 29209

Affiant's Telephone (783)126-7 x

PERCAD 800-631-6909 DEFENDANT'S EXHIBIT 18 TREXLER 9/14/11 Aa

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that on or about 2/26/2008 defendant James W Trexler did violate the criminal laws of the State of South Carolina (or ordinance of [X] County/ [ ] Municipality of Richland / Olympia Magistrate) as set forth below:

DESCRIPTION OF OFFENSE: Animals / III treatment of animals, in general, overworking - 1st offense (Tried

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him or her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as soon thereafter as is practicable

Sworn to and subscribed before me)
on 02/27/2008)
(L.S.))
Signature of Issuing Judge)
Harold A. Cuff)
Judge Code: 5906)

Judge's Address 1601 - B Shop Road
Columbia, SC 29201-4847

Judge's Telephone (803)576-2550

Issuing Court: [X] Magistrate [ ] Municipal [ ] Circuit

ORIGINAL ORIGINAL ORIGINAL ORIG. ORIGINAL ORIGINAL ORIGINAL

APP. 526 436 8441-A-0200

STATE OF SOUTH CAROLINA)
)
COUNTY OF RICHLAND)

INDICTMENT

At a Court of General Sessions, convened on March 12, 2008, the Grand Jurors of Richland County present upon their oath:

ILL TREATMENT OF ANIMALS

That James W. Trexler did in Richland County, on or about February 26, 2008, inflict excessive or repeated unnecessary pain or suffering upon a 6 year old Bay Stallion, or by omission or commission caused this to be done, all in violation of SC Code of Laws § 47-1-40.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

Wm B. Giese

WARREN B. GIESE, SOLICITOR

8441-A-0263

WITNESSES

(S) Investigator Holly Wagner, RCSD

ARREST WARRANT NUMBER

DP08059

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury
Date: MAR 13 2008

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. 2008-GS-40-02282

The State of South Carolina

County of Richland

COURT OF GENERAL SESSIONS

MARCH TERM 2008

101

THE STATE
vs.

James W. Trexler

Indictment for

ILL TREATMENT OF ANIMALS

SC Code: 47-01-40(B)
CDR Code: 2804
Class F/F

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

I _____ hereby appear in my own proper person and plead guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. AND G.S.

8441-A-0258

STATE OF SOUTH CAROLINA)
)
COUNTY OF RICHLAND)

INDICTMENT

At a Court of General Sessions, convened on March 12, 2008, the Grand Jurors of Richland County present upon their oath:

ILL TREATMENT OF ANIMALS

That James W. Trexler did in Richland County, on or about February 26, 2008, inflict excessive or repeated unnecessary pain or suffering upon a 2 year old Bay filly, or by omission or commission caused this to be done, all in violation of SC Code of Laws § 47-1-40.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

WARREN B. GIESE, SOLICITOR

8441-A-0259

DATE: FRIDAY 2/29/08 TIME OF ARRIVAL: 10: 00 AM,
DEPARTURE TIME: 1:00 PM
PLACE: DR. MIKE PRIVETT'S PRACTICE HOPKINS, SC
WEATHER: 50'S SUNNY
HORSES HAD BEEN AT DR. PRIVETT'S SINCE MONDAY 2/25/08
BEING FED STRICTLY TIMOTHY AND ALFALFA HAY, NO GRAIN.
ALL HORSES WERE DEWORMED WITH IVERMECTIN ON 2/29/08.

01: GRAY MARE AGED 15-20 YEARS, NURSING, BCS: 1.5

02: GRAY MARE AGED 10-15 YEARS, NOT NURSING, RAIN ROT ON LEFT THORAX, BCS: 2

03: BAY COLT, APPROX 6-9 MO, POT- BELLIED, BCS: 3.5

04: BAY COLT, APPROX 6-9 MO, POT-BELLIED, HALTER COMPRESSION ON HEAD, BCS: 3.5

05: GRAY FILLY, 3 YEARS OLD, HALTER COMPRESSION ON HEAD, OLD LEFT NOSTRIL LACERATION, BCS: 3.5

06: BAY STALLION, 4 YEARS OLD, BCS: 3.5

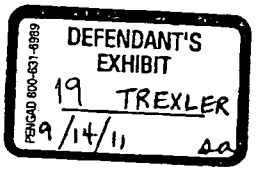
07: BAY MARE, 7-8 YEARS OLD, BCS: 4

08: BAY COLT, AGE ?, HALTER COMPRESSION ON HEAD, BCS: 4

09: BAY MARE, 6 YEARS OLD, BCS: 3.5

10: BAY MARE, 6 YEARS OLD, OLD WOUND DORSAL LH CANNON, SCAR DORSAL RH CANNON , SIGNIFICANT OVERBITE, HALTER COMPRESSION ON HEAD, BCS: 3.5

11: BAY STALLION, 4 YEARS OLD, HALTER COMPRESSION ON HEAD, PROMINENT SHOULDERS, BCS: 3



8441-A-0107

12: GRAY STALLION, 4 YEARS OLD, BCS: 3.5

13: GRAY STALLION, 4 YEARS OLD, HALTER COMPRESSION ON HEAD, BCS: 3

14: GRAY FILLY, 4 YEARS OLD, HALTER COMPRESSION ON HEAD, BCS: 3

15: BUCKSKIN FILLY, 2-3 YEARS OLD, BCS: 2.5

16: BAY MARE, 10-11 YEARS OLD, BCS: 3

17: BAY MARE, LATE TEENS, PREGNANT?, BCS: 2

18: CHESTNUT MARE, AGE?, NURSING, BCS: 2.5

19: BAY FILLY, APPROX 8 MO OLD, LONG FEET, LOW IN PASTERNS BEHIND, BCS: 2.5

20: BAY COLT, 2 YEARS OLD, SCAR LF CANNON, BCS: 2

21: BAY FILLY, 2 YEARS OLD, BCS: 3

22: BAY MARE, 5 YEARS OLD, PREGNANT?, BCS: 2.5

23: GRAY STALLION, 4 YEARS OLD, BCS: 3.5

31: GRAY STALLION, EXPERIENCED COLIC, AGED 20+, BCS: 3

32: BAY STALLION, 6 YEARS OLD, BCS: 5

33: BAY STALLION, 10-15 YEARS OLD, LONG FEET, BCS: 2.5

34: BAY STALLION, LONG FEET, 6 YEARS OLD, BCS: 3

35: CHESTNUT FILLY, 2 YEARS OLD, BCS: 1, THE WORST OF THE

BUNCH

8441-A-0109

STATE OF SOUTH CAROLINA COUNTY OF RICHLAND	IN THE COURT OF COMMON PLEAS FIFTH JUDICIAL CIRCUIT Case Number; 2010-CP-40-1343
James W. Trexler, Plaintiff, Vs. McClatchy Newspapers Inc., Richland County, and the Richland County Sheriff's Department, Defendants.	AMENDED COMPLAINT

JEANETTE W. McBRIDE
C.C.P. & G.S.
2010 JUN 23 AM 11:37
FILED

The Plaintiff, complaining of the Defendants above name, respectfully allege as follows:

PARTIES AND JURISDICTION

1. The Plaintiff is a citizen and resident of the County of Charleston, State of South Carolina.

2. The Defendant, McClatchy Newspapers, Inc., upon information and belief, is a corporation and existing pursuant to the laws of a state other than South Carolina, that owns property and transacts business within the state of South Carolina.

3. At all times relevant to the allegations of this Complaint, the Defendant, McClatchy Newspapers, Inc. was transacting business as the State Newspaper.

4. The Defendant, Richland County, is a political subdivision of the state of South Carolina.

5. The Defendant, Richland County Sheriff's Department, is an agency of the County

DEFENDANT'S EXHIBIT
20 TREXLER
9/14/11 AA

of Richland.

6. The matters alleged herein occurred within Richland County, South Carolina, and therefore has jurisdiction over the parties and subject matter herein.

FACTUAL BACKGROUND

7. Prior to the month of March 2008, the Plaintiff's mother operated a business in Richland County, South Carolina, in which the Plaintiff's mother bred for profit, Arabian horses.

8. During February of 2008, the horses owned by the Plaintiff's mother were seized, due to alleged charges of mistreatment of animals. In addition, the Plaintiff's mother and brother were charged with various crimes.

9. Although the Plaintiff had no ownership interest whatsoever in the ownership of the horses or the operation of his mother's business, the Defendant, Richland County Sheriff's Department, charged the Plaintiff as if he were an owner.

10. As the result of an associated incident that occurred between the Plaintiff's brother and an individual trespassing upon the property where the horses were maintained, which trespassing was done for the furtherance of supporting the allegations of mistreatment of animals, the Plaintiff's brother was changed with the crime of kidnapping.

11. Despite actual knowledge that the only kidnapping charges associated with the entire series of events were charged against the Plaintiff's brother, the Defendants published to various media outlets statements that the Plaintiff had been charged with kidnapping.

12. At the time of these events, the Plaintiff was a veteran employee of the South Carolina Department of Agriculture, working at that time as an Assistant Commissioner for Administration. His position was not an elected or appointed position, but rather earned as the result

of twenty-seven years of service to state government.

13. On February 28, 2008, the Defendant, McClatchy Newspapers, Inc., d/b/a The State Newspaper, published in large headlines on the front page of the newspaper a headline stating "Assistant ag chief faces kidnap charge."

14. Following the headline, The State published an article in which it was reported as fact that the Plaintiff had been charged with kidnapping as a result of an incident involving the horses.

15. At the time of the publication, the statement was false and the Defendants either knew or should have known that the statement was false.

16. Publication of the statement concerning the kidnapping charge, and also the statement associating the Plaintiff with the operation of the horse business owned and operated by his mother created the false impression in the minds of millions of South Carolinians and others worldwide concerning the character of the Plaintiff.

17. As a result of the publication, the Plaintiff suffered an enormous adverse financial impact, which impact included being forced to resign from his job, which caused him to lose substantial benefits for which he worked diligently during a successful career with the State of South Carolina.

18. As a further result of the publication, the Plaintiff is unable to obtain employment in which he can utilize his talents and experience.

19. As a further result of the publication, the Plaintiff has suffered extreme humiliation and damage to his reputation in the community and state government.

FOR A FIRST CAUSE OF ACTION AGAINST RICHLAND COUNTY

AND THE RICHLAND COUNTY SHERIFF'S DEPARTMENT

(Defamation)

20. Each and every factual allegation above is incorporated herein by reference.

21. The Defendant, Richland County, by and through its agents, the Richland County Sheriff's Department, published to third parties the statement that the Plaintiff had been charged with kidnapping.

22. At the time of the publication, the statement was false.

23. At the time of the publication, the Defendants either knew that the statement was false, or acted with reckless disregard toward the truth or falsity of the statement.

24. As a result of the publication the Plaintiff has suffered serious damages, including the loss of his employment and a severe diminution of his ability to provide for his family, and extreme damage to his reputation.

25. As a result of the defamation against the Plaintiff, the Plaintiff is entitled to actual damages against the Defendant, Richland County, and the Richland County Sheriff's Department, in an amount to be determined by a jury.

FOR A SECOND CAUSE OF ACTION

AGAINST MCCLATCHY NEWSPAPERS, INC.

(Defamation)

26. Each and every factual allegation above is incorporated herein by reference.

27. On February 28, 2008, the Defendant, McClatchy Newspapers, Inc., doing business as The State Newspaper, published on the front page in a large headline, "Assistant Ag Chief Faces Kidnap Charge."

28. At the time of the publication, the statement was false.

29. At the time of the publication, the Defendant either knew that the statement was false, or through the exercise of professional journalism should have known that this statement was false, and therefore acted with malice, intentional and reckless disregard for the truth or falsity of the statement.

30. In addition to being actionable, irrespective of the harm caused by the publication of the statement, the publication of the statement did in fact cause special harm, in the form of the loss of the Plaintiff's 27 year career with the state government, extreme humiliation in the community, and irreparable damage to his reputation.

31. As a result of the defamation of the Plaintiff by the Defendant, McClatchy Newspapers, Inc. the Plaintiff is entitled to actual and punitive damages as determined by a jury.

FOR A THIRD CAUSE OF ACTION AGAINST ALL DEFENDANTS

(Civil Conspiracy)

32. Each and every factual allegation above is incorporated herein by reference.

33. The Defendants, through their agents, combined one with another to publish false statements about the Plaintiff.

34. The combination was for the purpose of injuring the Plaintiff.

35. The actions of the Defendants caused the Plaintiff special damages in the form of the loss of his career and unrecoverable damage to his reputation.

36. As a result of the civil conspiracy of the Defendants, the Plaintiff is entitled to actual and punitive damages in an amount to be determined by a jury.

FOR A FOURTH CAUSE OF ACTION

(Outrage)

37. Each and every factual allegation above is incorporated herein by reference.

38. By recklessly publishing to third parties that the Plaintiff had been charged with kidnapping, the Defendants' intentionally and recklessly inflicted severe emotional distress upon the Plaintiff.

39. By publishing that the Plaintiff was charged with kidnapping when the Defendants knew or should have known that the same was totally untrue, the Defendant's conduct was so extreme and atrocious as to exceed all possible bounds of decency and must be regarded as outrageous and utterly intolerable in a civilized society.

40. The actions of the Defendants have caused the Plaintiff severe emotional distress.

41. The emotional distress suffered by the Plaintiff was so severe that no reasonable person could be expected to endure it.

42. As a result of the tort of outrage on the part of the Defendants, the Plaintiff is entitled to actual and punitive damages.

WHEREFORE, having fully stated his claim for relief, the Plaintiff prays for judgment against the Defendants, jointly and severally, for actual and punitive damages in an amount to be determined by a jury, and for such other and further relief as the Court may deem just and proper.

LAW OFFICES OF WILLIAM H. JOHNSON, LLC

By: _____

William H. Johnson
P.O. Box 137
Manning, SC 29102
Phone: 803-435-0909
Fax: 803-435-2858
william@whjohnsonlaw.com

June 23, 2010

3 YEAR DRIVER RECORD



Customer No: 25929509 Driver License No
Name: TREXLER, JAMES WILLIAM
Address: 412 DERBY LN
City: HOPKINS State: SC Zip: 290619480
County: RICHLAND
DOB: Sex: M Driver Training: N

Status - DL: NO SUSPENSION CDL: NO DISQUALIFICATION

License Information

Type	Class	Function	Issued	Expires	First Issued	Restrictions	Endorsements
Current							
DL	D	Duplicate	02/25/2008	01/14/2016	01/29/1996	N	N
Prior							
DL	D	Renewal	03/14/2006	01/14/2016	01/29/1996	N	N
DL	D	Renewal	01/12/2001	01/14/2006	01/29/1996	N	N
DL	D	Modify	03/22/2005	01/14/2006	01/29/1996	N	N

Date Changed: 05/19/2005

Address Change -
Address: 920 E BREWINGTON RD
City: SUMTER State: SC Zip: 291538197

Date Changed: 03/22/2005

Address Change -
Address: 412 DERBY LN
City: HOPKINS State: SC Zip: 290619480

Point Summary

Total Current Points: 1
Driver Credit: -0
Adjusted Current Points: 1

Ticket#: 55494DV
VIOL: 421 - Speeding 10-mph or less Recd: 12/14/2006 Post: 12/20/2006
Violation: 10/25/2006 Conviction: 11/21/2006 Conviction Reference:
ACD: S51 Conviction Loc Ref: Court Type: MUN
Conviction State: SC Violation Points: 2 Current Points: 1

DEFENDANT'S EXHIBIT
21 TREXLER
9/14/11 aa
PDX640 800-631-6989

8441-A-059

3 YEAR DRIVER RECORD

Customer No: 25929509 Driver License Nc
Name: TREXLER, JAMES WILLIAM

End of Report

8441-A-060

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF RICHLAND	)	
James W. Trexler,	)	Civil Action No.: 2010-CP-40-1249
	)	
Plaintiff,	)	
	)	
v.	)	
	)	DEFENDANTS' MOTION FOR
	)	SUMMARY JUDGMENT
	)	
	)	
	)	
	)	
	)	
The Associated Press, Barrington Broadcasting South Carolina Corp., Raycom TV Broadcasting, Inc. and the Pacific & Southern Co., Inc.,	)	
	)	
	)	
	)	
	)	
Defendants.	)	

TO: WILLIAM H. JOHNSON, ESQUIRE, WILLIAM AUSTIN, ESQUIRE, AND WESTBROOK WILLS, III, ESQUIRE ATTORNEYS FOR PLAINTIFF:

PLEASE TAKE NOTICE that ten (10) days hereafter or as soon thereafter as counsel may be heard the above-named defendants will move through the undersigned pursuant to Rule 56, SCRCP for summary judgment in each of their favor on the following grounds:

1. Plaintiff's libel claims are barred by the statute of limitations established by Section 15-3-550 of the Code of Laws of South Carolina in that the Amended Summons and Amended Complaint which added these defendants to this action were filed more than two (2) years following the publications complained of in the Amended Complaint; to wit, the Amended Summons and Amended Complaint were filed June 23, 2010, and the publications identified by plaintiff in his responses to defendants' interrogatories as being

defamatory are as follows, each of which was more than two years in advance of the filing of the Amended Summons and Amended Complaint:

a. As to Raycom TV Broadcasting, Inc., publications between February 26, 2008 and March 1, 2008;

b. As to the Associated Press, publications between February 27, 2008 and February 28, 2008;

c. As to Barrington Broadcasting, Inc., publications between February 27, 2008 and April 11, 2008; and,

d. As to Pacific & Southern Co., Inc., publications between February 27, 2008 and March 21, 2008.

2. Plaintiff's allegations of civil conspiracy fail to state a cause of action in that the allegations are based solely on the facts alleged in the defamation claim and without more cannot meet the requirements of *Hackworth v. Greywood at Hammett, L.L.C.,* 385 S.C. 110, 682 S.E.2d 871 (Ct. App. 2009).

3. Plaintiff's allegations of outrage fail to state a cause of action in that the allegations are based solely on the facts alleged in the defamation claim, and plaintiff has identified no third party witness or claimed medical expenses to corroborate the cause of action in order to meet the heightened burden established by *Hansson v. Scalise Builders of South Carolina,* 374 S.C. 352, 650 S.E.2d 68 (2007).

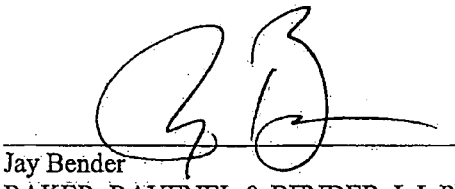
4. Plaintiff's allegations of negligence fail to state a cause of action in that negligence is subsumed in the defamation claim under the authority of *Erickson v. Jones Street Publishers, L.L.C.*, 368 S.C. 444, 629 S.E.2d 653, 34 Media L. Rep. 1610 (2006).

5. Plaintiff was a public official at the time of the publications giving rise to his claims, and to recover for damages based on the dissemination of news reports, plaintiff must plead and prove constitutional malice, but plaintiff has failed to identify any witness to testify as to the subjective state of mind of any person involved in the publications as required by *New York Times Co. v. Sullivan,* 376 U.S. 254 (1964); *Hustler Magazine v. Falwell,* 485 U.S. 46 (1988); *Elder v. Gaffney Ledger,* 341 S.C. 108, 533 S.E.2d 899 (2000).

6. Any defamation claim based on any publication not barred by the statue of limitations fails to state a cause of action in that plaintiff, a public official, has failed to identify any witness who can establish the constitutional malice required under the authorities identified above.

This motion is based on the pleadings, plaintiff's responses to requests for admission filed herewith, plaintiff's answers to interrogatories, filed herewith, affidavits of Georgette Rivers and Chris Cowen filed heretofore, public records relating to the arrest and indictment of plaintiff to be filed hereafter and such other affidavits and records as may be filed in advance of a hearing on this motion. These defendants will establish the absence of any genuine issue of material fact, and that they are entitled to a judgment in each of their favor as a matter of law.

(SIGNATURE ON FOLLOWING PAGE)



Jay Bender
BAKER, RAVENEL & BENDER, L.L.P.
3710 Landmark Drive, Suite 400
Post Office Box 8057
Columbia, South Carolina 29202
(803) 799-9091
Attorneys for Defendants The Associated Press
Raycom TV Broadcasting, Inc.
Barrington Broadcasting South Carolina Corp.
and Pacific & Southern Co., Inc.,

Columbia, South Carolina
August 10, 2011

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	OF THE FIFTH JUDICIAL CIRCUIT
COUNTY OF RICHLAND	)	Case Number: 2010-CP-40-1249
James W. Trexler,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	PLAINTIFF'S RESPONSES TO
	)	DEFENDANT'S INTERROGATORIES
The Associated Press, Barrington Broadcasting, a South Carolina Corp., Pacific & Southern Company, Inc., and Raycom TV Broadcasting, Inc.	)	
	)	
Defendants.	)	

TO: THE DEFENDANTS ABOVE NAMED AND TO THEIR ATTORNEY, JAY BENDER, ESQUIRE:

1. Give the names and addresses of persons known to the party or counsel to be witnesses concerning the facts of this case, and indicate whether or not written or recorded statements have been taken from the witnesses and indicate who has possession of such statements.

RESPONSE: *James W. Trexler*
9253 Nabors Drive
Charleston, South Carolina 29412
The Plaintiff has not provided any type of statement to date.

Terry Trexler

Columbia, South Carolina 29211
Mr. Trexler has not provided any type of statement to date.

2. Set forth a list of photographs, plats, sketches, statements, or other prepared documents in possession of the party that relate to the claim or defense in this case.

RESPONSE: *See attached disc of bates stamped documents*

3. Set forth an itemized statement of all damages, exclusive of pain and suffering, claimed to have been sustained by the party.

RESPONSE: *Loss of retirement benefits*
Loss of health insurance benefits for family

4. List the names and addresses of all expert witnesses whom the party proposes to use as a witness at the trial of this case, and provide a summary of the opinions which the expert is expected to give and a statement of the facts relief upon by the expert in reaching each opinion.

RESPONSE: *Dr. Oliver Wood*
Post Office Box 24677
Columbia, South Carolina 29224

5. For each person known to the party or counsel to be a witness concerning the facts of the case, set forth either a summary sufficient to inform the other party of the important facts known to or observed by such witness, or provide a copy of any written or recorded statements taken from such witnesses.

RESPONSE: *James Trexler will provide testimony to support the allegations of the Amended Complaint*

Terry Trexler will provide testimony that James Trexler had no involvement with the management or care of horses.

6. Identify by date, publisher and headline any publication plaintiff contends to be defamatory.

RESPONSE:

DATE	*SOURCE*	*PARAGRAPH /LINE*	*STATEMENT*
02/26/08	*WIS TV*	*Para 1/ Line 2*	*Then more horses were confiscated from her son James' land.*
02/26/08	*WIS TV*	*Para 9/ Line 1*	*Five of the horses taken Tuesday were removed from property belonging to James Trexler, the Assistant Commissioner of Agriculture.*
02/27/08	*WIS TV*	*Para 4 / Line 1*	*Then on Tuesday, officials took five more horses from Trexler's son James.*
02/26/08	*WIS-TV News at 6*	*(BS 0013) Para 2/ Line 1*	*Today... The Humane Society got a tip that Trexler's son had horses at a different farm in Richland County. James Trexler is the State's assistant Commission of Agriculture.*

02/26/08	*WIS-TV 7 O'Clock Report*	*(BS 0016) Para 2 / Line 1*	*Today... A Humane Society Spokeswoman says the horses were found... malnourished... on a property owned by James Trexler... he's the State's Assistant Commissioner of Agriculture.*
02/26/08	*WIS-TV Nightcast*	*(BS 0020) Para 3 / Line 1*	*Tonight's horses were found on property belonging to a high-ranking state official.*
02/26/08	*WIS-TV Nightcast*	*(BS 0023) Para 1/ Line 1*	*were found on property owned by James Trexler, the Assistant Commission of Agriculture for the State of South Carolina.*
02/27/08	*WIS-TV News at 6*	*(BS 0027) Para 1 / Line 1*	*W-I-S News 10 has learned the owner of that property, James Trexler, has been suspended from his job as Assistant State Agriculture Commission.*
02/27/08	*WIS-TV 7 O'Clock Report*	*(BS 0031) Para 1 / Line 1*	*Yesterday, five more horses were confiscated, this time from property belonging to James Trexler.*
02/27/08	*WIS-TV Nightcast*	*(BS 0035) Para 3 / Line 1*	*He also faces a much more serious charge of kidnaping stemming from an incident where the Sheriff's Department says he held a Humane Society Investigator against her will during an evaluation of his horses last week.*
02/28/08	*WIS-TV 530A Sunrise*	*(BS 0038) Para 3 / Line 1*	*James also faces a much more serious charge of kidnaping stemming from an incident where the Sheriff's Department says he held a Humane Society Investigator against her will during an evaluation of his horses last week*
03/04/08	*WIS-TV News at 6*	*(BS 0133) Para 3 / Line 1*	*Last Week --authorities took dozens of horses from property belonging to the Trexlers.*
03/05/08	*WIS-TV Nightcast*	*(BS 0143) Para 3 / Line 1*	*Last week– authorities took dozens of horses from property belonging to (the) Hazel...Terry... and James Trexler.*
03/07/08	*WIS-TV Midday*	*(BS 0177) Para 1 / Line 1*	*Those charges came as officials seized horse after horse on property belonging to the Trexler family.*

03/07/08	*WIS-TV Nightcast*	*(BS 0182) Para 1 / Line 1*	*... Trexler family farm in Richland County.*
03/08/08	*WIS-TV Saturday morning*	*(BS 0185) Para 1 / Line 1*	*malnourished horses were found on the Trexler family farm in Richland County.*
03/09/08	*WIS-TV SUN WE Nightcast*	*(BS 0191) Para 3 / Line 1*	*After malnourished horses were found on the family farm in Richland County.*
03/10/08	*WIS-TV 530A Sunrise*	*(BS 0193) Para 3 / Line 1*	*After malnourished horses were found on the family farm in Richland County.*
03/10/08	*WIS-TV Midday*	*(BS 0195) Para 2 / line 1*	*Hazel Trexler and her two sons.. Terry and James were arrested last month investigators said they found malnourished horses on the family farm in Richland County.*
04/10/08	*WIS-TV Nightcast*	*(BS 0204) Para 2 / Line 1*	*He was one of the four dozen taken from the family farm owned and operated by Hazel Trexler and her sons James and Terry.*
04/12/08	*WIS-TV Saturday Morning*	*(BS 0206) Para 2 / Line 1*	*He was one of the four dozen taken from the family farm owned and operated by Hazel Trexler and her sons James and Terry.*
03/01/08	*WIS-TV Website*	*(BS WIS 0268)*	*COLUMBIA, SC (WIS) - The Humane Society has confiscated 28 horses they found malnourished on a property that at one point was owned by the Trexler family.*
03/09/08	*WIS-TV Website*	*(BS WIS 0272) Para 3 / Line 1*	*Mrs. Trexler and her two sons, Terry and James, were arrested last month after malnourished horses were found on the family farm in Richland County.*
02/27/08	*WIS-TV Website*	*(BS WIS 0276) Para 1 / Line 2*	*Then more horses were confiscated from her son James' land.*

04/10/08	*WIS-TV Website*	*(BS WIS 0296) Para 1 / Line 1*	*COLUMBIA, SC (WIS) - There are new developments in the case involving the Trexler family horses.*
03/03/08	*WIS-TV Website*	*(BS WIS 0303) Para 1 / Line 1*	*COLUMBIA, SC (WIS) - The Humane Society has seized 17 more horses believed to be owned by the Trexlers, a family that has been accused of neglecting a number of horses in a case that broke last week.*
02/26/08	*WIS-TV Website*	*(BS WIS 0311) Para 1 / Line 1* *Para 6 / Line 1*	*RICHLAND COUNTY, SC (WIS) - The state's Assistant Commissioner of Agriculture has been suspended after investigators say they found five more neglected horses at a Richland County Farm.* *Tuesday, the Humane Society got a tip that James Trexler had horses at a different farm in Richland County.*
04/01/08	*WIS-TV Website*	*(BS WIS0315) Para 2 / Line 1* *Para 3 / Line 2*	*Forty-five horses were seized from several different farms owned or operated by the Trexler family.* *Two of those horses seized from the Trexler farms are getting a second chance in foster care.*
02/27/08	*Associated Press 20:44:46±*	*Para 1 / Line 1*	*COLUMBIA, SC (AP) - Assistant Agriculture Commissioner James Trexler has been suspended from his job as the Humane Society investigates whether horses were neglected at his Richland County farm.*
02/27/08	*Associated Press 20:44:46*	*Para 1 / Line 1* *Para 4 / Line 1*	*COLUMBIA, SC (AP) - Assistant Agriculture Commissioner James Trexler has been charged with five counts of ill treatment of animals and kidnaping.* *Authorities checked Trexler's farm after the Humane Society said it found malnourished animals on a farm owned by Trexler's mother earlier this week.*

02/27/08	*Associated Press 20:44:53*	*Para 2 / Line 1*	*He has been charged with five counts of ill treatment of animals after an investigation of horses on his property that officials say were malnourished.*
02/27/08	*Associated Press 20:44:46*	*Para 2 / Line 1*	*He has been charged with five counts of ill treatment of animals after an investigation of horses on his property that officials say were malnourished.*
02/28/08	*Associated Press 18:36:01*	*Para 2/ Line 2* *Para 12 / Line 1*	*Authorities said five horses on his Hopkins property were found without food in stalls filled with manure and mud.* *A tip led officials to investigate James Trexler's property on Tuesday, Graham said.*
02/29/08	*Associated Press 12:11:36*	*Para 4 / Line 2*	*Property records show James Trexler at some point also owned the land where the bones were found.*
03/01/08	*Associated Press 17:53:50**	*Para 2/ line 1* *Para 20 / Line 1*	*The remains of at least nine horses were found in separated shallow graves on the Sumter County property once owned by Assistant Agriculture Commissioner James Trexler and his mother and brother, said Sumter County Sheriff's Sgt. Randy Wright.* *Investigators were planning to search another piece of property the Trexlers had leased in Lexington County.*
03/05/08	*Associated Press 15:29:20*	*Para 5/ Line 2*	*Five more were on James Trexler's property, where he lives.*
02/28/08	*Associated Press 03:04:00**	*Para 9/ Line 1* *Para 10/Line 1*	*Sheriff Leon Lott says the kidnaping charges was filed because Trexler refused to let a Humane Society investigator leave his farm earlier this month.* *The Humane Society says five horses, a do and two rabbits were found malnourished at Trexler's farm Tuesday.*

02/28/08	*Associated Press 03:04:10*	*Para 2 / Line 3*	*The Humane Society says five horses, a dog and two rabbits were found malnourished at Trexler's farm Tuesday.*
02/28/08	*Associated Press 11:16:10**	*Para 5 / Line 1*	*The Humane Society says it found malnourished animals at Trexler's farm this week.*
02/28/08	*Associated Press 11:20:54**	*Para 1/ Line 3*	*The Humane Society says it found malnourished animals at Trexlers's farm this week.*
02/28/08	*Associated Press 15:15:05**	*Para 11/ Line 1*	*The Humane Society says it found malnourished animals at Trexlers's farm this week.*
02/28/08	*Associated Press 20:26:09**	*Para 3/ Line 1*	*Authorities said five horses on his Hopkins property were found without food in stalls filled with manure and mud.*
02/27/08	*WACH TV Website*	*Para 3/Line 1*	*Then on Tuesday, officials took five more horses from Trexler's son, James.*
03/07/08	*WACH TV*	*Para 6/ Line 2*	*Five more were found on James Trexler's property.*
03/20/08	*WACH TV*	*Para 1/ Line 1*	*Good news for the 45 abused and neglected horses seized from Hazelene, James and Terry Trexler's farm.*
04/07/08	*WACH TV*	*Para 1/Line 1*	*Along with the 45 horses seized from the Trexler property last month as a result of malnourishment, seven dogs were also taken into the Humane Society's protective custody.*
04/11/08	*WACH TV*	*Para 1/ Line 1*	*In a WACH FOX News follow up, the Humane Society is reporting that one of the horses seized 45 days ago from property owned by former South Carolina Agriculture official James Trexler has died.*
04/11/08	*WACH TV*	*Para 1/ line 1*	*IN a WACH FOX news follow up, the Humane Society is reporting that one of the horses seized 45 days ago from property owned by former South Carolina Agriculture official James Trexler has died.*

08/14/08	*Associated Press*	*Para 1 /Line 1*	*COLUMBIA, SC (AP) - A forensic report on horse remains found on property managed by a former South Carolina agriculture official's family indicates that some of the animals most likely starved to death.*
01/22/09	*Associated Press*	*Para 5/ Lines 1 & 2*	*Dozens of horses were seized last year on properties associated with the family. An analysis of horse remains found on property managed by the Trexlers showed other animals likely starved to death.*
07/13/09	*WACH TV*	*Para 1/ Line 1*	*45 malnourished and weak horses were seized from Trexler family properties in February 2008.*
02/27/08	*WLTX 5 AM*	*Para 3/ Line 1* *Para 7/ line 1*	*Earlier this week... the Humane Society took 28 horses from two properties owned by the family.* *He's been charged with five counts of ill treatment to animals and with kidnaping.*
02/28/08	*WLTX 5 AM*	*Para 4/ Line 1* *Para 8/ Line 1*	*Earlier this week... the Humane Society took 28 horses from two properties owned by the family.* *He's been charged with five counts of ill treatment to animals and with kidnaping.*
02/28/08	*WLTX 6 AM*	*Para 4/ Line 1* *Para 10/Line 1*	*Earlier this week... the Humane Society took 28 horses from two properties owned by the family.* *He's been charged with five counts of ill treatment to animals and with kidnaping.*
02/28/08	*WLTX Noon*	*Para5 / Line 1*	*Earlier this week... the Humane Society took 28 horses from two properties owned by the family.*
02/28/08	*WLTX 6 PM*	*Para 3/ Line 1*	*Each of them are facing multiple charges stemming from an investigation of severe and barbaric treatment of 28 horses that were in the Trexlers' custody.*

02/27/08	*WLTX*	*Para 3/ Line 1*	*The Humane Society believes they all belong to the Trexler family.*
02/28/08	*WLTX*	*Para 2 / Line 1*	*The property was once owned by the Trexler family, and three family members are at the center of a horse abuse case in Richland County.*
03/04/08	*WLTX*	*Para 1/ Line 1*	*Bones from two deceased horses found on land leased by the Trexler family have been sent for examination in Florida.*
03/07/08	*WLTX*	*Para 1/ Line 1*	*Columbia (WLTX) -- Officials at the Department of Agriculture say James Trexler has resigned, after authorities say he allowed horses to be neglected on his property.*
03/07/08	*WLTX*	*Para 7 / Line 1*	*She was one of the five rescued from James Trexler's property, officials say she was locked in a stall and rarely let out.*
03/21/08	*WLTX*	*Para 2/ Line 1*	*Authorities say they seized malnourished horses owned by the family last month.*
12/15/08	*WLTX*	*Para 1/ Line 1*	*Back In February, nearly four dozen horses were seized in the Midlands from properties owned by the Trexler Family.*
02/01/11	*WLTX*	*Para 2/ Line 1*	*In 2008, the Humane Society began taking horses from Richland County properties owned by the Trexler family.....*
02/01/11	*WLTX*	*Para 2/Line 2*	*In court, the Trexlers pleaded no contest and gave up rights to the horses, Humane Society director Wayne Bennessel said.*

7. With respect to those publications identified in response to the interrogatory above, please state with specificity the reason you contend the publication is defamatory.

RESPONSE: *Each of the publications contain a statement of inference that James Trexler owned horses that were malnourished or owned property where horses were kept. At the time of the publications, James Trexler owned no horses, nor did he own or control any property where horses were*

maintained. All defendants knew that James Trexler owned no horses, and also that he was not the owner of the property that was the subject of the publications. The inclusion of James Trexler in as an owner of the horses and/or property where horses were maintained defamed his reputation, causing severe damage to his professional standing.

THE LAW OFFICES OF WILLIAM H. JOHNSON, LLC

By: _____

William H. Johnson
Attorney for the Plaintiff
411 North Brooks Street
Post Office Box 137
Manning, South Carolina 29102
(803) 435-0909 Telephone
(803) 435-2858 Facsimile

May 24, 2011

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	OF THE FIFTH JUDICIAL CIRCUIT
COUNTY OF RICHLAND	)	Case Number: 2010-CP-40-1249
James W. Trexler,	)	
Plaintiff,	)	
vs.	)	CERTIFICATE OF SERVICE
The Associated Press, Barrington Broadcasting, a South Carolina Corp., Pacific & Southern Company, Inc., and Raycom TV Broadcasting, Inc.	)	
Defendants.	)	

PERSONALLY APPEARED BEFORE ME, Terri H. Ridgeway, who being duly sworn says that she is an employee of THE LAW OFFICES OF WILLIAM H. JOHNSON, LLC, attorneys for the ***Plaintiff***; that she did serve the below described documents on the attorneys for the ***Defendants*** by personally placing a copy of said documents(s) in the United Stated Mail, postage prepaid, and addressed as follows:

Jay Bender, Esquire
Baker, Ravenel Bender
Post Office Box 8057
Columbia, South Carolina 29202

DESCRIPTION OF DOCUMENTS:
Plaintiff's Responses to Defendants' Interrogatories to the Plaintiff

Terri H. Ridgeway

SWORN TO BEFORE ME this 24 day of May, 2011

Notary Public for South Carolina
My Commission Expires: 9/22/15

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF RICHLAND	)	
James W. Trexler,	)	Civil Action No.: 2010-CP-40-1249
	)	
Plaintiff,	)	
	)	
v.	)	
	)	REQUEST FOR ADMISSIONS OF THE
	)	ASSOCIATED PRESS, RAYCOM TV
	)	BROADCASTING, INC., BARRINGTON
	)	BROADCASTING SOUTH CAROLINA
	)	CORP., AND PACIFIC & SOUTHERN
	)	CO., INC.
	)	
The Associated Press, Barrington Broadcasting South Carolina Corp., Raycom TV Broadcasting, Inc. and the Pacific & Southern Co., Inc.,	)	
	)	
Defendants.	)	

TO: WILLIAM H. JOHNSON, ESQUIRE, ATTORNEY FOR PLAINTIFF:

Pursuant to Rule 36 of the South Carolina Rules of Civil Procedure, defendants, The Associated Press, Raycom TV Broadcasting, Inc., Barrington Broadcasting South Carolina Corp., and Pacific & Southern Co., Inc., hereby request that the plaintiff admit or deny the truth of the following matters within thirty days of service hereof.

1. Admit that the document attached hereto as Exhibit A and incorporated herein by reference is plaintiff's position description with the South Carolina Department of Agriculture at the time plaintiff's employment ended with the South Carolina Department of Agriculture.

2. Admit that the document attached hereto as Exhibit A and incorporated herein by reference is a record maintained by the South Carolina Department of Agriculture in the ordinary course of business.

3. Admit that the qualifications stated in the document attached hereto as Exhibit A applied to the position held by plaintiff at the termination of his employment with the South Carolina Department of Agriculture.

4. Admit that the job duties, objectives, success criteria and performance evaluation portion of the document attached hereto as Exhibit A applied to plaintiff's position with the South Carolina Department of Agriculture at the time of the termination of plaintiff's employment.

Jay Bender
BAKER, RAVENEL & BENDER, L.L.P.
3710 Landmark Drive, Suite 400
Post Office Box 8057
Columbia, South Carolina 29202
(803) 799-9091
Attorneys for Defendant The Associated Press
Raycom TV Broadcasting, Inc.
Barrington Broadcasting South Carolina Corp.
and Pacific & Southern Co., Inc.

Columbia, South Carolina

April 8, 2011

South Carolina Department of Agriculture
Position Description & Employee Performance Management System (EPMS) Form

Employee Name:	***Jim W. Trexler***	***Social Security #:***	
State Class Title:	***Executive Assistant III***		

Position Supervision

Describe the guidelines and supervision an employee receives in order to do this job, including the employee's independence and discretion.

Reports directly to the Commissioner of Agriculture.

List the classification titles and number of the three highest level subordinate position(s) reporting directly to you.

Titles	Number
1. Administrative Manager I	1
2. Acct/Fiscal Mgr I	1
3. Sr. Info Resource Consultant	1
Total Number of Employees Under Your Supervision:	8

Qualifications

List what you consider to be the qualifications required for entry into this position.

Education, Training, and Experience (cite major areas of study, type & years of experience)

A Masters Degree and 5 years of experience in Public Administration; or an equivalent combination of education and experience.

Special Licenses, Registrations or Certifications

Skills and Abilities

Knowledge of the laws, rules, and regulations pertinent to the agency. Ability to communicate effectively.
Knowledge of state government budget, finance, procurement and Information Technology policy and procedures.

Additional Requirements

This position could require working extended hours when the Legislature in in session. Some over night travel may be necessary.

Ex. A

Job Purpose

Coordinates legislative matters and special projects for the Commissioner. Assists in the overall direction and management of the agency.

Job Duties, Objectives, Success Criteria and Performance Evaluation

Indicate the importance of the job duty/objective in terms of overall criticality to job success by assigning to it a percentage. Indicate essential and marginal duties/objectives by checking the appropriate block. Essential duties/objectives are the most critical, important duties/objectives for which the job was created. Marginal duties/objectives are non-critical and could be performed by another position. The percentage of importance for job duties/objectives with success criteria should total 100%.

At the end of each review period check the rating which reflects the employee's actual performance for each job duty/objective. **Include a descriptive explanation for "Substantially Exceeds" and "Below" ratings**

Definitions	
"Substantially Exceeds Expectations"	(Work that is characterized by exemplary accomplishment throughout the rating period. performance that is consistently above the success criteria of the job.)
Exceeds Expectations	(Work that is substantially and consistently above the success criteria of the job throughout the rating period)
Meets Expectations	(Work that routinely meets the success criteria of the job. Majority of employees should be in this category.)
Below Expectations	(Work that routinely fails to meet the success criteria of the job)

Job Duties/Objectives and Success Criteria (Essential and Marginal)

Each job duty should be assigned a weight reflective of job duty importance. Weights for all objectives should not exceed 15%. The weights will be listed on page 5. Although not specified in the job duties/objectives section below, employees may perform other related duties as required.

1. 50 % ☒ Essential ☐ Marginal	Job Duty/Objective Directs and supervises the Administration, Finance, Budget and Information Technology Sections of the S.C.Department of Agriculture Success Criteria An audit report that has very few exception items reported. Timely preparation of all pertinent reports internal and external to the agency. Satisfactory support service provided to the divisions in the agency with regards to all matters related to supervised functions. Provide professional leadership for subordinates and works well with fellow managers within the Agency.
Actual Performance/Comments	**Performance Rating** 4 = Substantially Exceeds 3 = Exceeds Expectations 2 = Meets Expectations 1 = Below Expectations
2. 25 % ☒ Essential ☐ Marginal	Job Duty/Objective Coordinates special projects for the Commissioner and Administration to fulfill goals and objectives. Completes special projects that enhance the image of the SC Department of Agriculture. Oversees special projects that will have a long-term effect relative to the Farmers Market and Lab/Consumer Services evaluations. Success Criteria Provide effective information to support the goals of the Agency. Provide information in a precise and succinct manner to enable the user to make informed decisions. Carry out projects in a manner that enhances the image of professionalism of the Agency to its stakeholders.

Actual Performance/Comments	Performance Rating 4 = Substantially Exceeds 3 = Exceeds Expectations 2 = Meets Expectations 1 = Below Expectations

3. 10 % ☒ Essential ☐ Marginal	Job Duty/Objective Works with other Senior Staff in the overall direction and management of the S.C. Department of Agriculture. Success Criteria Enagage with other Agency staff to provide insights on the impact of Agency plans and actions on the areas of the Agency under direct supervision. Provide timely and precise information to other senior staff to allow them to make informed decisions to better execute the mission of the Agency.

Actual Performance/Comments	Performance Rating ____ 4 = Substantially Exceeds 3 = Exceeds Expectations 2 = Meets Expectations 1 = Below Expectations

4. 10 % ☒ Essential ☐ Marginal	Job Duty/Objective Provides information to legislators and legislative staff concerning the agency and its budget. Represents the agency head in meetings with other agency officials for the purpose of coordinating various programs. Success Criteria A thorough understanding by the user of the information provided. Provide information and/or represent the Agency with professionalism.

Actual Performance/Comments	Performance Rating 4 = Substantially Exceeds 3 = Exceeds Expectations 2 = Meets Expectations 1 = Below Expectations

5. 5 % ☒ Essential ☐ Marginal	Job Duty/Objective Researches issues and prepares reports, position papers and policy statement for the agency. Success Criteria Preparation and presentation of precise and usable information that adequately prepares the user to make completely informed decision

Actual Performance/Comments	Performance Rating ____ 4 = Substantially Exceeds 3 = Exceeds Expectations 2 = Meets Expectations 1 = Below Expectations

6. ____ % ☐ Essential ☐ Marginal	Job Duty/Objective Success Criteria

Actual Performance/Comments	Performance Rating 4 = Substantially Exceeds 3 = Exceeds Expectations 2 = Meets Expectations 1 = Below Expectations

7. ____ % ☐ Essential ☐ Marginal	Job Duty/Objective Success Criteria

Actual Performance/Comments	Performance Rating ____ 4 = Substantially Exceeds 3 = Exceeds Expectations 2 = Meets Expectations 1 = Below Expectations
8. ____ % ☐ Essential ☐ Marginal	Job Duty/Objective Success Criteria
Actual Performance/Comments	Performance Rating ____ 4 = Substantially Exceeds 3 = Exceeds Expectations 2 = Meets Expectations 1 = Below Expectations

Performance Characteristics

For each performance characteristic, check the rating which reflects the employee's actual performance	
1. ALL EMPLOYEES: Teamwork: Degree to which one works effectively and cooperatively with others and other departments in achieving organizational goals. Degree of responsiveness to organizational needs.	☐ Acceptable ☐ Unacceptable
2. Self Management: Works with minimal supervision, manages own time effectively, maintains control over all current projects/responsibilities. Follows up on all relevant issues.	☐ Acceptable ☐ Unacceptable
3. Problem Analysis: Able to identify problems and relevant issues and break problems into components. Sees relationships and alternative solutions and arrives at sound conclusions through a logical process.	☐ Acceptable ☐ Unacceptable
4. Judgement: Able to reason, compare, understand, and think rationally on the job. Makes quality of work-related decisions based on sound conclusions/data. Able to separate facts from opinions.	☐ Acceptable ☐ Unacceptable
5. Leadership: Employee can be relied upon to guide others to the accomplishment of objetives/responsibilities, to promote teamwork, and to resolve problems.	☐ Acceptable ☐ Unacceptable
6. Promoting Euqal Opportunity: Ensuring that employees and potential employees are provided with equal opportunities.	☐ Acceptable ☐ Unacceptable
7. Customer Service: To effectively and efficiently meet the needs of those served by continually assessing performance based on customer feedback.	☐ Acceptable ☐ Unacceptable
8.	☐ Acceptable ☐ Unacceptable

Supervisory Summary and Comments

Please include information regarding areas in which employee has excelled, as well as the steps that need to be taken by the employee and the supervisor to further enhance performance and career development.

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF RICHLAND	)	
James W. Trexler,	)	Civil Action No.: 2010-CP-40-1249
	)	
Plaintiff,	)	
	)	
v.	)	CERTIFICATE OF SERVICE
	)	
	)	
	)	
The Associated Press, Barrington Broadcasting South Carolina Corp., Raycom TV Broadcasting, Inc., and the Pacific & Southern Co., Inc.,	)	
	)	
	)	
Defendants.	)	

I, Teresa K. Todd, Legal Assistant to Jay Bender, an employee of Baker, Ravenel & Bender, L.L.P., hereby certify that I have, on the date indicated below, served counsel below with Request for Admissions to Plaintiff by mailing a copy of same via United States Mail, postage pre-paid and return address clearly indicated on said envelope, to counsel at the following address:

William H. Johnson, Esquire
2 North Brooks Street
Manning, SC 29102

Teresa K. Todd

April 8, 2011

Columbia, South Carolina

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	OF THE FIFTH JUDICIAL CIRCUIT
COUNTY OF RICHLAND	)	Case Number: 2010-CP-40-1249
James W. Trexler,	)	
	)	
Plaintiff,	)	
	)	PLAINTIFF'S RESPONSES TO DEFENDANTS
vs.	)	THE ASSOCIATED PRESS, RAYCOM TV
	)	BROADCASTING, INC., BARRINGTON
The Associated Press, Barrington	)	BROADCASTING SOUTH CAROLINA CORP.,
Broadcasting, a South Carolina Corp.,	)	AND PACIFIC & SOUTHERN CO., INC.
Gannett Company, Inc., Raycom TV	)	REQUEST FOR ADMISSIONS
Broadcasting, Inc., and The Spartanburg	)	
Herald Journal, Inc.	)	
	)	
Defendants.	)	
	)	

TO: JAY BENDER, ATTORNEY FOR THE DEFENDANTS, THE ASSOCIATED PRESS, RAYCOM TV BRAODCASTING, INC., BARRINGTON BROADCASTING SOUTH CAROLINA CORPORATION AND PACIFIC & SOUTHERN COMPANY:

1. Admit that the document attached hereto as Exhibit A and incorporated herein by reference is a true and authentic copy.

DENIED

2. Admit that the document attached hereto as Exhibit A and incorporated herein by reference was prepared on behalf of the Richland County Sheriff's Department.

DENIED

3. Admit that the document attached hereto as Exhibit A and incorporated herein by reference was disseminated to those persons and news organizations identified in the "To:" portion of the document.

DENIED

4. Admit that the document attached hereto as Exhibit A and incorporated herein by reference was sent by or on behalf of Chris Cowan.

ADMITTED

5. Admit that Chris Cowan is a deputy in the Richland County Sheriff's Department.

ADMITTED

6. Admit that the document attached hereto as Exhibit A and incorporated herein by reference is a public record under South Carolina law.

ADMITTED

7. Admit that the document attached hereto as Exhibit A and incorporated herein by reference states that charges were made against James Trexler for "5 counts of ill treatment of animals."

ADMITTED

8. Admit that the document attached hereto as Exhibit A and incorporated herein by reference states that James Trexler was charged with "1 count of kidnaping (stems from an incident where J. Trexler held a HSPCA Investigator against her will/refused to allow the investigator to leave a farm on 02/13/ during an evaluation of the horses.)"

ADMITTED

9. Admit that the publications complained of by plaintiff in the within-captioned action reported the charges made against James Trexler that were stated in the document that is attached hereto as Exhibit A and incorporated herein by reference.

DENIED

10. Admit that any publication stating that James Trexler had been charged with kidnaping was a fair and accurate statement of the contents of the document attached hereto as Exhibit A and incorporated herein by reference.

ADMITTED

11. Admit that at common law, the publication of a fair and accurate statement of the contents of a public record is privileged.

ADMITTED

12. Admit that at the time of the publications complained of by plaintiff, plaintiff was an Assistant Commissioner of the South Carolina Department of Agriculture.

ADMITTED

13. Admit that at the time of publications complained by plaintiff, plaintiff was on of three assistant commissioners of the South Carolina Department of Agriculture.

DENIED

14. Admit that at the time of the publications complained of by plaintiff, plaintiff's duties as Assistant Commissioner of Agriculture included the direction and supervision of the Administration, Finance, Budget and Information Technology sections of the South Carolina Department of Agriculture, and participation in the overall direction and management of the South Carolina Department of Agriculture.

DENIED

15. Admit that the South Carolina Department of Agriculture is an agency of the State of South Carolina.

ADMITTED

THE LAW OFFICES OF WILLIAM H. JOHNSON, LLC

William H. Johnson
Attorneys for the Plaintiff
411 North Brooks Street - Post Office Box 137
Manning, South Carolina 29102
(803) 435-0909 Telephone
(803) 435-2858 Facsimile
william@whjohnsonlaw.com

October 18, 2010

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	OF THE FIFTH JUDICIAL CIRCUIT
COUNTY OF RICHLAND	)	Case Number: 2010-CP-40-1249
James W. Trexler,	)	
Plaintiff,	)	
vs.	)	CERTIFICATE OF SERVICE
The Associated Press, Barrington Broadcasting, a South Carolina Corp., Gannett Company, Inc., Raycom TV Broadcasting, Inc., and The Spartanburg Herald Journal, Inc.	)	
Defendants.	)	

PERSONALLY APPEARED BEFORE ME, Terri H. Ridgeway, who being duly sworn says that she is an employee of THE LAW OFFICES OF WILLIAM H. JOHNSON, LLC, attorneys for the ***Plaintiff***; that she did serve the documents described below on the attorney for the ***Defendants, The Associated Press, Raycom TV Broadcasting, Barrington Broadcasting South Carolina Corporation and Pacific & Southern Company,*** by personally placing a copy of said documents(s) in the United Stated Mail, postage prepaid, and addressed as follows:

Jay Bender, Esquire
Baker, Ravenel Bender
Post Office Box 8057
Columbia, South Carolina 29202

Edward Fenno, Esquire
Fenno Law Firm, LLC
171 Church Street, Suite 160
Charleston, South Carolina 29401

Description of Documents:

Plaintiff's Responses to Defendants, The Associated Press, Raycom TV Broadcasting, Barrington Broadcasting South Carolina Corporation and Pacific & Southern Company's Request for Admission

October 18, 2010

Terri H. Ridgeway

SWORN TO BEFORE ME this 18th
day of October, 2010

Jennifer E. Harrington
Notary Public for South Carolina
My Commission Expires: 10/29/2018

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF RICHLAND	)	
James W. Trexler,	)	Civil Action No.: 2010-CP-40-1249
	)	
Plaintiff,	)	
	)	
v.	)	CERTIFICATE OF SERVICE
	)	
	)	
	)	
The Associated Press, Barrington Broadcasting South Carolina Corp., Raycom TV Broadcasting, Inc., and the Pacific & Southern Co., Inc.,	)	
	)	
	)	
	)	
Defendants.	)	

I, Teresa K. Todd, Legal Assistant to Jay Bender, an employee of Baker, Ravenel & Bender, L.L.P., hereby certify that I have, on the date indicated below, served counsel below with Defendants' Motion for Summary Judgment by mailing a copy of same via United States Mail, postage pre-paid and return address clearly indicated on said envelope, to counsel at the following address:

William H. Johnson, Esquire
2 North Brooks Street
Manning, SC 29102

William K. Austin, Esquire
W. Westbrook Wills, III, Esquire
Austin, Fowler & Wills, LLP
38 Broad Street
Suite 200
Charleston, SC 29401

Teresa K. Todd

August 10, 2011

STATE OF SOUTH CAROLINA COUNTY OF RICHLAND	)	IN THE COURT OF COMMON PLEAS
James W. Trexler, Plaintiff, vs. The Associated Press, Barrington Broadcasting South Carolina Corp., Raycom TV Broadcasting, Inc., The Spartanburg Herald Journal, Inc. and the Pacific & Southern Co., Inc., Defendants.	)	C. A. No. 2010-CP-40-1249 DEFENDANTS THE ASSOCIATED PRESS, BARRINGTON BROADCASTING SOUTH CAROLINA CORP., RAYCOM TV BROADCASTING, INC., PACIFIC & SOUTHERN CO., INC.'S AND MCCLATCHY NEWSPAPERS, INC.'S MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF SUMMARY JUDGMENT
James W. Trexler, Plaintiff, vs. McClasky Newspapers, Inc., Richland County, and Richland County Sheriff's Department, Defendants.	)	C. A. No. 2010-CP-40-1343

BACKGROUND

Plaintiff has alleged that he was libeled by news reports in The State newspaper, the Associated Press, WIS-TV, WLTX-TV and WACH-TV. The libel is alleged to be from news reports that said plaintiff had been arrested for kidnapping and that horses that had been abused were removed from him. (Amended Complaint ¶25; Complaint ¶27). Plaintiff also alleges a civil conspiracy involving The State newspaper and Richland County and Richland County Sheriff's Department, and intentional infliction of emotional distress. (Complaint). The moving defendants are all news organizations that published news reports on or about February 28, 2008 indicating that the Richland County Sheriff's Office had arrested plaintiff on charges of

kidnapping and abuse of horses. Defendants have admitted the publications, and have asserted that the publications were privileged in that they were a fair and accurate report of the contents of a public record, to-wit: a news release from the Richland County Sheriff's Department on February 27, 2008. Plaintiff has admitted that the release was sent by or on behalf of Richland County's Sheriff's Deputy, Chris Cowan, that it is a public record under South Carolina law, that it stated that charges were made against plaintiff for "5 Counts of Ill treatment of animals" and kidnapping. (Plaintiff's Response to Defendants' Request for Admission). Plaintiff has also admitted that the publications complained of reported charges that were made against plaintiff in the release by the Sheriff's Department, and that the common law privilege of fair report attached to the publication of a fair and accurate statement of the contents of a public record. (Plaintiff's Response to Request for Admission).

Plaintiff did not admit that the copy of the release attached to Defendants' Request for Admissions was a true and accurate copy of a release sent by the Richland County Sheriff's Department to defendants; (Plaintiff's Response to Request to Admit); therefore, defendants submitted in support of their motion for summary judgment the affidavit of Chris Cowan which provided that he had transmitted to defendant a release stating that plaintiff had been arrested for kidnapping and ill treatment of horses. (Cowan Affidavit).

Plaintiff has submitted an affidavit in response to defendants' supported motion for summary judgment, but the affidavit does not call into question the application of the fair report privilege based on the publication of news reports containing fair and accurate descriptions of the news release disseminated by the Richland County Sheriff's Department. In other words, plaintiff has chosen not to assert facts that would indicate that the application of the common law fair report privilege is inappropriate. The undisputed facts establish that the publications by defendants were fair and accurate reports of the contents of a public record disseminated by the

Richland County Sheriff's Department. As such, the publications are protected by the fair report privilege, and no libel claim will lie for these publications.

Defendants have submitted the affidavit of Georgette Rivers, Human Resource Manager for the South Carolina Department of Agriculture to establish plaintiff's status as a public figure, but defendants' motions are reserving the question of a constitutional privilege and the bar of the statute of limitations to proceed solely on the question of the common law fair report of privilege.

ARGUMENT

Both general law authorities and the Restatement of Torts establish that news media have been given a qualified privilege at common law to accurately report on the information they received from government officials. 50 Am.Jur. 2d Libel and Slander §316. The threshold requirement for application of the fair report privilege is that the news reports attribute the publication to the public record. *Id.* Each of the moving defendants has asserted that its news report was based on the release from the Richland County Sheriff's Department.

News reports of criminal activities based upon information received from public safety officers have also been afforded a privilege because they were reports of official proceedings or records. 50 A.Jr., 2d Libel and Slander §322. To satisfy the requirements of the privilege, the news report must be a reasonably accurate and fair recitation of the contents of the official record, even if the official document contains erroneous information . *Id.* The fair report privilege has been recognized in South Carolina courts with respect to judicial records, *Padget v. Sun News*, 278 S.C. 26, 292 S.E.2d 30 (1982), and the privilege has been applied by the United States District for the District of South Carolina in *Cobin v. Hearst-Argyle Television, Inc.*, 561 F.Supp.2d 546 (D.S.C. 2008). The District Court, applying South Carolina law dismissed a libel complaint where the plaintiff claimed to have been defamed by news reports

that were characterized by the court as fair and accurate reports of a police report. The court noted that this fair report privilege applies even if the governmental record ultimately is defamatory. *Id.*

Plaintiff complains that he was defamed by the publication of news reports stating that he had been arrested for kidnapping and abuse of horses, the precise charges noted in the release by the Sheriff's Department. Since the release is a public record, and the reports reference the public record and provide fair and accurate descriptions of the charges announced against plaintiff in the public record, the publications are privileged at common law, and plaintiff has no basis for a claim.

AS TO THE CIVIL CONSPIRACY CLAIM

The allegations of plaintiff's civil conspiracy claim against The State newspaper cites that the conspiracy was to publish false statements about plaintiff. The injury complained of by plaintiff in the civil conspiracy claim was that his reputation was damaged. Of course, injury to reputation is a defamation claim, and the defamation claim is subject to the common law privilege of fair report. Plaintiff's effort to add a civil conspiracy gloss to his defamation complaint is not sufficient to override the fair report privilege, and, under South Carolina law, a civil conspiracy claim must be premised on allegations other than those made with respect to the libel claim. *Todd v. S. C. Farm Bureau Mut. Ins. Co.*, 276 S.C. 284, 278 S.E.2d 607 (1981); *Hackworth v. Greywood at Hammett, LLC,* 385 S.E. 110, 682 S.E.2d 871 (Ct. App. 2009); *Vaught v. Waites,* 300 S.C. 201, 387 S.E.2d 91 (Ct. App. 1989).

AS TO THE INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS CLAIM

Plaintiff complains that the publication of news reports that he had been arrested for kidnapping constituted intentional infliction of emotional distress. In basing his intentional infliction of emotional distress claim on the publications, plaintiff demonstrates conclusively that

his claim cannot survive. As the leading commentators on South Carolina tort law explained, the "outrage" claim is not available in cases where traditional tort claims existed. F.P. Hubbard & R.L. Felix, *The South Carolina Law of Torts* (2d.Ed. 1997), p. 419, citing *Todd v. South Carolina Farm Bureau*, 283 S.C. 155, 321 S.E.2d 602 (Ct.App. 1994), *Rev'd on other ground*, 287 S.C. 190, 336 S.E.2d 472 (1985). Since the traditional tort claim for injury to reputation as a consequence of the publication of a false statement of fact is libel, plaintiff's pursuit of damages for libel forecloses his claim for intentional infliction of emotional distress. *Id.*

CONCLUSION

Plaintiff bases his claims exclusively on the publication of news reports that he had been arrested for kidnapping and abuse of horses. These news reports were based on a public record disseminated by the Richland County Sheriff's Department. Publications based on fair and accurate reports of the contents of public records are privileged. So, no matter plaintiff's theory, the common law privilege protects these defendants for publications based on a public record. Judgment in their favor should be granted.

Respectfully submitted,

Jay Bender
BAKER, RAVENEL & BENDER, L.L.P.
3710 Landmark Drive, Suite 400
Post Office Box 8057
Columbia, South Carolina 29202
(803) 799-9091
Attorneys for Defendants The Associated Press
Raycom TV Broadcasting, Inc.
Barrington Broadcasting South Carolina Corp.,
Pacific & Southern Co., Inc. and McClatchy
Newspapers, Inc.

Columbia, South Carolina

March 15, 2011

STATE OF SOUTH CAROLINA COUNTY OF RICHLAND	)	IN THE COURT OF COMMON PLEAS
James W. Trexler, Plaintiff, vs. The Associated Press, Barrington Broadcasting South Carolina Corp., Raycom TV Broadcasting, Inc., The Spartanburg Herald Journal, Inc. and the Pacific & Southern Co., Inc., Defendants.	)	C. A. No. 2010-CP-40-1249 CERTIFICATE OF SERVICE
James W. Trexler, Plaintiff, vs. McClasky Newspapers, Inc., Richland County, and Richland County Sheriff's Department, Defendants.	)	C. A. No. 2010-CP-40-1343

I, Teresa K. Todd, Legal Assistant to Jay Bender, an employee of Baker, Ravenel & Bender, L.L.P., hereby certify that I have, on the date indicated below, served counsel below with a memorandum in support of motion for summary judgment by mailing a copy of same via United States Mail, postage pre-paid and return address clearly indicated on said envelope, to counsel at the following address:

William H. Johnson, Esquire
2 North Brooks Street
Manning, SC 29102

Robert David Garfield, Esquire
Davidson Morrison and Lindemann
PO Box 8568
Columbia, SC 29202-8568

Teresa K. Todd

March 15, 2011

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF RICHLAND	)	
James W. Trexler,	)	Civil Action No.: 2010-CP-40-1249
	)	
Plaintiff,	)	
	)	
v.	)	
	)	AFFIDAVIT OF CHRIS COWAN
	)	
	)	
	)	
	)	
	)	
	)	
The Associated Press, Barrington Broadcasting South Carolina Corp., Raycom TV Broadcasting, Inc. The Spartanburg Herald Journal, Inc. and the Pacific & Southern Co., Inc.,	)	
	)	
	)	
	)	
	)	
Defendants.	)	

RECEIVED
FEB 11 2011

I, Chris Cowan, being duly sworn, state:

1. The matters stated herein are known by me herein are known by me to be true of my personal knowledge unless stated upon information and belief, and, as to those matters, I believe them to be true.

2. I am a Captain in the Richland County Sheriff's Department.

3. I supervise the office of public information for the Richland County Sheriff's Department.

4. On Wednesday, February 27, 2008, while I was the Senior Public Information Coordinator for the Richland County Sheriff's Department, I disseminated a press release regarding the arrest of Hazelene E. Trexler, Terry A. Trexler and James Trexler. A true and

authentic copy of the release is attached hereto as Exhibit A and incorporated herein by reference.

5. The release was sent by me to, among others, The State newspaper, The Associated Press, WLTX, WACH and WOLO.

6. The press release was prepared by and on behalf of the Richland County Sheriff's Department.

7. The press release that is attached hereto as Exhibit A is a public record.

8. The press release that is attached hereto as Exhibit A stated that the charges made against James Trexler were, "5 counts of ill treatment of animals" and "1 count of kidnapping (stems from an incident where J. Trexler held a HSPCA investigator against her will/refused to allow the investigator to leave the farm on 2/13 during an evaluation of the horses)."

Further affiant sayeth not.

Chris Cowan

SWORN to before me this 9th day of February, 2011.

NOTARY PUBLIC FOR S.C.
My commission expires: 11/2/16

-----Original Message-----
From: Cowan, Chris Jennifer[CCowan@RCSD.NET]
Sent: Wednesday, February 27, 2008 5:42 PM
To: Andie Ripostal ST; Brandi WIS; Bradley Leaphan WIS; Christie Vaughan (Christie Vaughan); cm47; D LAZIE; Enterprise (Enterprise); Mike Wootten (Mike Wootten); newsdirectorwltx; Poole, Joye; Ramey Johnson (Ramey Johnson); Robin WOLO (Robin WOLO); Santaella, Tony ; Sarah Gregory (sarahgregory@wltx.com); Stephanie WLTX; stephanielw; Watch 57 News (Watch 57 News); WIS-TV (countonWIS@wltv.com); WLTX-TV (news19@wltx.gannett.com); WOLO; WOLO channel; WOLO-TV (eyewitness news@wolo.com); Beach, Adam; AP Columbia (AP Columbia); Figueira, Dawn; Kersey Young; Omara, Dan; CS Safety; Higgins, Lacy Tate; Ishmael; Davis, Kelly; McGirt, Tonya; 1170AM; 940AM; Doug Williams/WLXC (Doug Williams/WLXC); Dr. Consequents; Jerry Grimes; Eloise LO (eloise 103); Kergie Porter (sportsdirectorgreenvillejournal.com); TJ Holley (tjholley@clearchannel.com); WCOS; WCOS; wmnx; WOOK; WSCO; WTCB; WTCB; wtcb; WTCB; WTCB; WTCB; WVOC; WYCH (E-mail 2); Bob Reeder (E-mail); carolina news; Dan Cook (E-mail); Deputy Newsletter; editor Chronicle; fort jackson leader; Free Times Julie; Gainesboro (News; Gretchen Baum; Heidi Thomas (Nicki Thomas); Hispanic News (E-mail); Isaac Washington (E-mail); Jackie Sumter (E-mail); Jennifer Dowden (JenniferDowden@richlandonline.com); John edens; Joseph Aran; kirk lutzke; Kirk Luther (E-mail); Kitsun (E-mail); lee sigh editor; Lisa Wheeler/DChronicle; lori medici; Luis Franco (luisfrancos@yahoo.com); Marie Vic (E-mail); michele jackson; Mimi Maddock (E-mail); Misty Boone (E-mail); MLHR; Monarenda Gustave; NC PIO (RE: PIO); Rebekah Exley (E-mail); Rick Peterson (E-mail); Vida Latina (Vida Latina); Ballenbaugh/Dutch Fork; Marina Bruce; Sumter Item; Times and Democrat (orangeburg; AEC - Augusta (hyannie@wj.com); Atlanta Constitution (arts-entertainment@ajc.com); CBS Augusta (newsroom@wrdw.com); Greg Chevrier (greg.cuneo@nbcsc-tv.com); NBC - Atlanta (tips@wsbtv.gannett.com); NBC - Atlanta (news11alive@yahoo.com); WBC - Savannah Morning News (mcarlen@wsav.com)
Subject: those responsible for severe neglect/injury to horses, in custody

Richland County Sheriff's Department

LEON LOTT
Sheriff

Richland County Sheriff Leon Lott announced that at approximately 8:00 PM tonight the Richland County Sheriff's Departments Fugitive Task Force apprehended Hazelene E. Trexler (D Terry A. Trexler (DOB and James Trexler (412 Derby Lane in Hopkins.

Richland County Sheriff Leon Lott stated the Sheriff's Department and HSPCA continue to investigate the severe and barbaric treatment of 28 horses that were in the custody of and suppose to have been cared for by the Trexlers; even as the trio were being arrested in Hopkins tonight, investigators and veterinarians care for the horses that sustained injuries ranging from malnutrition to infiltions that being left untreated cause lameness to halters growing into the faces of the horses.

Sheriff Leon Lott added that this case is disturbing because these horses are helpless to the hands of their owners and the Trexlers have proven time and again that they have no business owning any animals. Sheriff Leon Lott stated that investigators from the Sheriff's Department and the HSPCA will continue to work with the Solicitors Office here and authorities in Georgia to make sure the Trexlers receive the punishment they deserve and are prosecuted to the fullest extent of the law. Sheriff Leon Lott stated that the Trexlers have been transported to Alvin S. Glen Detention Center where they await a bond hearing.

Charges:

- Hazalene E. Trexler
  28 counts of ill treatment of animals

- Terry A. Trexler
  23 counts of ill treatment of animals

- James Trexler
  5 counts of ill treatment of animals
  1 count of kidnapping (stems from an incident where J.Trexler held a HSPCA investigator against her will/refused to allow the investigator to leave a farm on 2/13 during an evaluation of the horses)

[redacted]

2/29/2008

Exhibit A

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas

Joseph M. Strickland, Special Circuit Court Judge

Circuit Court Case No. 2010-CP-40-1249
S.C. Court of Appeals Case No. 2013-001581

James W. Trexler,

Appellant,

v.

The Associated Press; Barrington Broadcasting South Carolina Corp.; Raycom TV Broadcasting, Inc.; The Spartanburg Herald Journal, Inc.; and The Pacific & Southern Co., Inc.,

Respondents.

RECORD ON APPEAL

Volume 2 of 3

William H. Johnson
Law Offices of William H. Johnson, LLC
411 North Brooks Street
Post Office Box 137
Manning, South Carolina 29102
(803) 435-0909 (telephone)
(803) 435-2858 (facsimile)
-and-

W. Westbrook Wills III
Attorney at Law
38 Broad Street
Suite 200
Charleston, SC 29401
(843) 805-6300 (telephone)
(843) 278- 9333 (facsimile)
-and-
Matthew D. Hamrick
Attorney at Law
Tidewater Executive Center
222 W. Coleman Blvd.
Mt. Pleasant, SC 29464
(843) 693-4700 (telephone)
(877) 524-5023 (facsimile)

ATTORNEYS FOR APPELLANT

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Certificate of Appellant's Counsel.....1111

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF RICHLAND	)	
James W. Trexler,	)	Civil Action No.: 2010-CP-40-1249
	)	
Plaintiff,	)	
	)	
v.	)	MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF MOTION FOR SUMMARY JUDGMENT ON BEHALF OF DEFENDANTS ASSOCIATED PRESS, RAYCOM TV BROADCASTING, INC., BARRINGTON BROADCASTING SOUTH CAROLINA CORP., AND PACIFIC & SOUTHERN CO., INC.
	)	
	)	
The Associated Press, Barrington Broadcasting South Carolina Corp., Raycom TV Broadcasting, Inc. The Spartanburg Herald Journal, Inc. and the Pacific & Southern Co., Inc.,	)	
	)	
Defendants.	)	

BACKGROUND

An action was filed in the Court of Common Pleas for Richland County on February 23, 2010 bearing the case number of the action now before the court with Hazelene E. Trexler, Terry A. Trexler and James W. Trexler as plaintiffs against 13 named defendants plus "ALL MEDIA COMPANIES THAT PRODUCED OR REPORTED ON ANY EVENT RELATING TO THE PLAINTIFFS IN 2008, 2009 AND 2010." (Tab A) No defendant herein was named in this action. Thereafter, on June 23, 2010 an Amended Summons and Amended Complaint were filed naming the within defendants and "The Spartanburg Herald, [sic] Journal, Inc." as defendants. The newspaper defendant's motion to dismiss was granted. A separate action based on the events recited in the Amended Complaint was initiated against the Richland County Sheriff's

Department and other defendants including the publisher of *The State* newspaper. That separate action bore Civil Action Number 2010-CP-40-1343. The two actions have been combined for discovery and trial. Summary judgment was granted in favor of *The State* newspaper in Civil Action Number 2010-CP-40-1343 on grounds that its news reports were privileged as a matter of law.

Defendants herein answered, and discovery was undertaken. Defendants now move for summary judgment pursuant to Rule 56, SCRCP.

UNDISPUTED FACTS

Plaintiff was for many years an employee of the South Carolina Department of Agriculture holding an executive position simultaneously entitled "Assistant Commissioner of Agriculture" (Affidavit of Hugh Weathers, Tab M) and "Executive Assistant III" (Affidavit of Georgette Rivers, Tab N). On February 27, 2008 plaintiff, his mother and brother were arrested by the Richland County Sheriff's Department on charges of "ill treatment of animals." (Affidavit of Chris Cowan, Tab J) Warrants for plaintiff's arrest stated that he was the "owner" of five horses which "He knowingly and intentionally deprived... of necessary quantities of wholesome foodstuff suitable for the species and age, at suitable intervals and sufficient to maintain a reasonable level of nutrition...." (Tab H)

Subsequently plaintiff was named in eight felony indictments for inflicting "excessive or repeated unnecessary pain or suffering upon animals." Plaintiff was also indicted along with his mother and brother for common law criminal conspiracy for "willfully and unlawfully" combining for the crime of ill treatment of animals. (Tab I)

On February 27, 2008 the Richland County Sheriff's Department disseminated a press release describing the arrest of plaintiff, his mother and brother and erroneously stating in the

press release that plaintiff had been charged with one count of kidnapping. (Tab J) Plaintiff's brother Terry Trexler, not plaintiff, had been arrested on the kidnapping charge. (Amended Complaint, Tab B paragraph 16)

Plaintiff's Amended Complaint alleged that defendants had published false statements about him:

> [T]hrough the actions of the publications or broadcasting stations owned by each of them, published as fact false and defamatory statements about the Plaintiff, including statements that the plaintiff was a kidnapper, that authorities had removed horses from the plaintiff, that the plaintiff's horses were starved, and other false and misleading statements.

(Tab B paragraph 18)

Plaintiff asserted in his Amended Complaint that notwithstanding he had no ownership of the horses or any interest in his mother's horse breeding business, "the Richland County Sheriff's Department charged the Plaintiff as if he were an owner." (Tab B paragraph 15)

Plaintiff's Amended Complaint seeks to assert claims for defamation, civil conspiracy, outrage and negligence based on the publications by defendants of news reports concerning the arrest and indictment of plaintiff for ill treatment of animals. (Tab B) Defendants have raised in their answers that the publications were true, or substantially true reports of the contents of public records, privileges arising under the United States Constitution and the common law of South Carolina, and the failure of the Amended Complaint to state causes of action. (Tabs C-G).

Defendants will address plaintiff's claims in the order they are set forth in the Amended Complaint and demonstrate that each defendant is entitled to judgment in its favor.

DEFAMATION

Common law issues.

The first requirement of a defamation claim is that the publication on which the action is based be false. *Holtzscheiter v. Thomson Newspapers, Inc.*, 332 S.C. 502, 506 S.E.2d 497 (1988), Toal, J., concurring in result. At common law truth was an affirmative defense to a libel claim, *Ross v. Columbia Newspapers, Inc.*, 266 S.C. 75, 221 S.E.2d 770 (1976), but where a news report concerns a public official or a public figure, or is related to a matter of public concern, the plaintiff must prove that the publication was false, rather than a defendant having to prove the publication was true. *Philadelphia Newspapers, Inc. v. Hepps*, 475 U.S. 767 (1986); *Curtis Publishing Co. v. Butts*, 388 U.S. 1975 (1967); *New York Times Co. v. Sullivan*, 376 U.S. 254 (1964). As will be discussed fully herein, plaintiff is a public official, but, even if he were not a public official, his arrest and indictment are matters of public interest thereby imposing on him the burden of proving the publications false. As the United States Supreme Court has explained, "The community has a vital interest in the proper enforcement of its criminal laws...." *Rosenbloom v. Multimedia, Inc.*, 403 U.S. 29, 43 (1971) See, *Doe v. Berkeley Publishers*, 329 S.C. 412, 496 S.E.2d 636 (1998) (Commission of a crime a matter of public interest). Under these authorities, plaintiff must bear the burden of proving the publications about which he complains contained false statements which were damaging to his reputation.

Plaintiff cannot prove that publications reporting that he had been arrested and indicted for ill treatment of animals were false because, beyond any doubt, those publications were true as is borne out by the arrest warrants and indictments. (Tabs H and I) As the South Carolina Court of Appeals held in *Parker v. Evening Post Pub. Co.*, 317 S.C. 236, 452 S.E.2d 640 (Ct. App. 1994), cert. denied, 516 U.S. 1172 (1976), a publication that is true or substantially true "is an

absolute defense" to a libel claim. 452 S.E.2d 640, 645. Plaintiff also complains that it was false and defamatory to publish that he owned horses which had been starved and which had been removed from him. (Tab B, paragraph 18) Even if it were false to publish that horses were removed from property in which plaintiff had an interest or association, *e.g.*, where he lived or property that he owned, or that the horses were "starved" rather than "deprived... of necessary quantities of wholesome foodstuff," the "sting" of the publications did not relate to ownership of property or the difference between "starved" and "deprived of necessary quantities of food." The "sting" of the publications was that a high ranking state agriculture official had been arrested and indicted for mistreatment of horses. Ownership of the property from which the horses were removed and the semantic difference between starved and deprived of sufficient food were immaterial to the accurately reported arrest and indictment of plaintiff. If the "gist" or "sting" of a publication is substantially true, irrelevant inaccuracies will not give rise to a defamation claim because those inaccuracies do not make the publications false. *Hearst-Argyle Television, Inc.*, 561 F.Supp.2d 546 (D.S.C. 2008) (applying South Carolina law), citing *AIDS Counseling & Testing Ctrs. V. Group W Television, Inc.*, 903 F.2d 1000, 1004 (4th Cir. 1990).

Plaintiff also complains that publications falsely stated that "authorities had removed horses from [him], and that [his] horses were starved." (Tab B paragraph 18) It is undisputed that horses were removed from 412 Derby Lane, Hopkins, the address where plaintiff was arrested, and that these horses were described in the arrest warrants as having been deprived of food and water and kept on property where there was no feed or hay. (Tabs H and J) As plaintiff acknowledged in his Amended Complaint, the Sheriff's Department treated him as if he were the owner of horses, and the arrest warrants are consistent with the Department's belief in this regard. (Tab B paragraph 15, Tab H) Clearly plaintiff was arrested because the warrants

alleged that horses he owned had been mistreated by being deprived of sufficient food, and these things are the facts published in the news reports. These reports cannot be proven false by plaintiff because they were true.

Plaintiff cannot, as a matter of law, prove that he was not arrested, was not indicted or that horses were not removed from property where he was arrested or property in which his family had an interest.

Plaintiff can prove that he was not arrested for kidnapping notwithstanding that charge in the Sheriff's Department press release. (Tab J) But even proving he was not arrested for kidnapping does not provide plaintiff with a claim against these defendants. It has long been the law of South Carolina that fair and accurate reports of judicial proceedings and documents and other official acts, records and reports are privileged. *White v. Wilkerson,* 328 S.C. 179, 493 S.E.2d 345 (1997); *Padgett v. Sun News,* 278 S.C. 26, 292 S.E.2d 30 (1982); *Reinhardt v. State-Record Co.,* 235 S.C. 480, 112 S.E.2d 500 (1960); *Lybrand v. The State Co.,* 179 S.C. 208, 184 S.E. 580 (1936). The privileged "official act" in *White, supra,* was a mayor's appearance at a press conference and on a radio show, neither of which differs in any significant manner from a Sheriff's Department press release in terms of being a mechanism to communicate governmental information to the public. In fact, the press release may have greater official status because, as plaintiff acknowledged, the press release is a public record under South Carolina law, and the publication of the contents of a public record is privileged at common law. (Tab L response paragraphs 10 and 11) Plaintiff has sought to amend this admission, but the admission only confirms the obvious as the press release is a document that was prepared by, used by, in the possession of and retained by the Sheriff's Department, thus making it a "public record" under South Carolina law. S.C. Code Ann. §30-4-20(c) (Rev. 2007). And, as discussed above, the fair

and accurate publication of the contents of a public record is privileged. The press release stated in the section entitled "Charges" that James Trexler was charged with "1 count of kidnapping (stems from an incident where J. Trexler held a HSPCA investigator against her will/refused to allow the investigator to leave a farm on 2/13 during an evaluation of the horses)."

So, reporting that horses had been seized was true. Reporting that plaintiff had been arrested was true. Reporting that plaintiff had been indicted for ill treatment of animals was true. Reporting that plaintiff had been charged with kidnapping was not true, but privileged. As a matter of common law plaintiff cannot recover on his libel claim.

Constitutional issues.

These defendants also have available in their defense the "constitutional privilege" arising under the First and Fourteenth Amendments to the United States Constitution as applied by the United States Supreme Court in its decision in *New York Times Co. v. Sullivan, supra.* In those instances when a libel plaintiff is a public official, that plaintiff has an elevated burden to recover on his claim growing out of the Supreme Court's recognition that in our democracy we have a profound national commitment to the dissemination of information on public affairs and matters of public interest. In these cases a public official plaintiff must prove "actual malice" by clear and convincing evidence. "Actual malice" in this circumstance is to be proven by evidence that establishes that the person making the publication decision knew the publication was false at the time of publication or that decision-maker had a reckless disregard of potential falsity. The Supreme Court of South Carolina applied and explained the operation of the "actual malice" rule comprehensively in *Elder v. Gaffney Ledger,* stating:

> Actual malice is a subjective standard testing the publisher's good faith belief in the truth of his or her statements. *Peeler v. Spartan Radiocasting, Inc.,* 324 S.C.261, 478 S.E.2d 282 (1996). The constitutional actual malice standard requires a public official to prove by clear and convincing

> evidence that the defamatory falsehood was made with the knowledge of its falsity or with reckless disregard for its truth. *New York Times Co. v. Sullivan, supra; Botchie v. O'Dowd,* 315 S.C. 126, 432 S.E.2d 458 (1993). A "reckless disregard" for the truth, however, requires more than a departure from reasonably prudent conduct. "There must be sufficient evidence to permit the conclusion that the defendant **in fact entertained serious doubts as to the truth** of his publication." *St. Amant v. Thompson,* 390 U.S. 727, 731, 88 S.Ct. 1323, 20 L.Ed.2d 262 (1968) (emphasis supplied [by court]). There must be evidence the defendant had a "**high degree of awareness of ... probable falsity.**" *Garrison v. Louisiana,* 379 U.S. 64, 74, 85 S.Ct. 209, 13 L.Ed.2d 125 (1964) (emphasis supplied [by court]).

Elder v. Gaffney Ledger, 341 S.C. 108, 533 S.E.2d 899, 902 (2000).

The elevated proof standard of *New York Times* actual malice leads naturally to the question of whether plaintiff herein is a public official. This determination is important, and is a matter of law which must be decided by the court "on a case by case basis after a careful examination of the facts and circumstances." *Erickson v. Jones Street Publishers, L.L.C.,* 368 S.C. 444, 629 S.E.2d 653, 666 (2006). The determination of public official status is made "not because of the employee's place on the totem pole, but because of the public interest in a government employee's activities in a particular context." *McClain v. Arnold,* 275 S.C. 124, 270 S.E.2d 124, 125 (1980). In South Carolina a police officer is a public official, *Id.,* as is an assistant police chief, *Miller v. City of West Columbia,* 322 S.C. 224, 471 S.E.2d 683 (1996) but an assistant school principal is not. *Goodwin v. Kennedy,* 347 S.C. 30, 552 S.E.2d 319 (Ct. App. 2001). What then is the status of an Assistant Commissioner of Agriculture?

As Chief Justice Jean Toal explained in her concurring opinion in *Holtzscheiter II, supra,* the determination is made on the basis of whether the employee "has or appears to the public to have 'substantial responsibility for or control over the conduct of governmental affairs.'" *Erickson, supra,* 629 S.E.2d 653, 666. As the state's Commissioner of Agriculture, Hugh Weathers, detailed in his affidavit (Tab M), plaintiff was one of three top-level career employees in

the Department of Agriculture who internally participated "in the overall direction and management" of the department, was in charge of "the back-room functions" of the department (Tab O page 84), and in his own words, helped "lead this agency as Assistant Commissioner of Agriculture." (Tab M, Exhibit A). Plaintiff testified in his deposition that he went to the Department of Agriculture initially as a "legislative liaison" (the title state agencies give their version of lobbyists), and that he "ran the agency." (Tab O, page 88 lines 16-20) Externally Plaintiff was project director for the removal of the State Farmers Market from Richland County to Lexington County (Tab O pages 85-86). In connection with the State Farmers Market project plaintiff testified that he met with trustees from the University of South Carolina and assisted in making financial arrangements with the State Budget and Control Board. (Tab O pages 223-228) As Commissioner Weathers stated in his affidavit, he considered plaintiff to be an official of the department and believed that persons both inside and outside the department considered plaintiff to be an official. (Tab N)

And, in terms whether there would be public interest in plaintiff's conduct in the particular context of the mistreatment of horses, it is plaintiff's high position in the state's agriculture agency that brought a public focus to these events. It is probably true without question that in South Carolina members of the public would always be interested in a situation where one in high government office is arrested for misconduct in an area that touches on the activities of the agency where the employee works. By all measures, plaintiff is for purposes of this litigation a public official. As such he must meet the elevated proof requirements of *New York Times Co. v. Sullivan, supra,* and *Elder v. Gaffney Ledger, supra.*

As a consequence of plaintiff's status as a public official he must prove that the publications were false and made with actual malice. Notwithstanding this significant proof

burden, plaintiff has not identified a single witness who can address whether the persons making the publication decisions knew the publications were false or whether they had substantial doubt about the accuracy of the publications. Plaintiff has identified as witnesses himself, his brother and Dr. Oliver Wood. (Tab K) Dr. Wood is an economist who will testify only about plaintiff's claimed lost wages, and plaintiff's brother is identified as a witness who "will provide testimony that James Trexler had no involvement with the management or care of horses." Plaintiff himself will be unable to meet his "actual malice" burden of proving that the publications were known to be false or published with reckless disregard of the truth when he himself testified as to the truth of the essential elements of the publications:

> Q: ...Now, with respect to what was published about you, it's true that you were arrested?
>
> A: Yes, sir.
>
> Q: It's true that you were arrested for mistreatment of animals?
>
> A: Yes, sir.
>
> Q: And it's true that the Richland County Sheriff's Department sent out a press release that said you had been arrested for kidnapping?
>
> A: Yes, sir.
>
> Q: And when you were arrested, the arrest warrant said that it was for horses you owned that were mistreated, is that correct?
>
> A: Yes, sir.

(Tab O, page 229, line 25 to page 230, line 13)

CIVIL CONSPIRACY

Plaintiff's allegations with respect to civil conspiracy merely incorporate the allegations in the Amended Complaint that preceded the civil conspiracy allegations (Tab B, paragraph 30) and fail to allege additional acts said to have been undertaken by defendants in furtherance of the

conspiracy. By incorporating these earlier allegations without alleging additional acts for which damages are sought, plaintiff is precluded from seeking damages for civil conspiracy. *Todd v. South Carolina Farm Bureau Mut. Ins. Co., 276 S.C. 155, 278 S.E.2d 607 (1981); Hackworth v. Greywood at Hammett, L.L.C.,* 385 S.C. 110, 682 S.E.2d 871 (Ct. App. 2009).

OUTRAGE

Plaintiff's outrage claim is deficient for reasons that the claim is not available for wrongs redressed by traditional torts, and there is no assertion of mental anguish in plaintiff's responses to interrogatories. (Tab K, response to question 3) Even if plaintiff claimed a mental injury as part of an outrage claim, there is no witness to provide third-party corroboration of a claim of mental injury sufficient to satisfy the court's gatekeeper function. Plaintiff has not identified mental injury in his damages, and lists no witness who will testify as to mental anguish occasioned by defendants' actions in publishing truthful material from the public record, or in one instance publishing erroneous material contained in the public record. This court's obligation in ruling on a motion for summary judgment on an outrage claim is to make a determination that a genuine issue of material fact exists for each essential element of the claim because the court is to play a significant gatekeeping role. As former Chief Justice Bruce Littlejohn instructed, a court should look for third party witness testimony and other corroborating evidence that supports a prima facie showing of severe emotional distress. *Hansson v. Scalise Builders of South Carolina,* 374 S.C. 352, 650 S.E.2d 68 (2007). As was discussed above, plaintiff's witnesses are his brother, an economist and himself. There is no witness identified who will provide crucial third party testimony relative to severe emotional distress. Since this proof is plaintiff's burden, his failure to make a showing sufficient to establish the existence of each essential element of the claim is fatal to the claim. *Baughman v. Amer. Tel. & Tel. Co.,* 306 S.C. 101, 410 S.E.2d 537 (1991).

Additionally, the tort of outrage is generally not available in circumstances where a traditional tort such as defamation is the basis for a claim. *Todd v. S.C. Farm Bureau Mut. Ins. Co.*, 283 S.C. 155, 321 S.E.2d 602 (Ct. App. 1984).

NEGLIGENCE

Plaintiff seeks to assert a negligence claim by incorporating all allegations relating to his defamation claim and then asserting that defendants had an obligation "to thoroughly investigate the allegations against" him. (Tab B, paragraph 43) As the Supreme Court of South Carolina held in *Erickson, supra,* negligence is subsumed in the libel claim, and does not exist as a claim separate and distinct from the libel claim:

> A claim that a statement constitutes libel or slander must be brought in a defamation cause of action, which is grounded in and affected by both common and constitutional law [,and not as a negligence claim].

Erickson, 629 S.E.2d 653, 674.

STATUTE OF LIMITATIONS

The statute of limitations for libel actions in South Carolina is two years. S.C. Code Ann. §15-3-550(1) (Rev. 2005). (Tab P) Plaintiff named these defendants for the first time in the Amended Summons and Amended Complaint which were filed on June 23, 2010. Applying the statute of limitations, plaintiff has no claim for any publications prior to June 22, 2008. But, in disregard of the statute of limitations, plaintiff seeks damages for publications prior to June 22, 2008 by acknowledging in his responses to defendants' interrogatories that he seeks damages for publications between February 26 and April 11, 2008. Plaintiff's claim for relief with respect to publications prior to June 22, 2008 is barred by the passage of time. Plaintiff cannot claim that the addition of these defendants by way of the Amended Complaint relates back to the original complaint to correct a misidentification of the defendants because plaintiff could not have

intended to bring an action against these defendants with the original summons and complaint because he testified that he had no knowledge of the suit as originally filed. (Tab O, page 207, line 22 to page 210 line 2) *Hughes v. Water World Water Slide, Inc.*, 314 S.C. 211, 442 S.E.2d 584 (1994). Likewise, the addition of new parties is not a change of misnamed parties such as would allow the amendment to relate back to a period prior to the running of the statute of limitations. *Gause v. Smithers*, 384 S.C. 130, 681 S.E.2d 607 (Ct. App. 2009). Any claim for a publication prior to June 22, 2008 is stale.

CONCLUSION

For the reasons advanced above, defendants' motions for summary judgment should be granted on grounds that there are no significant issues of material fact in dispute and defendants are entitled to judgment in their favor as a matter of law.

Jay Bender
BAKER, RAVENEL & BENDER, LLP
Post Office Box 8057
3710 Landmark Dr., Suite 400
Columbia, South Carolina 29202
803.799.9091 (telephone)
803.779.3423 (facsimile)
ATTORNEYS FOR DEFENDANTS

Columbia, South Carolina

December 14, 2011

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF RICHLAND	)	
James W. Trexler,	)	Civil Action No.: 2010-CP-40-1249
	)	
Plaintiff,	)	
	)	
v.	)	CERTIFICATE OF SERVICE
	)	
	)	
The Associated Press, Barrington Broadcasting South Carolina Corp., Raycom TV Broadcasting, Inc., and the Pacific & Southern Co., Inc.,	)	
	)	
	)	
	)	
Defendants.	)	

I, Teresa K. Todd, Legal Assistant to Jay Bender, an employee of Baker, Ravenel & Bender, L.L.P., hereby certify that I have, on the date indicated below, served counsel below with an Memorandum of Points and Authorities in Support of Motion for Summary Judgment on Behalf of Defendants by mailing and emailing a copy of same via United States Mail, postage pre-paid and return address clearly indicated on said envelope, to counsel at the following address:

William H. Johnson, Esquire
(William@whjohnsonlaw.com)
P.O. Box 137
Manning, SC 29102

William K. Austin, Esquire
(waustin@austinlawsc.com)
W. Westbrook Wills, III, Esquire
(wwills@austinfowlerwills.com)
Austin, Fowler & Wills, LLP
38 Broad Street
Suite 200
Charleston, SC 29401

Teresa K. Todd

December 14, 2011

INDEX TO DOCUMENTS IN SUPPORT OF
DEFENDANTS' MOTION FOR SUMMARY JUDGMENT

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Tab F	Answer of Pacific & Southern Co.
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STATE OF SOUTH CAROLINA

IN THE COURT OF COMMON PLEAS

COUNTY OF RICHLAND

FIFTH JUDICIAL CIRCUIT

HAZELENE E. TREXLER, TERRY A. TREXLER AND JAMES W. TREXLER

CASE NO: 2010-CP- 40-1249

PLAINTIFFS,

VS.

SUMMONS

RICHARD RALPHS, JAMES QUINN, HOLLY WAGNER, CHRIS COWAN, RICHLAND COUNTY SHERIFF'S DEPARTMENT, RICHLAND COUNTY, MARY ELLEN TOBIAS, LEON LOTT, HUGH WEATHERS, BETH CROCKER, KAY RIKE, FRANK FUSCO, SOUTH CAROLINA DEPARTMENT OF AGRICULTURE, ALL MEDIA COMPANIES THAT PRODUCED OR REPORTED ON ANY EVENT RELATING TO THE PLAINTIFFS IN 2008, 2009 AND 2010

DEFENDANTS.

RICHLAND COUNTY FILED 2010 FEB 23 PM 12:44 JEANETTE W. [illegible]BRIDE C.C.P. & G.S.

TO THE DEFENDANT ABOVE NAMED:

YOU ARE HEREBY SUMMONED and required to answer the Complaint, a copy of which is hereby served upon you, and to serve a copy of your Answer to the said Complaint on the subscriber at P.O. Box 12603, Columbia, South Carolinba within thirty (30) days after service hereof, exclusive of the day of such service, and if you fail to answer the Complaint within the time aforementioned, the Plaintiffs in this action will apply to the Court for a default judgment and for the relief demanded in the complaint and an Order of Default will be rendered against you for the relief so demanded in the Complaint.

February 23, 2010

STATE OF SOUTH CAROLINA

IN THE COURT OF COMMON PLEAS

COUNTY OF RICHLAND

FIFTH JUDICIAL CIRCUIT

HAZELENE E. TREXLER, TERRY A. TREXLER AND JAMES W. TREXLER

CASE NO: 2010-CP-40-1249

PLAINTIFFS,

VS.

COMPLAINT

RICHLAND COUNTY FILED 2010 FEB 23 PM 12:44 JEANETTE W. McBRIDE C.C.P. & G.S.

RICHARD RALPHS, JAMES QUINN, HOLLY WAGNER CHRIS COWAN, RICHLAND COUNTY SHERIFF'S DEPARTMENT, RICHLAND COUNTY, MARY ELLEN TOBIA, LEON LOTT, HUGH WEATHERS, BETH CROCKER KAY RIKE, FRANK FUSCO, SOUTH CAROLINA DEPARTMENT OF AGRICULTURE, ALL MEDIA COMPANIES THAT PRODUCED OR REPORTED ON ANY EVENT RELATING TO THE PLAINTIFFS IN 2008, 2009 AND 2010

DEFENDANTS.

The Plaintiff complaining of the Defendant alleges and says:

1. Plaintiffs are residentS of South Carolina.

2. The Defendant are residents of Richland County, South Carolina or engaged in tortuous activities in Richland County.

3. Jurisdiction is held in richland County via the residence of the Defendants or it is the place of acts complained of.

BACKGROUND FACTS

4. The Plaintiff, Hazelene E. Trexler, was engaged in the business and agricultural practice of raising, breeding, and caring for horses on property owned and/or leased by

Hazelene E. Trexler and doing business as Carolina Arabian Show Horses, LLC.

5. Defendants committed acts of defamation, slander, civil conspiracy and other violations of law against the Plaintiffs in and about late February 2008. Such wrongful acts will detailed at trial.

FOR A FIRST CAUSE OF ACTION
(DEFAMATION, SLANDER, LIBEL)

6. In late February 2008 and numerous times before and thereafter, Plaintiffs defamed the Plaintiffs.

FOR A SECOND CAUSE OF ACTION
(INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS)

7. Each and every allegation in the foregoing paragraphs of this Complaint is realleged as if repeated verbatim to the extent that such allegations are not inconsistent with this cause of action.

8. In February 2008 and numerous times before and thereafter, Defendant intentionally, willfully, recklessly and wantonly inflicted severe emotional distress upon the Plaintiffs by defamation, public humiliation, contributions to imprisonment and malicious prosecution, degradation and dehumanization.

9. Defendant knew or was substantially certain that such emotional distress would result from Defendant's conduct as described hereinabove.

10. Defendant's conduct was so extreme and outrageous as to exceed all possible bounds of decency and must be regarded as outrageous and intolerable in a civilized community.

11. Defendant intended to humiliate, degrade, harass, intimidate and frighten the Plaintiffs.

12. Defendant's conduct was willful, wanton, malicious and done in reckless disregard of the Plaintiffs' rights.

13. Defendant's conduct has and will cause the Plaintiffs to suffer from severe emotional

distress and adverse psychological effects.

14. The severity of the emotional distress suffered by the Plaintiffs are such that a reasonable person in the Plaintiffs' position would be similarly affected, and no reasonable person could be expected to endure it.

15. As a direct and proximate result of Defendant's conduct, the Plaintiffs suffered severe emotional distress and adverse psychological effects, and further suffered the injuries as set forth hereinabove, in a sum of actual and punitive damages in an amount of no less than $10,000,000.00. The Plaintiff is informed and believes he is entitled to an award of said damages from the Defendant.

FOR A THIRD CAUSE OF ACTION
(NEGLIGENCE)

16. To the extent they are not inconsistent with this cause of action, Plaintiffs reallege and incorporate the foregoing paragraphs of this Complaint as if repeated verbatim.

17. Defendant owed and/or assumed a duty of care to Plaintiffs to properly and thoroughly investigate the allegations against Plaintiffs in order to ensure that any accusations brought against them sustained by all relevant facts sufficient to provide proof of their guilt.

18. Defendant knew or should have known and/or discovered that there might exist evidence easily available to the Defendant which would exonerate the Plaintiff of the charges brought against them.

19. Despite Defendant's knowledge of the possible existence of said evidence, Defendant failed to inquire about said evidence or to locate same, when in fact, said evidence was in the possession of the Defendant or was readily known at the time of the accusation against the Plaintiffs.

20. Defendant was negligent, grossly negligent, willful, and wanton, and breached her duty to the Plaintiffs in one or more of the following ways:

a.) In failing to exercise due care in the investigation of the allegations against the Plaintiff; and

b.) In failing to exercise due care during the investigation of the allegations against the Plaintiff prior to bringing the accusations against him and contributing to their peril.

21. As a direct and proximate result of Defendant's conduct, the Plaintiffs suffered severe emotional distress and adverse psychological effects, and further suffered the injuries as set forth hereinabove, in a sum of actual and punitive damages in an amount no less than $10,000,000.00. The Plaintiffs are informed and believes he is entitled to an award of said damages from Defendant.

FOR A FOURTH CAUSE OF ACTION
(CIVIL CONSPIRACY)

22. To the extent they are not inconsistent with this cause of action, Plaintiffs reallege and incorporate the foregoing paragraphs of this Complaint as if repeated verbatim.

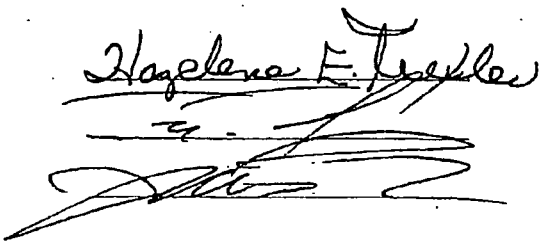
23. At all times relevant to this Complaint, Defendant along with others, intended to injure the Plaintiffs by making false, misleading allegations against the Plaintiffs; by constantly harassing the Plaintiffs by withholding exonerating evidence prior to and after their arrest so that the Plaintiffs would be faced with public humiliation.

24. As a direct and proximate result of Defendant's conduct, the Plaintiffs suffered special damages, to wit: severe emotional distress and adverse psychological effects, and further suffered the injuries as set forth hereinabove in a sum of actual and punitive damages in an amount of no less than $10,000,000.00. The Plaintiff is informed and believe they are entitled to an award of said damages from Defendant.

WHEREFORE, Plaintiffs prays for judgment against Defendant as follows:

a.) As to the First, Second, Third and Fourth Cause of Action against the Defendant, actual, consequential and punitive damages, attorney fees, and costs in an amount of no less than $10,000,000.00 for each Cause.

b.) As to all causes of action, for such other and further relief as the Court deems just and proper.



February 23, 2010

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FIFTH JUDICIAL CIRCUIT
COUNTY OF RICHLAND	)	Case Number; 2010-CP-40-1249
James W. Trexler,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	**AMENDED SUMMONS**
	)	
The Associated Press, Barrington Broadcasting South Carolina Corp., ~~Gannett Company, Inc.~~, Raycom TV Broadcasting, Inc., and The Spartanburg Herald, Journal, Inc. The Pacific + Southern Co., Inc.	)	
Defendants.	)	

RICHLAND COUNTY
FILED
2010 JUN 23 AM 11:38
JEANETTE W. McBRIDE
C.C.P. & G.S.

TO: DEFENDANTS ABOVE NAMED:

YOU ARE HEREBY SUMMONED and required to answer the Amended Complaint in this action, a copy of which is hereby served upon you and to serve a copy of your answer to the said Amended Complaint on the subscribers, Law Offices of William H. Johnson, L. L.C., at their offices at 2 North Brooks Street, Manning, South Carolina, within thirty (30) days after the service hereof, exclusive of the date of such service and if you fail to answer the Amended Complaint within the time aforesaid, the Plaintiff in this action will apply to the Court for the relief demanded in the Amended Complaint.

LAW OFFICES OF WILLIAM H.JOHNSON, LLC

By: _____

William H. Johnson
P.O. Box ~~137~~
Manning, SC 29102
Phone: 803-435-0909
Fax: 803-435-2858
william@whjohnsonlaw.com

June 23, 2010

STATE OF SOUTH CAROLINA COUNTY OF RICHLAND James W. Trexler, Plaintiff, vs. The Associated Press, Barrington Broadcasting South Carolina Corp., The Pacific and Southern Company, Inc. , Raycom TV Broadcasting, Inc., and The Spartanburg Herald-Journal, Inc. Defendants.	)	IN THE COURT OF COMMON PLEAS FIFTH JUDICIAL CIRCUIT Case Number; 2010-CP-40-1249 AMENDED COMPLAINT

RICHLAND COUNTY
FILED
2010 JUN 23 AM 11:38
JEANETTE W. McBRIDE
C.C.P. & G.S.

The Plaintiff, complaining of the Defendants above name, respectfully allege as follows:

PARTIES AND JURISDICTION

1. The Plaintiff is a citizen and resident of the County of Charleston, State of South Carolina.

2. The Defendant, The Associated Press (hereinafter "AP") is a corporation organized and pursuant to the laws of a state other than South Carolina, but is licensed to do business in South Carolina.

3. The Defendant, Barrington Broadcasting South Carolina Corp. (hereinafter "Barrington") is a corporation organized and pursuant to the laws of a state other than South Carolina, but is licensed to do business in South Carolina.

4. The Defendant, The Pacific and Southern Company, Inc., . (hereinafter "Pacific

and Southern") is a corporation organized and pursuant to the laws of a state other than South Carolina, but does business and owns property in South Carolina.

5. The Defendant, Raycom TV Broadcasting Inc., (hereinafter "Raycom") is a corporation organized and pursuant to the laws of a state other than South Carolina, but is licensed to do business in South Carolina.

6. The Defendant, The Spartanburg Herald-Journal, Inc. (hereinafter "the Herald-Journal") is a corporation organized and pursuant to the laws of a state other than South Carolina, but is licensed to do business in South Carolina.

7. The matters alleged in this Amended Complaint arise from publications that occurred within the state of South Carolina, and therefore this Court has jurisdiction over the parties and subject matter herein.

FACTUAL BACKGROUND

8. The Associated Press provides information to various media outlets for publication in the broadcast, print, and internet media.

9. Barrington owns and operates WACH TV, which broadcasts from Columbia, South Carolina, and also publishes through an internet website identified as "MidlandsConnect.com.

10. Raycom owns WIS TV, which broadcasts from Columbia, South Carolina.

11. Pacific and Southern, upon information and belief, is a subsidiary of The Gannett Company, Inc., and owns WLTX, which broadcasts from Columbia, South Carolina.

12. The Herald-Journal publishes a newspaper from Spartanburg, South Carolina, and also owns and publishes information through a website identified as "GoUpstate.com."

13. Prior to the month of March 2008, the Plaintiff's mother operated a business in Richland County, South Carolina, in which the Plaintiff's mother bred for profit, Arabian horses.

14. During February of 2008, the horses owned by the Plaintiff's mother were seized, due to alleged charges of mistreatment of animals. In addition, the Plaintiff's mother and brother were charged with various crimes.

15. Although the Plaintiff had no ownership interest whatsoever in the ownership of the horses or the operation of his mother's business, the Richland County Sheriff's Department charged the Plaintiff as if he were an owner.

16. As the result of an associated incident that occurred between the Plaintiff's brother and an individual trespassing upon the property where the horses were maintained, which trespassing was done for the furtherance of supporting the allegations of mistreatment of animals, the Plaintiff's brother was charged with the crime of kidnapping.

17. At the time of these events, the Plaintiff was a veteran employee of the South Carolina Department of Agriculture, working at that time as an Assistant Commissioner for Administration. His position was not an elected or appointed position, but rather earned as the result of twenty-seven years of service to state government.

18. On dates subsequent to the seizure of the Plaintiff's mother's horses, each of the defendants, through the actions of the publications or broadcasting stations owned by each of them, published as fact false and defamatory statements about the Plaintiff, including statements that the plaintiff was a kidnapper, that authorities had removed horses from the plaintiff, that the plaintiff's horses were starved, and other false and misleading statements.

19. At the times of the publications, the statements were false and the Defendants

either knew or should have known that the statements were false.

20. As a result of the publications, the Plaintiff suffered an enormous adverse financial impact, which impact included being forced to resign from his job, which caused him to lose substantial benefits for which he worked diligently during a successful career with the State of South Carolina.

21. As a further result of the publications, the Plaintiff is unable to obtain employment in which he can utilize his talents and experience.

22. As a further result of the publications, the Plaintiff has suffered extreme humiliation and damage to his reputation in the community and state government.

23. Publications of the statements concerning the kidnapping charge, and also the statements associating the Plaintiff with the operation of the horse business owned and operated by his mother created the false impression in the minds of millions of South Carolinians and others worldwide concerning the character of the Plaintiff.

FOR A FIRST CAUSE OF ACTION AGAINST ALL DEFENDANTS

(Defamation)

24. Each and every factual allegation above is incorporated herein by reference.

25. On February 28, 2008, and subsequent dates, each of the defendants published statements to millions of citizens of the state of South Carolina and worldwide that the Plaintiff had been charged with kidnapping, and that authorities had removed horses from him that had been abused.

26. At the time of the publications, the statements were false.

27. At the time of the publications, the Defendants either knew that the statements were false, or through the exercise of professional journalism should have known that the statements were false, and therefore acted with malice, intentional and reckless disregard for the truth or falsity of the statements.

28. In addition to being actionable, irrespective of the harm caused by the publication of the statements, the publication of the statements did in fact cause special harm, in the form of the loss of the Plaintiff's twenty-seven year career with the state government, extreme humiliation in the community, and irreparable damage to his reputation.

29. As a result of the defamation of the Plaintiff by the Defendants, the Plaintiff is entitled to actual and punitive damages as determined by a jury.

FOR A SECOND CAUSE OF ACTION AGAINST ALL DEFENDANTS

(Civil Conspiracy)

30. Each and every factual allegation above is incorporated herein by reference.

31. The Defendants, through their agents, combined one with another to publish false statements about the Plaintiff.

33. The combination was for the purpose of injuring the Plaintiff.

34. The actions of the Defendants caused the Plaintiff special damages in the form of the loss of his career and unrecoverable damage to his reputation.

35. As a result of the civil conspiracy of the Defendants, the Plaintiff is entitled to actual and punitive damages in an amount to be determined by a jury.

FOR A THIRD CAUSE OF ACTION AGAINST ALL DEFENDANTS

(Outrage)

36. Each and every factual allegation above is incorporated herein by reference.

37. By recklessly publishing to third parties that the Plaintiff had been charged with kidnapping, the Defendants intentionally and recklessly inflicted severe emotional distress upon the Plaintiff.

38. By publishing that the Plaintiff was charged with kidnapping when the Defendants knew or should have known that the same was totally untrue, the Defendants' conduct was so extreme and atrocious as to exceed all possible bounds of decency and must be regarded as outrageous and utterly intolerable in a civilized society.

39. The actions of the Defendants have caused the Plaintiff severe emotional distress.

40. The emotional distress suffered by the Plaintiff was so severe that no reasonable person could be expected to endure it.

41. As a result of the tort of outrage on the part of the Defendants, the Plaintiff is entitled to actual and punitive damages.

FOR A FIFTH CAUSE OF ACTION AGAINST ALL DEFENDANTS

(Negligence)

42. Each and every factual allegation above is incorporated herein by reference.

43. The Defendants owed a duty of care to the Plaintiff to properly and thoroughly investigate the allegations against the Plaintiff in order to ensure that any statements published concerning the Plaintiff were correct and true.

44. Information was readily available to each of the Defendants that the Plaintiff had no ownership interest in the horses that were removed, and that he had not been charged with the crime of kidnapping.

45. The Defendants breached their duty to thoroughly investigate the allegations, due to the fact of the sensationalism of the allegations, particularly as they related to the Plaintiff, an employee of the South Carolina Department of Agriculture.

46. The Defendants were negligent, grossly negligent, willful and wanton, and breached their duties to the Plaintiff in one or more of the following specifics:

(a) In failing to exercise due care in the investigation of the allegations against the Plaintiff;

(b) In publishing statements without verifying the truth or veracity of the statements with reference to readily available information;

© In accepting as truth statements made by malicious and biased individuals with ulterior motives toward the Plaintiff.

47. As a direct and proximate result of the Defendants' conduct, the Plaintiff suffered substantial economic damages, as well as severe emotional distress.

48. As a result of the negligence and gross negligence on the part of the Defendants, the plaintiff is entitled to actual and punitive damages as determined by a jury.

WHEREFORE, having fully stated his claim for relief, the Plaintiff prays for judgment against the Defendants, jointly and severally, for actual and punitive damages in an amount to be determined by a jury, and for such other and further relief as the Court may deem just and proper.

LAW OFFICES OF WILLIAM H. JOHNSON, LLC

By: _____

William H. Johnson
P.O. Box 137
Manning, SC 29102
Phone: 803-435-0909
Fax: 803-435-2858
william@whjohnsonlaw.com

June 23, 2010

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF RICHLAND	)	
James W. Trexler,	)	Civil Action No.: 2010-CP-40-1249
	)	
Plaintiff,	)	
	)	
v.	)	ANSWER OF DEFENDANT THE ASSOCIATED PRESS
	)	(Jury Trial Demanded)
	)	
The Associated Press, Barrington Broadcasting South Carolina Corp., Raycom TV Broadcasting, Inc. The Spartanburg Herald Journal, Inc. and the Pacific & Southern Co., Inc.,	)	
	)	
Defendants.	)	

FILED
2010 AUG 27 PM 2:49
JEANETTE W. McBRIDE
C.C.P. & G.S.

Defendant, The Associated Press (AP), responding to the allegations of the amended complaint, alleges:

AS AND FOR A FIRST DEFENSE TO THE DEFAMATION CLAIM

1. As to the allegations of paragraph 1, AP admits the same.

2. As to the allegation of paragraph 2, AP admits the same, and alleges in connection therewith that it is a not-for-profit news cooperative organized under the laws of the State of New York, doing business in South Carolina.

3. As to the allegations of paragraphs 3, 4, 5, and 6, AP lacks information sufficient to form a belief as to the truth or falsity thereof, denies the same.

4. As to the allegations of paragraph 7, AP is informed and believes the same to be true, and admits the same.

5. As to the allegations of paragraph 8, AP admits the same and alleges in connection therewith that it is a news cooperative and that it provides news reports and other services to its members.

6. As to the allegations of paragraph 9, AP admits so much thereof as alleges that WACH-TV broadcasts from Columbia, South Carolina, but denies the remaining allegations thereof.

7. As to the allegations of paragraph 10, AP admits so much thereof as alleges that WIS-TV broadcasts from Columbia, South Carolina, but denies the remaining allegations thereof.

8. As to the allegations of paragraph 11, AP admits so much thereof as alleges that WLTX-TV broadcasts from Columbia, South Carolina, but denies the remaining allegations thereof.

9. As to the allegations of paragraph 12, AP admits that the Herald-Journal newspaper is published in Spartanburg, South Carolina, and denies the remaining allegations of thereof.

10. As to the allegations of paragraphs 13, 14 and 15; AP lacks information sufficient to form a belief as to the truth or falsity thereof, and denies the same.

11. As to the allegations of paragraph 16, AP lacks information sufficient to form a belief as to the truth or falsity thereof, denies the same, and alleges in connection therewith that the Richland County Sheriff's Department on February 29, 2008 issued a statement indicating that plaintiff had been arrested on one count of kidnapping.

12. As to the allegations of paragraph 17, AP admits so much thereof as alleges that plaintiff was an assistant commissioner of the South Carolina Department of Agriculture, lacks

information sufficient to form a belief as to the truth or falsity of the remaining allegations and denies the same. AP is informed and believes plaintiff was a public official at the time of the publications complained of.

13. As to the allegations of paragraphs 18, 19, 20, 21, 22 and 23, AP denies the same.

14. As to the allegations of paragraph 24, AP reasserts and realleges the facts and matters contained in paragraph 1 through 13 above, as fully and completely as if restated herein verbatim.

15. As to the allegations of paragraph 25, AP denies that it published any information on February 28, 2008 regarding kidnapping charges against plaintiff, but alleges in connection therewith that subsequent to February 29, 2008, in response to a press release issued by the Richland County Sheriff's Department, AP disseminated a news report that stated, as the press release had, that plaintiff had been arrested for kidnapping.

16. As to the allegations of paragraphs 26, 27, 28, and 29, AP denies the same.

AS AND FOR A SECOND DEFENSE TO THE DEFAMATION CLAIM

17. The allegations of paragraph 1 through 29 fail to state a cause of action for defamation in that plaintiff, a public official at the time of the publication, has failed to allege constitutional malice.

AS AND FOR A THIRD DEFENSE TO THE DEFAMATION CLAIM

18. The publication of a news report by AP stating that plaintiff had been charged with kidnapping was privileged at common law as the fair and accurate report of a public record.

AS AND FOR A FOURTH DEFENSE TO THE DEFAMATION CLAIM

19. Plaintiff's defamation claim is time barred by the statute of limitations imposed by S.C. Code Ann. §15-3-550 (Rev. 2005).

AS AND FOR A FIRST DEFENSE TO THE CLAIM FOR CIVIL CONSPIRACY

20. As to the allegations of paragraph 30, AP reasserts and realleges the facts and matters contained in paragraph 1 through 19 above, as fully and completely as if restated herein verbatim.

21. As to the allegations of paragraphs 31, 33, (there is no paragraph 32), 34, and 35, AP denies the same.

22. All allegations in the civil conspiracy claim not hereinabove admitted, qualified or explained are hereby denied.

AS AND FOR A SECOND DEFENSE TO THE CLAIM FOR CIVIL CONSPIRACY

23. The allegations of paragraphs 30, 31, 33, 34, and 35 fail to state a cause of action for civil conspiracy in that an action by a public official for damages flowing from a publication requires allegations of and proof of constitutional malice, neither of which is alleged in the amended complaint.

AS AND FOR A THIRD DEFENSE TO THE CLAIM FOR CIVIL CONSPIRACY

24. Publication of news reports of and concerning public officials in South Carolina is privileged at common law and under the constitutions of South Carolina and of the United States.

AS AND FOR A FIRST DEFENSE TO THE OUTRAGE CLAIM

25. As to the allegations of paragraph 36, AP reasserts and realleges the facts and matters contained in paragraphs 1 through 24 above, as fully and completely as if restated herein verbatim.

26. As to the allegations of paragraph 37, AP denies that it was reckless in publishing any news report regarding the plaintiff being charged with kidnapping in that the information was provided to AP in a public record.

27. As to the allegations of paragraphs 38, 39, 40, and 41, AP denies the same.

28. All allegations in paragraphs 36, 37, 38, 39, 40 and 41 not hereinabove admitted, qualified or explained are hereby denied.

AS AND FOR A SECOND DEFENSE TO THE OUTRAGE CLAIM

29. The allegations of paragraphs 36, 37, 38, 39, 40 and 41 fail to state a cause of action for intentional infliction of emotional distress in that they fail to allege constitutional malice, an essential element of a claim for intentional infliction of emotional distress brought by a public official or public figure.

AS AND FOR A DEFENSE TO THE NEGLIGENCE CLAIM

30. As to the allegations of paragraph 42, AP reasserts and realleges the facts and matters contained in paragraph 1 through 29 above, as fully and completely as if restated herein verbatim.

31. As to the allegations of paragraph 43, AP denies the same.

32. As to the allegations of paragraph 44, AP denies the same, and alleges in connection therewith that a public record stated that plaintiff had been charged with ill-treatment of animals and kidnapping.

33. As to the allegations of paragraph 45, AP denies the same, and alleges in connection therewith that it had no duty other than to report fairly and accurately the contents of a public record which it did.

34. As to the allegations of paragraphs 46, 47 and 48, AP denies the same.

35. All allegations of paragraphs 42, 43, 44, 45, 46, 47 and 48, not hereinabove admitted, qualified or explained are hereby denied.

AS AND FOR A SECOND DEFENSE TO THE NEGLIGENCE CLAIM

36. The allegations of paragraphs 42, 43, 44, 45, 46, 47 and 48 fail to state a cause of action against AP in that negligence is not the appropriate standard of fault for a claim of a public official or public figure for injuries said to have been caused by a publication.

WHEREFORE, this defendant having fully responded to the allegations of the amended complaint, prays that the same be dismissed with costs assessed against the plaintiff, together with such other relief as may be appropriate.

Jay Bender
BAKER, RAVENEL & BENDER, L.L.P.
3710 Landmark Drive, Suite 400
Post Office Box 8057
Columbia, South Carolina 29202
(803) 799-9091
Attorneys for Defendant The Associated Press

Columbia, South Carolina

August 26, 2010

#6

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF RICHLAND	)	
James W. Trexler,	)	Civil Action No.: 2010-CP-40-1249
	)	
Plaintiff,	)	
	)	
v.	)	CERTIFICATE OF SERVICE
	)	
	)	
	)	
The Associated Press, Barrington Broadcasting South Carolina Corp., Raycom TV Broadcasting, Inc. The Spartanburg Herald Journal, Inc. and the Pacific & Southern Co., Inc.,	)	
	)	
Defendants.	)	

JEANETTE W. McBRIDE
C.C.P. & G.S.
2010 AUG 27 PM 2:49
FILED

I, Teresa K. Todd, Legal Assistant to Jay Bender, an employee of Baker, Ravenel & Bender, L.L.P., hereby certify that I have, on the date indicated below, served counsel below with an Answer by mailing a copy of same via United States Mail, postage pre-paid and return address clearly indicated on said envelope, to counsel at the following address:

William H. Johnson, Esquire
2 North Brooks Street
Manning, SC 29102

Edward T. Fenno, Esquire
171 Church St., Suite 160
Charleston, SC 29401

Teresa K. Todd

August 27, 2010

Columbia, South Carolina

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF RICHLAND	)	
James W. Trexler,	)	Civil Action No.: 2010-CP-40-1249
	)	
Plaintiff,	)	
	)	
v.	)	ANSWER OF DEFENDANT BARRINGTON BROADCASTING SOUTH CAROLINA CORP. (Jury Trial Demanded)
	)	
	)	
	)	
	)	
The Associated Press, Barrington Broadcasting South Carolina Corp., Raycom TV Broadcasting, Inc. The Spartanburg Herald Journal, Inc. and the Pacific & Southern Co., Inc.,	)	
	)	
	)	
Defendants.	)	

JEANETTE W. WALKER
C.C.P. & G.S.
2010 AUG 27 PM 2:49
FILED

Defendant, Barrington Broadcasting South Carolina Corp., (Barrington) responding to the allegations of the amended complaint, alleges:

AS AND FOR A FIRST DEFENSE TO THE DEFAMATION CLAIM

1. As to the allegations of paragraph 1, Barrington is informed and believes the same to be true, and admits the same.

2. As to the allegations of paragraph 2, Barrington is informed and believes the same to be true and admits the same.

3. As to the allegations of paragraph 3, Barrington admits the same and alleges in connection therewith that it is a corporation organized and existing under the laws of the State of Delaware with authority to do business in the State of South Carolina.

4. As to the allegations of paragraphs 4, 5 and 6, Barrington lacks information sufficient to form a belief as to the truth or falsity thereof, and denies the same.

5. As to the allegations of paragraph 7, Barrington is informed and believes the same to be true and admits the same.

6. As to the allegations of paragraph 8, Barrington admits the same.

7. As to the allegations of paragraph 9, Barrington denies the same.

8. As to the allegations of paragraphs 10, 11, and 12, Barrington lacks information sufficient to form a belief as to the truth or falsity thereof, and denies the same.

9. As to the allegations of paragraph 13, Barrington lacks information sufficient to form a belief as to the truth or falsity thereof, and denies the same.

10. As to the allegations of paragraph 14, Barrington admits so much thereof as alleges that in February 2008, plaintiff's mother and brother were charged with crimes, but lacks information sufficient to form a belief as to the truth or falsity of the remaining allegations thereof, and denies the same.

11. As to the allegations of paragraph 15, Barrington lacks information sufficient to form a belief as to the truth or falsity thereof, and denies the same.

12. As to the allegations of paragraph 16, Barrington lacks information sufficient to form a belief as to the truth or falsity thereof, denies the same, and alleges in connection therewith that on February 29, 2008, the Richland County Sheriff's Department announced in a press release that plaintiff had been charged with kidnapping.

13. As to the allegations of paragraph 17, Barrington admits the same and alleges in connection therewith that plaintiff was at the time of the publication complained of herein a public official or public figure.



14. As to the allegations of paragraphs 18, 19, 20, 21, 22 and 23, Barrington denies the same, and alleges in connection therewith that it never broadcast any information regarding plaintiff.

15. As to the allegations of paragraph 24, Barrington reasserts and realleges the facts and matters contained in paragraph 1 through 14 above, as fully and completely as if restated herein verbatim.

16. As to the allegations of paragraph 25, Barrington denies the same, and alleges in connection therewith that it never broadcast any information regarding the plaintiff. Further, Barrington alleges that any broadcasts made by any defendant were based on a press release from the Richland County Sheriff's Department on February 29, 2008 which reported that plaintiff had been charged with five counts of ill-treatment of animals and kidnapping.

17. As to the allegations of paragraphs 26, 27, 28, and 29, Barrington denies the same.

18. All allegations of paragraphs 1 through 29 not hereinabove admitted, qualified or explained are hereby denied.

AS AND FOR A SECOND DEFENSE TO THE DEFAMATION CLAIM

19. The allegations of paragraphs 1 through 29 fail to state a cause of action for defamation in that they fail to allege constitutional malice, the threshold for recovery by a public official or public figure such as plaintiff.

AS AND FOR A THIRD DEFENSE TO THE DEFAMATION CLAIM

20. While Barrington denies that it published any information regarding plaintiff, any publication complained of by plaintiff was privileged in that it was a fair and accurate report of the contents of a public record.

28. All allegations in paragraphs 36, 37, 38, 39, 40 and 41 not hereinabove admitted, qualified or explained are hereby denied.

AS AND FOR A SECOND DEFENSE TO THE OUTRAGE CLAIM

29. The allegations of paragraphs 36, 37, 38, 39, 40 and 41 fail to state a cause of action for intentional infliction of emotional distress in that there are no allegations of constitutional malice, a threshold requirement for such claims by a public official or public figure.

AS AND FOR A FIRST DEFENSE TO THE NEGLIGENCE CLAIM

30. As to the allegations of paragraph 42, Barrington asserts and realleges the facts and matters contained in paragraphs 1 through 29 above, as fully and completely as if restated herein verbatim.

31. As to the allegations of paragraph 43, Barrington denies the same, and alleges in connection therewith that it never broadcast any information regarding plaintiff.

32. As to the allegations of paragraph 44, Barrington denies the same, and alleges in connection therewith that a public record stated that plaintiff had been charged with ill-treatment of animals and kidnapping.

33. As to the allegations of paragraph 45, Barrington denies the same, and alleges in connection therewith that it owed no duty to plaintiff.

34. As to the allegations of paragraphs 46, 47 and 48, Barrington denies the same, and alleges in connection therewith that it never broadcast any information regarding plaintiff.

35. All allegations of paragraphs 42, 43, 44, 45, 46, 47 and 48, not hereinabove admitted, qualified or explained are hereby denied.

AS AND FOR A SECOND DEFENSE TO THE NEGLIGENCE CLAIM

36. The allegations of paragraphs 42, 43, 44, 45, 46, 47 and 48 fail to state a cause of action against Barrington in that negligence is not the appropriate standard of fault for a claim of a public official or public figure for injuries said to have been caused by a publication.

WHEREFORE, this defendant having fully responded to the allegations of the amended complaint, prays that the same be dismissed with costs assessed against the plaintiff, together with such other relief as may be appropriate.

Jay Bender
BAKER, RAVENEL & BENDER, L.L.P.
3710 Landmark Drive, Suite 400
Post Office Box 8057
Columbia, South Carolina 29202
(803) 799-9091
Attorneys for Defendant Barrington Broadcasting South Carolina Corp.

Columbia, South Carolina

August 26, 2010

#6

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF RICHLAND	)	
James W. Trexler,	)	Civil Action No.: 2010-CP-40-1249
	)	
Plaintiff,	)	
	)	
v.	)	CERTIFICATE OF SERVICE
	)	
	)	
	)	
The Associated Press, Barrington Broadcasting South Carolina Corp., Raycom TV Broadcasting, Inc. The Spartanburg Herald Journal, Inc. and the Pacific & Southern Co., Inc.,	)	
	)	
Defendants.	)	

2010 AUG 27 PM 2:49
JEANETTE W. McBRIDE
C.C.P. & G.S.

I, Teresa K. Todd, Legal Assistant to Jay Bender, an employee of Baker, Ravenel & Bender, L.L.P., hereby certify that I have, on the date indicated below, served counsel below with an Answer by mailing a copy of same via United States Mail, postage pre-paid and return address clearly indicated on said envelope, to counsel at the following address:

William H. Johnson, Esquire
2 North Brooks Street
Manning, SC 29102

Edward T. Fenno, Esquire
171 Church St., Suite 160
Charleston, SC 29401

Teresa K. Todd

August 27, 2010

Columbia, South Carolina

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF RICHLAND	)	
James W. Trexler,	)	Civil Action No.: 2010-CP-40-1249
	)	
Plaintiff,	)	
	)	
v.	)	ANSWER OF DEFENDANT RAYCOM TV BROADCASTING, INC. TO THE AMENDED COMPLAINT (Jury Trial Demanded)
	)	
	)	
	)	
	)	
The Associated Press, Barrington Broadcasting South Carolina Corp., Raycom TV Broadcasting, Inc. The Spartanburg Herald Journal, Inc. and the Pacific & Southern Co., Inc.,	)	
	)	
	)	
	)	
	)	
Defendants.	)	

JEANETTE W. McBRIDE
C.C.P. & G.S.
2010 AUG 27 PM 2:49

Defendant, Raycom TV Broadcasting, Inc., (Raycom) responding to the allegations of the amended complaint, alleges:

AS AND FOR A FIRST DEFENSE TO THE DEFAMATION CLAIM

1. As to the allegations of paragraph 1, Raycom is informed and believes the same to be true, and admits the same.

2. As to the allegations of paragraph 2, Raycom is informed and believes the same to be true and admits the same.

3. As to the allegations of paragraph 3, Raycom lacks sufficient information sufficient to form a belief as to the truth or falsity thereof and denies the same.

4. As to the allegations of paragraphs 4, 5 and 6, Raycom admits the same the same.

5. As to the allegations of paragraph 7, Raycom is informed and believes the same to be true and admits the same.

6. As to the allegations of paragraph 8, Raycom admits the same.

7. As to the allegations of paragraph 9, Raycom denies the same.

8. As to the allegations of paragraphs 10, 11, and 12, Raycom denies the same.

9. As to the allegations of paragraph 13, Raycom lacks information sufficient to form a belief as to the truth or falsity thereof, and denies the same.

10. As to the allegations of paragraph 14, Raycom admits so much thereof as alleges that in February 2008, plaintiff's mother and brother were charged with crimes, but lacks information sufficient to form a belief as to the truth or falsity of the remaining allegations thereof, and denies the same.

11. As to the allegations of paragraph 15, Raycom lacks information sufficient to form a belief as to the truth or falsity thereof, and denies the same.

12. As to the allegations of paragraph 16, Raycom lacks information sufficient to form a belief as to the truth or falsity thereof, and denies the same and alleges in connection therewith that on February 29, 2008, the Richland County Sheriff's Department announced in a press release that plaintiff had been charged with kidnapping.

13. As to the allegations of paragraph 17, Raycom admits the same and alleges in connection therewith that plaintiff was at the time of the publication complained of herein a public official or public figure.

14. As to the allegations of paragraphs 18, 19, 20, 21, 22 and 23, Raycom denies the same, and alleges in connection therewith that it never broadcast any information regarding plaintiff.

15. As to the allegations of paragraph 24, Raycom reasserts and realleges the facts and matters contained in paragraphs 1 through 14 above, as fully and completely as if restated herein verbatim.

16. As to the allegations of paragraph 25, Raycom denies that it published any information regarding plaintiff, and alleges in connection therewith that any publications regarding plaintiff were based on a press release from the Richland County Sheriff's Department on February 29, 2008 reported that plaintiff had been charged with five counts of ill-treatment of animals and kidnapping.

17. As to the allegations of paragraphs 26, 27, 28, and 29, Raycom denies the same.

18. All allegations of paragraphs 1 through 29 not hereinabove admitted, qualified or explained are hereby denied.

AS AND FOR A SECOND DEFENSE TO THE DEFAMATION CLAIM

19. The allegations of paragraphs 1 through 29 fail to state a cause of action for defamation in that they fail to allege constitutional malice, the threshold for recovery by a public official or public figure such as plaintiff.

AS AND FOR A THIRD DEFENSE TO THE DEFAMATION CLAIM

20. While Raycom denies that it published any information regarding plaintiff, any publication complained of by plaintiff was privileged in that it was a fair and accurate report of the contents of a public record.

AS AND FOR A FOURTH DEFENSE TO THE DEFAMATION CLAIM

21. Plaintiff's defamation claim is time barred by the statute of limitations imposed by S.C. Code Ann. §15-3-550 (Rev. 2005).

AS AND FOR A FIRST DEFENSE TO THE CLAIM FOR CIVIL CONSPIRACY

22. As to the allegations of paragraph 30, Raycom reasserts and realleges the facts and matters contained in paragraph 1 through 21 above, as fully and completely as if restated herein verbatim.

23. As to the allegations of paragraphs 31, 33, (there is no paragraph 32), 34, and 35, Raycom denies the same, and alleges in connection therewith that it never published any information regarding plaintiff.

24. All allegations in the civil conspiracy claim not hereinabove admitted, qualified or explained are hereby denied.

AS AND FOR A SECOND DEFENSE TO THE CLAIM FOR CIVIL CONSPIRACY

25. The allegations of paragraphs 30, 31, 33, 34, and 35 fail to state a cause of action for civil conspiracy in that publications regarding public officials or public figures do not constitute civil conspiracy in a democracy.

AS AND FOR A FIRST DEFENSE TO THE OUTRAGE CLAIM

26. As to the allegations of paragraph 36, Raycom reasserts and realleges the facts and matters contained in paragraphs 1 through 25 above, as fully and completely as if restated herein verbatim.

27. As to the allegations of paragraphs 37, 38, 39, 40 and 41, Raycom denies the same, and alleges in connection therewith that it never broadcast any information regarding plaintiff.

28. All allegations in paragraphs 36, 37, 38, 39, 40 and 41 not hereinabove admitted, qualified or explained are hereby denied.

AS AND FOR A SECOND DEFENSE TO THE OUTRAGE CLAIM

29. The allegations of paragraphs 36, 37, 38, 39, 40 and 41 fail to state a cause of action for intentional infliction of emotional distress in that there are no allegations of constitutional malice, a threshold requirement for such claims by a public official or public figure.

AS AND FOR A FIRST DEFENSE TO THE NEGLIGENCE CLAIM

30. As to the allegations of paragraph 42, Raycom asserts and realleges the facts and matters contained in paragraph 1 through 29 above, as fully and completely as if restated herein verbatim.

31. As to the allegations of paragraph 43, Raycom denies the same and alleges in connection therewith that it never broadcast any information regarding plaintiff.

32. As to the allegations of paragraph 44, Raycom denies the same, and alleges in connection therewith that a public record stated that plaintiff had been charged with ill-treatment of animals and kidnapping.

33. As to the allegations of paragraph 45, Raycom denies the same, and alleges in connection therewith that it owed no duty to plaintiff.

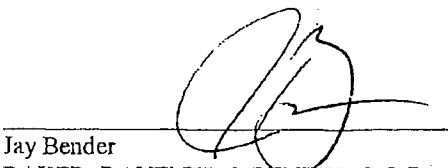
34. As to the allegations of paragraphs 46, 47 and 48, Raycom denies the same, and alleges in connection therewith that it never broadcast any information regarding plaintiff.

35. All allegations of paragraphs 42, 43, 44, 45, 46, 47 and 48, not hereinabove admitted, qualified or explained are hereby denied.

AS AND FOR A SECOND DEFENSE TO THE NEGLIGENCE CLAIM

37. The allegations of paragraphs 42, 43, 44, 45, 46, 47 and 48 fail to state a cause of action against Raycom in that negligence is not the appropriate standard of fault for a claim of a public official or public figure for injuries said to have been caused by a publication.

WHEREFORE, this defendant having fully responded to the allegations of the amended complaint, prays that the same be dismissed with costs assessed against the plaintiff, together with such other relief as may be appropriate.



Jay Bender
BAKER, RAVENEL & BENDER, L.L.P.
3710 Landmark Drive, Suite 400
Post Office Box 8057
Columbia, South Carolina 29202
(803) 799-9091
Attorneys for Defendant Raycom TV Broadcasting, Inc.

Columbia, South Carolina

August 24, 2010

#6

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF RICHLAND	)	
James W. Trexler,	)	Civil Action No.: 2010-CP-40-1249
	)	
Plaintiff,	)	
	)	
v.	)	CERTIFICATE OF SERVICE
	)	
	)	
	)	
The Associated Press, Barrington Broadcasting South Carolina Corp., Raycom TV Broadcasting, Inc. The Spartanburg Herald Journal, Inc. and the Pacific & Southern Co., Inc.,	)	
	)	
Defendants.	)	

2010 AUG 27 PM 2:49
JEANETTE W. McBRIDE
C.C.P. & G.S.
FILED

I, Teresa K. Todd, Legal Assistant to Jay Bender, an employee of Baker, Ravenel & Bender, L.L.P., hereby certify that I have, on the date indicated below, served counsel below with an Answer by mailing a copy of same via United States Mail, postage pre-paid and return address clearly indicated on said envelope, to counsel at the following address:

William H. Johnson, Esquire
2 North Brooks Street
Manning, SC 29102

Edward T. Fenno, Esquire
171 Church St., Suite 160
Charleston, SC 29401

Teresa K. Todd

August 27, 2010

Columbia, South Carolina

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF RICHLAND	)	
James W. Trexler,	)	Civil Action No.: 2010-CP-40-1249
	)	
Plaintiff,	)	
	)	
v.	)	ANSWER OF DEFENDANT PACIFIC &
	)	SOUTHERN CO., INC. TO AMENDED
	)	COMPLAINT
	)	(Jury Trial Demanded)
	)	
The Associated Press, Barrington Broadcasting South Carolina Corp., Raycom TV Broadcasting, Inc. The Spartanburg Herald Journal, Inc. and the Pacific & Southern Co., Inc.,	)	
	)	
Defendants.	)	

Defendant, Pacific & Southern Co., Inc. (Pacific & Southern) responding to the allegations of the amended complaint, alleges:

AS AND FOR A FIRST DEFENSE TO THE DEFAMATION CLAIM

1. As to the allegations of paragraph 1, Pacific & Southern is informed and believes the same to be true, and admits the same.

2. As to the allegations of paragraph 2, Pacific & Southern is informed and believes the same to be true and admits the same.

3. As to the allegations of paragraph 3, Pacific & Southern lacks sufficient information sufficient to form a belief as to the truth or falsity thereof and denies the same.

4. As to the allegations of paragraphs 4, 5 and 6, Pacific & Southern admits the same the same.

5. As to the allegations of paragraph 7, Pacific & Southern is informed and believes the same to be true and admits the same.

6. As to the allegations of paragraph 8, Pacific & Southern admits the same.

7. As to the allegations of paragraph 9, Pacific & Southern denies the same.

8. As to the allegations of paragraph 10, Pacific & Southern denies the same.

9. As to the allegations of paragraph 11, Pacific & Southern denies the same.

10. As to the allegations of paragraph 12, Pacific & Southern admits the same.

11. As to the allegations of paragraph 13, Pacific & Southern lacks information sufficient to form a belief as to the truth or falsity thereof, and denies the same.

12. As to the allegations of paragraph 14, Pacific & Southern admits so much thereof as alleges that in February 2008, plaintiff's mother and brother were charged with crimes, but lacks information sufficient to form a belief as to the truth or falsity of the remaining allegations thereof, and denies the same.

13. As to the allegations of paragraph 15, Pacific & Southern lacks information sufficient to form a belief as to the truth or falsity thereof, and denies the same.

14. As to the allegations of paragraph 16, Pacific & Southern lacks information sufficient to form a belief as to the truth or falsity thereof, and denies the same and alleges in connection therewith that on February 29, 2008, the Richland County Sheriff's Department announced in a press release that plaintiff had been charged with kidnapping.

15. As to the allegations of paragraph 17, Pacific & Southern admits the same and alleges in connection therewith that plaintiff was at the time of the publication complained of a public official or public figure.

16. As to the allegations of paragraphs 18, 19, 20, 21, 22 and 23, Pacific & Southern denies the same.

17. As to the allegations of paragraph 24, Pacific & Southern reasserts and realleges the facts and matters contained in paragraphs 1 through 16 above, as fully and completely as if restated herein verbatim.

18. As to the allegations of paragraph 25, Pacific & Southern denies the same, and alleges in connection therewith that based on a press release from the Richland County Sheriff's Department on February 29, 2008, it reported that plaintiff had been charged with five counts of ill-treatment of animals and kidnapping.

19. As to the allegations of paragraphs 26, 27, 28, and 29, Pacific & Southern denies the same.

20. All allegations of paragraphs 1 through 29 not hereinabove admitted, qualified or explained are hereby denied.

AS AND FOR A SECOND DEFENSE TO THE DEFAMATION CLAIM

21. The allegations of paragraphs 1 through 29 fail to state a cause of action for defamation in that they fail to allege constitutional malice, the threshold for recovery by a public official or public figure such as plaintiff.

AS AND FOR A THIRD DEFENSE TO THE DEFAMATION CLAIM

22. The publication complained of by plaintiff was privileged in that it was a fair and accurate report of the contents of a public record.

AS AND FOR A FOURTH DEFENSE TO THE DEFAMATION CLAIM

23. Plaintiff's defamation claim is time barred by the statute of limitations imposed by S.C. Code Ann. §15-3-550 (Rev. 2005).

AS AND FOR A FIRST DEFENSE TO THE CLAIM FOR CIVIL CONSPIRACY

24. As to the allegations of paragraph 30, Pacific & Southern reasserts and realleges the facts and matters contained in paragraphs 1 through 23 above, as fully and completely as if restated herein verbatim.

25. As to the allegations of paragraphs 31, 33, (there is no paragraph 32), 34, and 35, Pacific & Southern denies the same.

26. All allegations in the civil conspiracy claim not hereinabove admitted, qualified or explained are hereby denied.

AS AND FOR A SECOND DEFENSE TO THE CLAIM FOR CIVIL CONSPIRACY

27. The allegations of paragraphs 30, 31, 33, 34, and 35 fail to state a cause of action for civil conspiracy in that publications regarding public officials or public figures do not constitute civil conspiracy in a democracy.

AS AND FOR A FIRST DEFENSE TO THE OUTRAGE CLAIM

28. As to the allegations of paragraph 36, Pacific & Southern reasserts and realleges the facts and matters contained in paragraphs 1 through 27 above, as fully and completely as if restated herein verbatim.

29. As to the allegations of paragraphs 37, 38, 39, 40 and 41, Pacific & Southern denies the same.

30. All allegations in paragraphs 36, 37, 38, 39, 40 and 41 not hereinabove admitted, qualified or explained are hereby denied.

AS AND FOR A SECOND DEFENSE TO THE OUTRAGE CLAIM

31. The allegations of paragraphs 36, 37, 38, 39, 40 and 41 fail to state a cause of action for intentional infliction of emotional distress in that there are no allegations of

constitutional malice, a threshold requirement for such claims by a public official or public figure.

AS AND FOR A FIRST DEFENSE TO THE NEGLIGENCE CLAIM

32. As to the allegations of paragraph 42, Pacific & Southern asserts and realleges the facts and matters contained in paragraphs 1 through 31 above, as fully and completely as if restated herein verbatim.

33. As to the allegations of paragraph 43, Pacific & Southern denies the same.

34. As to the allegations of paragraph 44, Pacific & Southern denies the same, and alleges in connection therewith that a public record stated that plaintiff had been charged with ill-treatment of animals and kidnapping.

35. As to the allegations of paragraph 45, Pacific & Southern denies the same, and alleges in connection therewith that it had no duty other than to report fairly and accurately the contents of a public record which it did.

36. As to the allegations of paragraphs 46, 47 and 48, Pacific & Southern denies the same.

37. All allegations of paragraphs 42, 43, 44, 45, 46, 47 and 48, not hereinabove admitted, qualified or explained are hereby denied.

AS AND FOR A SECOND DEFENSE TO THE NEGLIGENCE CLAIM

38. The allegations of paragraphs 42, 43, 44, 45, 46, 47 and 48 fail to state a cause of action against Pacific & Southern in that negligence is not the appropriate standard of fault for a claim of a public official or public figure for injuries said to have been caused by a publication.

WHEREFORE, this defendant having fully responded to the allegations of the amended

complaint, prays that the same be dismissed with costs assessed against the plaintiff, together with such other relief as may be appropriate.

Jay Bender
BAKER, RAVENEL & BENDER, L.L.P.
3710 Landmark Drive, Suite 400
Post Office Box 8057
Columbia, South Carolina 29202
(803) 799-9091
Attorneys for Defendant Pacific & Southern Co., Inc.

Columbia, South Carolina

August 27, 2010

STATE OF SOUTH CAROLINA)) COUNTY OF RICHLAND)	IN THE COURT OF COMMON PLEAS
James W. Trexler,)) Plaintiff,)) vs.)) The Associated Press, Barrington Broadcasting South Carolina Corp., Raycom TV Broadcasting, Inc., The Spartanburg Herald Journal, Inc. and the Pacific & Southern Co., Inc.,) Defendants.)	C. A. No. 2010-CP-40-1249 DEFENDANTS THE ASSOCIATED PRESS, BARRINGTON BROADCASTING SOUTH CAROLINA CORP., RAYCOM TV BROADCASTING, INC., AND PACIFIC & SOUTHERN CO., INC.'S MOTION FOR SUMMARY JUDGMENT
James W. Trexler,)) Plaintiff,)) vs.)) McClasky Newspapers, Inc., Richland County, and Richland County Sheriff's Department,) Defendants.)	C. A. No. 2010-CP-40-1343

2011 FEB -9 P1:3:49

WILLIAM H. JOHNSON, ESQUIRE, ATTORNEY FOR PLAINTIFF:

PLEASE TAKE NOTICE that ten (10) days hereafter, or as soon thereafter as counsel may be heard, defendants McClasky [McClatchy] Newspapers, Inc., The Associated Press, Barrington Broadcasting South Carolina Corp., Raycom TV Broadcasting, Inc. and the Pacific & Southern Co., Inc., will move through the undersigned in their respective cases pursuant to Rule 56, SCRCP, for summary judgment on grounds that the pleadings, admissions and affidavits show that there is no genuine issue as to any material fact and that the moving parties are entitled to judgment as a matter of law on grounds that the publication complained by the plaintiff is

privileged and that as a public official, plaintiff has no claim for civil conspiracy for publication concerning him, and that the claims for outrage and negligence fail to state causes of action under South Carolina law.

Additionally, defendants, The Associated Press, Barrington Broadcasting South Carolina Corp., Raycom TV Broadcasting, Inc. and Pacific & Southern Co., Inc. move for judgment in their favor with respect to the libel claim on grounds that the claim is barred by the statute of limitations.

These motions are supported by the pleadings, plaintiff's responses to requests for admission filed contemporaneously herewith, affidavits of Georgette Rivers, filed contemporaneously herewith, and such other affidavits as may filed in support of the motions.

Jay Bender
BAKER, RAVENEL & BENDER, L.L.P.
3710 Landmark Drive, Suite 400
Post Office Box 8057
Columbia, South Carolina 29202
(803) 799-9091
Attorneys for Defendant The Associated Press
Raycom TV Broadcasting, Inc.
Barrington Broadcasting South Carolina Corp.,
and Pacific & Southern Co., Inc.

Columbia, South Carolina

February 9, 2011

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF RICHLAND	)	
James W. Trexler,	)	Civil Action No.: 2010-CP-40-1249
	)	
Plaintiff,	)	
	)	
v,	)	
	)	AFFIDAVIT OF GEORGETTE RIVERS
	)	
	)	
	)	
	)	
	)	
	)	
The Associated Press, Barrington Broadcasting South Carolina Corp., Raycom TV Broadcasting, Inc. The Spartanburg Herald Journal, Inc. and the Pacific & Southern Co., Inc.,	)	
	)	
Defendants.	)	

I, Georgette Rivers, being duly sworn, state:

1. The matters stated by me herein are known by me to be true of my own personal knowledge unless stated upon information and belief, and, as to those matters, I believe them to be true.

2. I am the Human Resource Manager for the South Carolina Department of Agriculture.

3. In my position as Human Resource Manager, I am the custodian of position descriptions for employees of the agency.

4. The South Carolina Department of Agriculture is a department of government, and is under the direction of an elected Commissioner of Agriculture.

5. James W. Trexler, also known as Jim W. Trexler, was formerly employed by the South Carolina Department of Agriculture.

6. In February 2008, James W. Trexler was an employee of the South Carolina Department of Agriculture.

7. Through February 2008 until the termination of Mr. Trexler's employment with the South Carolina Department of Agriculture his employment title was "Executive Assistant III."

8. A true and accurate copy of Mr. Trexler's position description is attached hereto as Exhibit A and incorporated herein by reference.

9. As Mr. Trexler's position description indicates, Mr. Trexler's job duties included:

> Directs and supervises the Administration, Finance, Budget and Information Technology Sections of the S.C. Department of Agriculture;
>
> Coordinates special projects for the Commission and Administration to fulfill goals and objectives.
>
> Completes special projects that enhance the image of SC Department of Agriculture;
>
> Oversees special projects that have a long-term effect relative to the Farmer's Market and Lab/Consumer Services evaluations;
>
> Works with other Senior Staff in the overall direction and management of the S.C. Department of Agriculture;
>
> Provides information to legislators and legislative staff concerning the agency and its budget;
>
> Represents the agency head in meetings with other agency officials for the purpose of coordinating various programs;
>
> Researches issues and prepares reports, position papers, and policy statement for the agency.

10. As Mr. Trexler's position description indicates, he had eight employees under this supervision.

11. In February of 2008, Mr. Trexler was the only employee of the Department of Agriculture to have the title Executive Assistant III. The Department's internal title for Mr. Trexler was Assistant Commissioner. In addition to Mr. Trexler, two other employees had the internal title of Assistant Commissioner.

Further affiant sayeth not.

_____
Georgette Rivers

SWORN to before me this _____ day of November, 2010.

_____
NOTARY PUBLIC FOR S.C.
My commission expires:_____

South Carolina Department of Agriculture
Position Description & Employee Performance Management System (EPMS) Form

Employee Name:	***Jim W. Trexler***	***Social Security #:***
State Class Title:	***Executive Assistant III***	

Position Supervision

Describe the guidelines and supervision an employee receives in order to do this job, including the employee's independence and discretion.

Reports directly to the Commissioner of Agriculture.

List the classification titles and number of the three highest level subordinate position(s) reporting directly to you.

Titles	Number
1. Administrative Manager I	1
2. Acct/Fiscal Mgr I	1
3. Sr. Info Resource Consultant	1
Total Number of Employees Under Your Supervision:	8

Qualifications

List what you consider to be the qualifications required for entry into this position.

Education, Training, and Experience (cite major areas of study, type & years of experience)

A Masters Degree and 5 years of experience in Public Administration; or an equivalent combination of education and experience.

Special Licenses, Registrations or Certifications

Skills and Abilities

Knowledge of the laws, rules, and regulations pertinent to the agency. Ability to communicate effectively.
Knowledge of state government budget, finance, procurement and Information Technology policy and procedures.

Additional Requirements

This position could require working extended hours when the Legislature in in session. Some over night travel may be necessary.

Job Purpose

Coordinates legislative matters and special projects for the Commissioner. Assists in the overall direction and management of the agency.

Job Duties, Objectives, Success Criteria and Performance Evaluation

Indicate the importance of the job duty/objective in terms of overall criticality to job success by assigning to it a percentage. Indicate essential and marginal duties/objectives by checking the appropriate block. Essential duties/objectives are the most critical, important duties/objectives for which the job was created. Marginal duties/objectives are non-critical and could be performed by another position. The percentage of importance for job duties/objectives with success criteria should total 100%.

At the end of each review period check the rating which reflects the employee's actual performance for each job duty/objective. **Include a descriptive explanation for "Substantially Exceeds" and "Below" ratings**

Substantially Exceeds Expectations	Work that is characterized by exemplary accomplishment throughout the rating period. Performance that is consistently above the success criteria on the job.
Exceeds Expectations	Work that is substantially and consistently above the success criteria throughout the rating period.
Meets Expectations	Work that routinely meets the success criteria of the job. Majority of employees should earn this category.
Below Expectations	Work that routinely fails to meet the success criteria of the job.

Job Duties/Objectives and Success Criteria (Essential and Marginal)

Each job duty should be assigned a weight reflective of job duty importance. Weights for all objectives should not exceed 15%. The weights will be listed on page 5. Although not specified in the job duties/objectives section below, employees may perform other related duties as required.

1. 50 % ☒ Essential ☐ Marginal	Job Duty/Objective Directs and supervises the Administration, Finance, Budget and Information Technology Sections of the S.C.Department of Agriculture Success Criteria An audit report that has very few exception items reported. Timely preparation of all pertinent reports internal and external to the agency. Satisfactory support service provided to the divisions in the agency with regards to all matters related to supervised functions. Provide professional leadership for subordinates and works well with fellow managers within the Agency.
Actual Performance/Comments	**Performance Rating** 4 = Substantially Exceeds 3 = Exceeds Expectations 2 = Meets Expectations 1 = Below Expectations
2. 25 % ☒ Essential ☐ Marginal	Job Duty/Objective Coordinates special projects for the Commissioner and Administration to fulfill goals and objectives. Completes special projects that enhance the image of the SC Department of Agriculture. Oversees special projects that will have a long-term effect relative to the Farmers Market and Lab/Consumer Services evaluations. Success Criteria Provide effective information to support the goals of the Agency. Provide information in a precise and succinct manner to enable the user to make informed decisions. Carry out projects in a manner that enhances the image of professionalism of the Agency to its stakeholders.

Actual Performance/Comments	Performance Rating 4 = Substantially Exceeds 3 = Exceeds Expectations 2 = Meets Expectations 1 = Below Expectations

3. 10 % ☒ Essential ☐ Marginal	Job Duty/Objective Works with other Senior Staff in the overall direction and management of the S.C. Department of Agriculture. Success Criteria Enagage with other Agency staff to provide insights on the impact of Agency plans and actions on the areas of the Agency under direct supervision. Provide timely and precise information to other senior staff to allow them to make informed decisions to better execute the mission of the Agency.

Actual Performance/Comments	Performance Rating ___ 4 = Substantially Exceeds 3 = Exceeds Expectations 2 = Meets Expectations 1 = Below Expectations

4. 10 % ☒ Essential ☐ Marginal	Job Duty/Objective Provides information to legislators and legislative staff concerning the agency and its budget. Represents the agency head in meetings with other agency officials for the purpose of coordinating various programs. Success Criteria A thorough understanding by the user of the information provided. Provide information and/or represent the Agency with professionalism.

Actual Performance/Comments	Performance Rating ___ 4 = Substantially Exceeds 3 = Exceeds Expectations 2 = Meets Expectations 1 = Below Expectations

5. 5 % ☒ Essential ☐ Marginal	Job Duty/Objective Researches issues and prepares reports, position papers and policy statement for the agency. Success Criteria Preparation and presentation of precise and usable information that adequately prepares the user to make completely informed decision

Actual Performance/Comments	Performance Rating ___ 4 = Substantially Exceeds 3 = Exceeds Expectations 2 = Meets Expectations 1 = Below Expectations

6. ____ % ☐ Essential ☐ Marginal	Job Duty/Objective Success Criteria

Actual Performance/Comments	Performance Rating 4 = Substantially Exceeds 3 = Exceeds Expectations 2 = Meets Expectations 1 = Below Expectations

7. ____ % ☐ Essential ☐ Marginal	Job Duty/Objective Success Criteria

Actual Performance/Comments		**Performance Rating** ____ 4 = Substantially Exceeds 3 = Exceeds Expectations 2 = Meets Expectations 1 = Below Expectations
B. ____ % ☐ Essential ☐ Marginal	Job Duty/Objective Success Criteria	
Actual Performance/Comments		**Performance Rating** ____ 4 = Substantially Exceeds 3 = Exceeds Expectations 2 = Meets Expectations 1 = Below Expectations

Performance Characteristics

For each performance characteristic, check the rating which reflects the employee's actual performance	
1. ALL EMPLOYEES: Teamwork: Degree to which one works effectively and cooperatively with others and other departments in achieving organizational goals. Degree of responsiveness to organizational needs.	☐ Acceptable ☐ Unacceptable
2. Self Management: Works with minimal supervision, manages own time effectively, maintains control over all current projects/responsibilities. Follows up on all relevant issues.	☐ Acceptable ☐ Unacceptable
3. Problem Analysis: Able to identify problems and relevant issues and break problems into components. Sees relationships and alternative solutions and arrives at sound conclusions through a logical process.	☐ Acceptable ☐ Unacceptable
4. Judgement: Able to reason, compare, understand, and think rationally on the job. Makes quality of work-related decisions based on sound conclusions/data. Able to separate facts from opinions.	☐ Acceptable ☐ Unacceptable
5. Leadership: Employee can be relied upon to guide others to the accomplishment of objetives/responsibilties, to promote teamwork, and to resolve problems.	☐ Acceptable ☐ Unacceptable
6. Promoting Euqal Opportunity: Ensuring that employees and potential employees are provided with equal opportunities.	☐ Acceptable ☐ Unacceptable
7. Customer Service: To effectively and efficiently meet the needs of those served by continually assessing performance based on customer feedback.	☐ Acceptable ☐ Unacceptable
8.	☐ Acceptable ☐ Unacceptable

Supervisory Summary and Comments

Please include information regarding areas in which employee has excelled, as well as the steps that need to be taken by the employee and the supervisor to further enhance performance and career development.

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF RICHLAND	)	
James W. Trexler,	)	Civil Action No.: 2010-CP-40-1249
	)	
Plaintiff,	)	
	)	
v.	)	
	)	REQUEST FOR ADMISSIONS OF THE
	)	ASSOCIATED PRESS, RAYCOM TV
	)	BROADCASTING, INC., BARRINGTON
	)	BROADCASTING SOUTH CAROLINA
	)	CORP., AND PACIFIC & SOUTHERN
	)	CO., INC.
	)	
The Associated Press, Barrington Broadcasting South Carolina Corp., Raycom TV Broadcasting, Inc. The Spartanburg Herald Journal, Inc. and the Pacific & Southern Co., Inc.,	)	
	)	
Defendants.	)	

TO: WILLIAM H. JOHNSON, ESQUIRE, ATTORNEY FOR PLAINTIFF:

Pursuant to Rule 36 of the South Carolina Rules of Civil Procedure, defendants, The Associated Press, Raycom TV Broadcasting, Inc., Barrington Broadcasting South Carolina Corp., and Pacific & Southern Co., Inc., hereby request that the plaintiff admit or deny the truth of the following matters within thirty days of service hereof.

1. Admit that the document attached hereto as Exhibit A and incorporated herein by reference is a true and authentic copy.

2. Admit that the document attached hereto as Exhibit A and incorporated herein by reference was prepared on behalf of the Richland County Sheriff's Department.

3. Admit that the document attached hereto as Exhibit A and incorporated herein by reference was disseminated to those persons and news organizations identified in the "To:" portion of the document.

4. Admit that the document attached hereto as Exhibit A and incorporated herein by reference was sent by or on behalf of Chris Cowan.

5. Admit that Chris Cowan is a deputy in the Richland County Sheriff's Department.

6. Admit that the document attached hereto as Exhibit A and incorporated herein by reference is a public record under South Carolina law.

7. Admit that the document attached hereto as Exhibit A and incorporated herein by reference states that charges were made against James Trexler for "5 counts of ill treatment of animals."

8. Admit that the document attached hereto as Exhibit A and incorporated herein by reference states that James Trexler was charged with "1 count of kidnapping (stems from an incident where J. Trexler held a HSPCA Investigator against her will/refused to allow the investigator to leave a farm on 2/13/ during an evaluation of the horses.)"

9. Admit that the publications complained of by plaintiff in the within-captioned action reported the charges made against James Trexler that were stated in the document that is attached hereto as Exhibit A and incorporated herein by reference.

10. Admit that any publication stating that James Trexler had been charged with kidnapping was a fair and accurate statement of the contents of the document attached hereto as Exhibit A and incorporated herein by reference.

11. Admit that at common law, the publication of a fair and accurate statement of the contents of a public record is privileged.

12. Admit that at the time of the publications complained of by plaintiff, plaintiff was an Assistant Commissioner of the South Carolina Department of Agriculture.

13. Admit that at the time of the publications complained of by plaintiff, plaintiff was one of three assistant commissioners of the South Carolina Department of Agriculture.

14. Admit that at the time of the publications complained of by plaintiff, plaintiff's duties as Assistant Commissioner of Agriculture included the direction and supervision of the Administration, Finance, Budget and Information Technology sections of the South Carolina Department of Agriculture, and participation in the overall direction and management of the South Carolina Department of Agriculture.

15. Admit that the South Carolina Department of Agriculture is an agency of the State of South Carolina.

Jay Bender
BAKER, RAVENEL & BENDER, L.L.P.
3710 Landmark Drive, Suite 400
Post Office Box 8057
Columbia, South Carolina 29202
(803) 799-9091
Attorneys for Defendant The Associated Press
Raycom TV Broadcasting, Inc.
Barrington Broadcasting South Carolina Corp.
and Pacific & Southern Co., Inc.,

Columbia, South Carolina

September 13, 2010

-----Original Message-----
From: Cowan, Chris [mailto:CCowan@ACCESS.NET]
Sent: Wednesday, February 27, 2008 5:42 PM
To: Ariel; Ripaway 57; brand WIS; Brittany Leaphart WIS; Christie Vaughan (Christie Vaughan); cm47; D LAITE; Eriques (Eriques); Mike Woodall (Mike Woodall); newsdirector710; Poole, Joye; Randy Johnson (Nancy Johnson); Robin WOLO (Robin WOLO); Santarelli, Tony ; Sarah Gregory (scrapp@wlt-tv.com.); Stephanie WLTX; Stephanie44; WACH 57 News (Wach 57 News); WIS-TV (courtoni/WIS@wistv.com); WLTX-TV (news1@wltx.com); WOLO; WOLO chatcode; WOLO-TV (eyewitness news@wolo.com); Beam, Adam; AP Columbia (AP Columbia); Ashers, Dawn; Kenley Young; Omara, Dan; CS Safety; Rippha, Lisa; Tate, Ishmael; Davis, Kelly; McGirt, Tonya; 117DAN; 840AM; Doug Williams/WLXC (Doug Williams/WLXC); Dr. Georgaris; Jerry Grimes; Oldies 103 (oldies 103); Sergio Perez (sperez@mybigcountryplace.com); TJ Holley (tjholley@clearchan.com); WCOS; WCOS; wcnt; WNOK; WSCC; WTCB; WTCB; wtcb; WTCB; WTCB; WTCB; WVOC; WWDH (E-mail 2); Bob Keener (E-mail); carolina news; Dan Cook (E-mail); Deputy Newsletter; eddie chronicle; fort jackson leader; Free Times Jobs; Gamecock News; Gridiron Digest; Hall Thomas (Hall Thomas); hispanic news (E-mail); Isaac Washington (E-mail); Jackie Sumpter (E-mail); Jennifer Dowden (jennifer.dowden@richlandonline.com); John Adams; Joseph Kay; Lee Lesher; Rick Luther (E-mail); Rikon (E-mail); Lee Sligh Jobs; Lisa Wheeler/RiChronicle; lori macks; Luis Franco (luisfranco@yahoo.com); Marie Mc (E-mail); michelle jackson; Mimi Maddox (E-mail); Mary Boone (E-mail); MLHill; Fernanda, Gustavo; NC PIO (NC PIO); Sebastian Lobey (E-mail); Rick Peterson (E-mail); Vida Latina (Vida Latina); Columbia Dutch Fork; Marsha Bruce; Sumter Item; Times and Democrat (Orangeburg); ABC - Augusta (hyman.kubey@abc.com); Atlanta Constitution (arjohnson.hudson@cox.com); CBS Augusta (newsroom@cbs4ga.com); Greg Chernof (greg.russo@wsoc-tv.com); NBC - Atlanta (ZPOOre@nbcmail.gannett.com); NBC - Atlanta (news1128ne@yahoo.com); WBC - Savannah Morning News (acairns@wsav.com)
Subject: those responsible for severe neglect/injury to horses in custody

Richland County Sheriff's Department

LEON LOTT
Sheriff

Richland County Sheriff Leon Lott announced that at approximately 8:00 PM tonight the Richland Coun[illegible]heriff's Departments Fugitive Task Force apprehended Hazelene E. Trexler (DOB [illegible] Terry A. Trexler (DO[illegible] and James Trexler (DOB [illegible] 412 Derby Lane in Hopkins.

Richland County Sheriff Leon Lott stated the Sheriff's Department and HSPCA continue to investigate the severe and barbaric treatment of 28 horses that were in the custody of and suppose to have been cared for by the Trexlers; even as the trio were being arrested in Hopkins tonight, investigators and veterinarians care for the horses that sustained injuries ranging from malnutrition to infiltrations that being left untreated cause lameness to halters growing into the faces of the horses.

Sheriff Leon Lott added that this case is disturbing because these horses are helpless to the hands of their owners and the Trexlers have proven time and again that they have no business owning any animals. Sheriff Leon Lott stated that investigators from the Sheriff's Department and the HSPCA will continue to work with the Solicitors Office here and authorities in Georgia to make sure the Trexlers receive the punishment they deserve and are prosecuted to the fullest extent of the law. Sheriff Leon Lott stated that the Trexlers have been transported to Alvin S. Glen Detention Center where they await a bond hearing.

Charges:

- Hazelene E. Trexler
  28 counts of ill treatment of animals

- Terry A. Trexler
  28 counts of ill treatment of animals

- James Trexler
  8 counts of ill treatment of animals
  1 count of kidnapping (stems from an incident where J.Trexler held a HSPCA investigator against her will/refused to allow the investigator to have a form on 2/13 during an evaluation of the horses)

[illegible]

2/29/2008

Exhibit A

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF RICHLAND	)	
James W. Trexler,	)	Civil Action No.: 2010-CP-40-1249
	)	
Plaintiff,	)	
	)	
v.	)	CERTIFICATE OF SERVICE
	)	
	)	
	)	
The Associated Press, Barrington Broadcasting South Carolina Corp., Raycom TV Broadcasting, Inc. The Spartanburg Herald Journal, Inc. and the Pacific & Southern Co., Inc.,	)	
	)	
	)	
Defendants.	)	

I, Teresa K. Todd, Legal Assistant to Jay Bender, an employee of Baker, Ravenel & Bender, L.L.P., hereby certify that I have, on the date indicated below, served counsel below with a Request for Admission by mailing a copy of same via United States Mail, postage pre-paid and return address clearly indicated on said envelope, to counsel at the following address:

William H. Johnson, Esquire
2 North Brooks Street
Manning, SC 29102

Edward T. Fenno, Esquire
171 Church St., Suite 160
Charleston, SC 29401

Teresa K. Todd

September 15, 2010

Columbia, South Carolina

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	OF THE FIFTH JUDICIAL CIRCUIT
COUNTY OF RICHLAND	)	Case Number: 2010-CP-40-1343
James W. Trexler,	)	
Plaintiff,	)	
Vs.	)	***PLAINTIFF'S RESPONSES TO DEFENDANT MCCLATCHY'S REQUEST FOR ADMISSIONS***
McClatchy Newspapers, Inc., Richland County, and the Richland County Sheriff's Department,	)	
Defendants.	)	

TO: JAY BENDER, ATTORNEY FOR THE DEFENDANT, MCCLATCHY NEWSPAPERS, INC.:

1. Admit that the document attached hereto as Exhibit A and incorporated herein by reference is a true and authentic copy.

DENIED

2. Admit that the document attached hereto as Exhibit A and incorporated herein by reference was prepared on behalf of the Richland County Sheriff's Department.

DENIED

3. Admit that the document attached hereto as Exhibit A and incorporated herein by reference was disseminated to those persons and news organizations identified in the "To:" portion of the document.

DENIED

4. Admit that the document attached hereto as Exhibit A and incorporated herein by reference was sent by or on behalf of Chris Cowan.

ADMITTED

5. Admit that Chris Cowan is a deputy in the Richland County Sheriff's Department.

ADMITTED

6. Admit that the document attached hereto as Exhibit A and incorporated herein by reference is a public record under South Carolina law.

ADMITTED

7. Admit that the document attached hereto as Exhibit A and incorporated herein by reference states that charges were made against James Trexler for "5 counts of ill treatment of animals."

ADMITTED

8. Admit that the document attached hereto as Exhibit A and incorporated herein by reference states that James Trexler was charged with "1 count of kidnaping (stems from an incident where J. Trexler held a HSPCA Investigator against her will/refused to allow the investigator to leave a farm on 02/13/ during an evaluation of the horses.)"

ADMITTED

9. Admit that the publications complained of by plaintiff in the within-captioned action reported the charges made against James Trexler that were stated in the document that is attached hereto as Exhibit A and incorporated herein by reference.

DENIED

10. Admit that any publication stating that James Trexler had been charged with kidnaping was a fair and accurate statement of the contents of the document attached hereto as Exhibit A and incorporated herein by reference.

ADMITTED

11. Admit that at common law, the publication of a fair and accurate statement of the contents of a public record is privileged.

ADMITTED

12. Admit that at the time of the publications complained of by plaintiff, plaintiff was an Assistant Commissioner of the South Carolina Department of Agriculture.

ADMITTED

13. Admit that at the time of publications complained by plaintiff, plaintiff was on of three assistant commissioners of the South Carolina Department of Agriculture.

DENIED

14. Admit that at the time of the publications complained of by plaintiff, plaintiff's duties as Assistant Commissioner of Agriculture included the direction and supervision of the Administration, Finance, Budget and Information Technology sections of the South Carolina Department of Agriculture, and participation in the overall direction and management of the South Carolina Department of Agriculture.

DENIED

15. Admit that the South Carolina Department of Agriculture is an agency of the State of South Carolina.

ADMITTED

THE LAW OFFICES OF WILLIAM H. JOHNSON, LLC

William H. Johnson
Attorneys for the Plaintiff
411 North Brooks Street - Post Office Box 137
Manning, South Carolina 29102
(803) 435-0909 Telephone
(803) 435-2858 Facsimile
william@whjohnsonlaw.com

October 18, 2010

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	OF THE FIFTH JUDICIAL CIRCUIT
COUNTY OF RICHLAND	)	Case Number: 2010-CP-40-1343
James W. Trexler,	)	
Plaintiff,	)	
Vs.	)	*CERTIFICATE OF SERVICE*
McClatchy Newspapers, Inc., Richland County, and the Richland County Sheriff's Department,	)	
Defendants.	)	

PERSONALLY APPEARED BEFORE ME, Terri H. Ridgeway, who being duly sworn says that she is an employee of THE LAW OFFICES OF WILLIAM H. JOHNSON, LLC, attorneys for the ***Plaintiff***, that she did serve the documents described below on the attorney for the ***Defendant, McClatchy Newspapers, Inc.*** by personally placing a copy of said documents(s) in the United Stated Mail, postage prepaid, and addressed as follows:

Jay Bender, Esquire
Baker, Ravenel Bender
Post Office Box 8057
Columbia, South Carolina 29202

Robert D. Garfield, Esquire
Davidson & Lindemann, PA
Post Office Box 8568
Columbia, South Carolina 29202-8568

Description of Documents:

Plaintiff's Responses to Defendant, McClatchy Newspaper, Inc.'s Request for Admission

Terri H. Ridgeway

October 18, 2010

SWORN TO BEFORE ME this 18th
day of October, 2010

Jennifer E. Harrington
Notary Public for South Carolina
My Commission Expires: 10/29/2018

STATE OF SOUTH CAROLINA)	IN THE COURT OF COMMON PLEAS
)	
COUNTY OF RICHLAND)	
James W. Trexler,)	C. A. No. 2010-CP-40-1249
)	
Plaintiff,)	
)	
vs.)	
)	
The Associated Press, Barrington)	
Broadcasting South Carolina Corp.,)	
Raycom TV Broadcasting, Inc.,)	CERTIFICATE OF SERVICE
The Spartanburg Herald Journal, Inc.)	
and the Pacific & Southern Co.,)	
Inc.,)	
Defendants.)	
)	
James W. Trexler,)	C. A. No. 2010-CP-40-1343
)	
Plaintiff,)	
)	
vs.)	
)	
McClasky Newspapers, Inc.,)	
Richland County, and Richland)	
County Sheriff's Department,)	
)	
Defendants.)	

JEANETTE W. WALKER
C.C.P. & G.S.
2011 FEB -9 PM 3:45
FILED

I, Teresa K. Todd, Legal Assistant to Jay Bender, an employee of Baker, Ravenel & Bender, L.L.P., hereby certify that I have, on the date indicated below, served counsel below with a motion for summary judgment by mailing a copy of same via United States Mail, postage pre-paid and return address clearly indicated on said envelope, to counsel at the following address:

William H. Johnson, Esquire
2 North Brooks Street
Manning, SC 29102

Robert David Garfield, Esquire
Davidson Morrison and Lindemann
PO Box 8568
Columbia, SC 29202-8568

Teresa K. Todd

February 9, 2011

STATE OF SOUTH CAROLINA COUNTY OF RICHLAND James A. Trexler, ☐ Plaintiff v. The Associated Press, Et Al., ☒ Defendant.	))))))))))	IN THE COURT OF COMMON PLEAS CASE NO. 10-CP-40-1249 MOTION AND ORDER INFORMATION FORM AND COVER SHEET

Plaintiff's Attorney:	Defendant's Attorney:
William H. Johnson, Bar No. Address: Post Office Box 137 Manning, South Carolina 29102 phone: 4350909 fax: 4352828 e-mail: william@jmrlawfirm.com other:	Jay Bender, Attorney , Bar No. 651 Address: P.O. Box 8057, Columbia, SC 29202 phone: 803 799 9091 fax: 803 779-3423 e-mail: jbender@brblegal.com other:

☒ **MOTION HEARING REQUESTED (attach written motion and complete SECTIONS I and III)**
☐ **FORM MOTION, NO HEARING REQUESTED (complete SECTIONS II and III)**
☐ **PROPOSED ORDER/CONSENT ORDER (complete SECTIONS II and III)**

SECTION I: Hearing Information

Nature of Motion: Motion for Summary Judgment
Estimated Time Needed: 15 mins Court Reporter Needed: ☐ YES / ☑ NO

SECTION II: Motion/Order Type

☑ Written motion attached
☐ Form Motion/Order

I hereby move for relief or action by the court as set forth in the attached proposed order.

_____ February 9, 2011
Signature of Attorney for ☐ Plaintiff / ☒ Defendant Date submitted

SECTION III: Motion Fee

☒ PAID – AMOUNT: $25.00
☐ EXEMPT: (check reason)
☐ Rule to Show Cause in Child or Spousal Support
☐ Domestic Abuse or Abuse and Neglect
☐ Indigent Status ☐ State Agency v. Indigent Party
☐ Sexually Violent Predator Act ☐ Post-Conviction Relief
☐ Motion for Stay in Bankruptcy
☐ Motion for Publication ☐ Motion for Execution (Rule 69, SCRCP)
☐ Proposed order submitted at request of the court; or, reduced to writing from motion made in open court per judge's instructions
Name of Court Reporter:
☐ Other:

JUDGE'S SECTION	
☐ Motion Fee to be paid upon filing of the attached order. ☐ Other:	_____ JUDGE CODE: _____ Date: _____

CLERK'S VERIFICATION

Date Filed:

Collected by: _____

☐ MOTION FEE COLLECTED: _____

SCCA/233 (11-03)

APP. 661

ARREST WARRANT

I-891847

STATE OF SOUTH CAROLINA

[X] County/ [ ] Municipality of

Richland / Olympia Magistrate

THE STATE

against

James W Trexler

Address: 412 Derby Lane

Hopkins, SC 29061-

Phone: SSN:

Sex: M Race: W Height: 5 11 Weight: 130

DL State: SC DL #:

DOB: Agency ORI #:

Prosecuting Agency: Hspca/ The Humane Society

Prosecuting Officer: Elisabeth Perry - 122

Offense: Animals / Ill treatment of animals, in general, overworking - 1st offense (Tried

Offense Code: 0610

Code/Ordinance Sec: 47-01-0040(A)

This warrant is CERTIFIED FOR SERVICE in the

[ ] County/ [ ] Municipality of

. The accused is to be arrested and brought before me to be dealt with according to the law.

(L.S.)

Signature of Judge

Date:

RETURN

A copy of this arrest warrant was delivered to defendant James Trexler on 2-27-08

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

Olympia Magistrate
1601 Shop Road
Columbia, SC 29201

ORIGINAL ORIGINAL ORIGINAL ORIGINAL

STATE OF SOUTH CAROLINA)
[X] County/ [ ] Municipality of)
Richland / Olympia Magistrate)

AFFIDAVIT

ORIGINAL

Personally appeared before me the affiant Elisabeth Perry

being duly sworn deposes and says that defendant James W Trexler

did within this county and state on or about 02/26/2008 violate the criminal laws of the

State of South Carolina (or ordinance of [X] County/ [ ] Municipality of Richland / Olympia Magistrate

In the following particulars:

DESCRIPTION OF OFFENSE Animals / Ill treatment of animals, in general, overworking - 1st offense (Tried

I further state that there is probable cause to believe that the defendant named above did commit the crime set forth and that probable cause is based on the following facts:

That on 02/26/2008 while at 412 Derby Lane in the Olympia Magisterial District of Richland County, one James Trexler did commit the crime of III /Treatment of Animals in that he is the owner of a 2 year old Bay Female with a body score of 1.5 (#35). He knowingly and intentionally deprived the animal of necessary quantities of wholesome foodstuff suitable for the species and age, at suitable intervals and sufficient to maintain a reasonable level of nutrition to allow for proper growth and weight. There was no feed or hay found on the property. The animal was separately confined in a barn with 3 other horses, standing in 4 or more inches of feces, urine, and mud. The water bucket was filled with feces and other organic debris. One horse was also found wandering the muddy, wet property. Affiant and others are witness to prove same.

Signature of Affiant Elisabeth Perry

STATE OF SOUTH CAROLINA)
[X] County/ [ ] Municipality of)
Richland / Olympia Magistrate)

Affiant's Address 121 Humane Ln
Columbia, SC 29209

Affiant's Telephone (783)126-7 x

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that on or about 2/26/2008 defendant James W Trexler did violate the criminal laws of the State of South Carolina (or ordinance of [X] County/ [ ] Municipality of Richland / Olympia Magistrate) as set forth below.

DESCRIPTION OF OFFENSE: Animals / Ill treatment of animals, in general, overworking - 1st offense (Tried

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him or her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as soon thereafter as is practicable

Sworn to and subscribed before me on 02/27/2008 (L.S.)

Signature of Issuing Judge

Harold A. Cuff

Judge Code: 5906

Judge's Address 1601 - B Shop Road
Columbia, SC 29201-4847

Judge's Telephone (803)576-2550

Issuing Court: [X] Magistrate [ ] Municipal [ ] Circuit

ORIGINAL ORIGINAL ORIGINAL ORIGINAL

CERTIFIED TRUE COPY OF ORIGINAL FILED, C.C.P.G.S., RICHLAND COUNTY SOUTH CAROLINA

08 MAR 5 PM 12:50 CLERK OF COURT C.C.P.G.S. SCOTT

BAIL set by

Judge Hayes

on 2/28/08

Type and Amount: $10,000 PR Cone.

Name of Surety: _____

_____

PRELIMINARY HEARING held by

Judge _____

on _____

Defendant Attorney: _____

Decision: _____

_____

_____

DISPOSITION before

Judge _____

on _____

by _____

(indicate jury trial, bench trial, plea, nol. pros., etc.)

Disposition: _____

Sentence: _____

JURORS

_____ _____

_____ _____

_____ _____

WITNESSES

Name: _____
Address: _____
_____
Telephone: _____

Name: _____
Address: _____
_____
Telephone: _____

Name: _____
Address: _____
_____
Telephone: _____

Name: _____
Address: _____
_____
Telephone: _____

Name: _____
Address: _____
_____
Telephone: _____

Name: _____
Address: _____
_____
Telephone: _____

Name: _____
Address: _____
_____
Telephone: _____

Name: _____
Address: _____
_____
Telephone: _____

CODEFENDANTS

_____

_____

APP. 662

APP. 663

ARREST WARRANT

I-891848

STATE OF SOUTH CAROLINA

[X] County/ [ ] Municipality of

Richland / Olympia Magistrate

THE STATE

against

James W Trexler

Address: 412 Derby Lane

Hopkins, SC 29061-

Phone: SSN:

Sex: M Race: W Height: 5 11 Weight: 130

DL State: SC DL #:

DOB: Agency ORI #:

Prosecuting Agency: Hspca/ The Humane Society

Prosecuting Officer: Elisabeth Perry - 122

Offense: Animals / Ill treatment of animals, in general, overworking - 1st offense (Tried

Offense Code: 0610

Code/Ordinance Sec: 47-01-0040(A)

This warrant is CERTIFIED FOR SERVICE in the

[ ] County/ [ ] Municipality of

. The accused is to be arrested and brought before me to be dealt with according to the law.

(L.S.)

Signature of Judge

Date:

RETURN

A copy of this arrest warrant was delivered to defendant James Trexler on 2-27-08

M. Jo

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

Olympia Magistrate
1601 Shop Road
Columbia, SC 29201

ORIGINAL ORIGINAL ORIGINAL ORIGINAL

STATE OF SOUTH CAROLINA)
[X] County/ [ ] Municipality of)
Richland / Olympia Magistrate)

AFFIDAVIT

ORIGINAL

Form Approved by S.C. Attorney General Jan 21, 2003 SCCA 51A

CERTIFIED TRUE COPY OF ORIGINAL FILED C.C.C.P.& G.S. RICHLAND COUNTY SOUTH CAROLINA

Personally appeared before me the affiant Elisabeth Perry who being duly sworn deposes and says that defendant James W Trexler did within this county and state on or about 02/26/2008 violate the criminal laws of State of South Carolina (or ordinance of [X] County/ [ ] Municipality of Richland / Olympia Magistrate) in the following particulars:

DESCRIPTION OF OFFENSE Animals / Ill treatment of animals, in general, overworking - 1st offense (Tried

I further state that there is probable cause to believe that the defendant named above did commit the crime set forth and that probable cause is based on the following facts:

That on 02/26/2008 while at 412 Derby Lane in the Olympia Magisterial District of Richland County, one James Trexler did commit the crime of III /Treatment of Animals in that he is the owner of a 6 year old Bay Stallion with a body score of 4 (#34). He knowingly and intentionally deprived the animal of necessary quantities of wholesome foodstuff suitable for the species and age, at suitable intervals and sufficient to maintain a reasonable level of nutrition to allow for proper growth and weight. There was no feed or hay found on the property. The animal was separately confined in a barn with 3 other horses, standing in 4 or more inches of feces, urine, and mud. The water bucket was filled with feces and other organic debris. One horse was also found wandering the muddy, wet property. Affiant and others are witness to prove same.

Signature of Affiant Elisabeth Perry

STATE OF SOUTH CAROLINA)
[X] County/ [ ] Municipality of)
Richland / Olympia Magistrate)

Affiant's Address 121 Humane Ln
Columbia, SC 29209

Affiant's Telephone (783)126-7 x

08 MAR -5 PM 12:50 BARBARA A SCOTT C.C.C.P. & G.S.

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that on or about 2/26/2008 defendant James W Trexler did violate the criminal laws of the State of South Carolina (or ordinance of [X] County/ [ ] Municipality of Richland / Olympia Magistrate) as set forth below:

DESCRIPTION OF OFFENSE: Animals / Ill treatment of animals, in general, overworking - 1st offense (Tried

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him or her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as soon thereafter as is practicable

Sworn to and subscribed before me)
on 02/27/2008)
(L.S.))
Signature of Issuing Judge)
Harold A. Cuff)
Judge Code: 5906)

Judge's Address 1601 - B Shop Road
Columbia, SC 29201-4847

Judge's Telephone (803)576-2550

Issuing Court: [X] Magistrate [ ] Municipal [ ] Circuit

ORIGINAL ORIGINAL ORIGINAL ORIGINAL

BAIL set by

Judge Hunt

on 2/28/08

Type and Amount: $10,000 PR Cunc

Name of Surety:

PRELIMINARY HEARING held by

Judge

on

Defendant Attorney:

Decision:

DISPOSITION before

Judge

on

by

(indicate jury trial, bench trial, plea, nol. pros., etc.)

Disposition:

Sentence:

JURORS

WITNESSES

Name:
Address:
Telephone:

Name:
Address:
Telephone:

Name:
Address:
Telephone:

Name:
Address:
Telephone:

Name:
Address:
Telephone:

Name:
Address:
Telephone:

Name:
Address:
Telephone:

Name:
Address:
Telephone:

CODEFENDANTS

APP. 664

APP. 665

ARREST WARRANT

I-891849

STATE OF SOUTH CAROLINA

[X] County/ [ ] Municipality of

Richland / Olympia Magistrate

THE STATE

against

James W Trexler

Address: 412 Derby Lane

Hopkins, SC 29061-

Phone: SSN:

Sex: M Race: W Height: 5 11 Weight: 130

DL State: SC DL #:

DOB: Agency ORI #:

Prosecuting Agency: Hspca/ The Humane Society

Prosecuting Officer: Elisabeth Perry - 122

Offense: Animals / Ill treatment of animals, in general, overworking - 1st offense (Tried

Offense Code: 0610

Code/Ordinance Sec: 47-01-0040(A)

This warrant is CERTIFIED FOR SERVICE in the [ ] County/ [ ] Municipality of . The accused is to be arrested and brought before me to be dealt with according to the law.

(L.S.)

Signature of Judge

Date:

RETURN

A copy of this arrest warrant was delivered to defendant James Trexler on 2-27-08

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

Olympia Magistrate
1601 Shop Road
Columbia, SC 29201

ORIGINAL ORIGINAL ORIGINAL ORIGINAL

STATE OF SOUTH CAROLINA)
[X] County/ [ ] Municip. of)
Richland / Olympia Magistrate)

AFFIDAVIT

ORIGINAL

Form Approved by Attorney General June 21, 2003 SCCA 518

Personally appeared before me the affiant Elisabeth Perry who being duly sworn deposes and says that defendant James W Trexler did within this county and state on or about 02/26/2008 violate the criminal laws of the State of South Carolina (or ordinance of [X] County/ [ ] Municipality of Richland / Olympia Magistrate) in the following particulars:

DESCRIPTION OF OFFENSE Animals / Ill treatment of animals, in general, overworking - 1st offense (Tried

I further state that there is probable cause to believe that the defendant named above did commit the crime set forth and that probable cause is based on the following facts:

That on 02/26/2008 while at 412 Derby Lane in the Olympia Magisterial District of Richland County, one James Trexler did commit the crime of III /Treatment of Animals in that he is the owner of a 15-20 year old Bay Stallion with a body score of 3 (#33). He knowingly and intentionally deprived the animal of necessary quantities of wholesome foodstuff suitable for the species and age, at suitable intervals and sufficient to maintain a reasonable level of nutrition to allow for proper growth and weight. There was no feed or hay found on the property. The animal was separately confined in a barn with 3 other horses, standing in 4 or more inches of feces, urine, and mud. The water bucket was filled with feces and other organic debris. One horse was also found wandering the muddy, wet property. Affiant and others are witness to prove same.

Signature of Affiant Elizabeth Perry

STATE OF SOUTH CAROLINA)
[X] County/ [ ] Municipality of)
Richland / Olympia Magistrate)

Affiant's Address 121 Humane Ln
Columbia, SC 29209

Affiant's Telephone (783)126-7 x

CERTIFIED TRUE COPY OF ORIGINAL FILED
C.C.C.P.&S.S.
RICHLAND COUNTY
SOUTH CAROLINA

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that on or about 2/26/2008 defendant James W Trexler did violate the criminal laws of the State of South Carolina (or ordinance of [X] County/ [ ] Municipality of Richland / Olympia Magistrate) as set forth below:

DESCRIPTION OF OFFENSE: Animals / Ill treatment of animals, in general, overworking - 1st offense (Tried

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him or her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of execution, or as soon thereafter as is practicable

Sworn to and subscribed before me on 02/27/2008 (L.S.)

Signature of Issuing Judge

Harold A. Cuff

Judge Code: 5906

Judge's Address 1601 - B Shop Road
Columbia, SC 29201-4847

Judge's Telephone (803)576-2550

Issuing Court: [X] Magistrate [ ] Municipal [ ] Circuit

08MAR-5 PM 12:50
BARBARA A. SCOTT
C.C.C.P.&S.S.
FILED

ORIGINAL ORIGINAL ORIGINAL ORIGINAL

BAIL set by

Judge Hurd

on 8/28/08

Type and Amount: $10,000 PR Conc.

Name of Surety:

PRELIMINARY HEARING held by

Judge

on

Defendant Attorney:

Decision:

DISPOSITION before

Judge

on

by

(indicate jury trial, bench trial, plea, nol. pros., etc.)

Disposition:

Sentence:

JURORS

WITNESSES

Name:
Address:
Telephone:

Name:
Address:
Telephone:

Name:
Address:
Telephone:

Name:
Address:
Telephone:

Name:
Address:
Telephone:

Name:
Address:
Telephone:

Name:
Address:
Telephone:

Name:
Address:
Telephone:

CODEFENDANTS

APP. 666

ARREST WARRANT

I-891850

STATE OF SOUTH CAROLINA

[X] County/ [ ] Municipality of

Richland / Olympia Magistrate

THE STATE

against

James W Trexler

Address: 412 Derby Lane

Hopkins, SC 29061-

Phone: SSN:

Sex: M Race: W Height: 5 11 Weight: 130

DL State: SC DL #:

DOB:

Prosecuting Agency: Hspca/ The Humane Society

Prosecuting Officer: Elisabeth Perry - 122

Offense: Animals / Ill treatment of animals, in general, overworking - 1st offense (Tried

Offense Code: 0610

Code/Ordinance Sec: 47-01-0040(A)

This warrant is CERTIFIED FOR SERVICE in the [ ] County/ [ ] Municipality of . The accused is to be arrested and brought before me to be dealt with according to the law.

(L.S.)

Signature of Judge

Date:

RETURN

A copy of this arrest warrant was delivered to defendant James Trexler on 2-27-08

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

Olympia Magistrate
1601 Shop Road
Columbia, SC 29201

ORIGINAL ORIGINAL ORIGINAL ORIGINAL

AFFIDAVIT

ORIGINAL

Form Approved by S. Attorney General April 21, 2003 SCCA 819

STATE OF SOUTH CAROLINA)
[X] County/ [ ] Municipality of)
Richland / Olympia Magistrate)

Personally appeared before me the affiant Elisabeth Perry who being duly sworn deposes and says that defendant James W Trexler did within this county and state on or about 02/26/2008 violate the criminal laws of the State of South Carolina (or ordinance of [X] County/ [ ] Municipality of Richland / Olympia Magistrate) in the following particulars:

DESCRIPTION OF OFFENSE Animals / Ill treatment of animals, in general, overworking - 1st offense (Tried

I further state that there is probable cause to believe that the defendant named above did commit the crime set forth and that probable cause is based on the following facts:

That on 02/26/2008 while at 412 Derby Lane in the Olympia Magisterial District of Richland County, one James Trexler did commit the crime of Ill /Treatment of Animals in that he is the owner of a 7 year old Black Stallion with a body score of 4 (#32). He knowingly and intentionally deprived the animal of necessary quantitites of wholesome foodstuff suitable for the species and age, at suitable intervals and sufficient to maintain a reasonable level of nutrition to allow for proper growth and weight. There was no feed or hay found on the property. The animal was found wandering around on the muddy, wet property. Four other horses were confined separately inside a barn standing in 4 or more inches of feces, urine and mud. Their water buckets were filled with feces and other organic debris. Affiant and others are witness to prove same.

Signature of Affiant Elisabeth Perry

STATE OF SOUTH CAROLINA)
[X] County/ [ ] Municipality of)
Richland / Olympia Magistrate)

Affiant's Address 121 Humane Ln
Columbia, SC 29209

Affiant's Telephone (783)126-7 x

CERTIFIED TRUE COPY OF ORIGINAL FILED IN RICHLAND COUNTY, SOUTH CAROLINA C.C.P.S. BARBARA A. SCOTT C.C. & G.S.

08 MAR -5 PM 12:50

FILED

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that on or about 2/26/2008 defendant James W Trexler did violate the criminal laws of the State of South Carolina (or ordinance of [X] County/ [ ] Municipality of Richland / Olympia Magistrate) as set forth below.

DESCRIPTION OF OFFENSE: Animals / Ill treatment of animals, in general, overworking - 1st offense (Tried

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him or her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as soon thereafter as is practicable

Sworn to and subscribed before me on 02/27/2008 (L.S.)

Signature of Issuing Judge

Harold A. Cuff

Judge Code: 5906

Judge's Address 1601 - B Shop Road
Columbia, SC 29201-4847

Judge's Telephone (803)576-2550

Issuing Court: [X] Magistrate [ ] Municipal [ ] Circuit

ORIGINAL ORIGINAL ORIGINAL ORIGINAL

APP. 667

BAIL set by

Judge Thiel

on 2/28/08

Type and Amount: $10,000 PR Cmc

Name of Surety:

PRELIMINARY HEARING held by

Judge

on

Defendant Attorney:

Decision:

DISPOSITION before

Judge

on

by

(indicate jury trial, bench trial, plea, nol. pros., etc.)

Disposition:

Sentence:

JURORS

WITNESSES

Name:
Address:
Telephone:

Name:
Address:
Telephone:

Name:
Address:
Telephone:

Name:
Address:
Telephone:

Name:
Address:
Telephone:

Name:
Address:
Telephone:

Name:
Address:
Telephone:

Name:
Address:
Telephone:

CODEFENDANTS

APP. 668

ARREST WARRANT

I-891851

STATE OF SOUTH CAROLINA

[X] County/ [ ] Municipality of

Richland / Olympia Magistrate

THE STATE

against

James W Trexler

Address: 412 Derby Lane

Hopkins, SC 29061-

Phone: SSN:

Sex: M Race: W Height: 5 11 Weight: 130

DL State: SC DL #:

DOB: Agency ORI #:

Prosecuting Agency: Hspca/ The Humane Society

Prosecuting Officer: Elisabeth Perry - 122

Offense: Animals / Ill treatment of animals, in general, overworking - 1st offense (Tried

Offense Code: 0610

Code/Ordinance Sec: 47-01-0040(A)

This warrant is CERTIFIED FOR SERVICE in the [X] County/ [ ] Municipality of

Richland / Olympia Magistrate. The accused is to be arrested and brought before me to be dealt with according to the law.

(L.S.)

Signature of Judge

Date:

RETURN

A copy of this arrest warrant was delivered to defendant James W. Trexler on 02/27/08

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

Olympia Magistrate
1601 Shop Road
Columbia, SC 29201

ORIGINAL ORIGINAL ORIGINAL ORIGINAL

STATE OF SOUTH CAROLINA)
[X] County/ [ ] Municipality of)
Richland / Olympia Magistrate)

ORIGINAL

Form Approved by Attorney General April 27, 2003 SCCA 516

AFFIDAVIT

Personally appeared before me the affiant Elisabeth Perry who being duly sworn deposes and says that defendant James W Trexler did within this county and state on or about 02/26/2008 violate the criminal laws of the State of South Carolina (or ordinance of [X] County/ [ ] Municipality of Richland / Olympia Magistrate) in the following particulars:

DESCRIPTION OF OFFENSE Animals / Ill treatment of animals, in general, overworking - 1st offense (Tried

I further state that there is probable cause to believe that the defendant named above did commit the crime set forth and that probable cause is based on the following facts:

That on 02/26/2008 while at 412 Derby Lane in the Olympia Magisterial District of Richland County, one James Trexler did commit the crime of Ill /Treatment of Animals in that he is the owner of a 20 year old Gray Stallion with a body score of 3.5 (#31). He knowingly and intentionally deprived the animal of necessary quantities of wholesome foodstuff suitable for the species and age, at suitable intervals and sufficient to maintain a reasonable level of nutrition to allow for proper growth and weight. There was no feed or hay on the property. The animal was separately confined in a barn with 3 other horses, standing in 4 or more inches of feces, urine, and mud. The water bucket was filled with feces and other organic debris. One horse was also found wandering the muddy, wet property. Affiant and others are witness to prove same.

Signature of Affiant

STATE OF SOUTH CAROLINA)
[X] County/ [ ] Municipality of)
Richland / Olympia Magistrate)

Affiant's Address 121 Humane Ln
Columbia, SC 29209

Affiant's Telephone (783)126-7 x

CERTIFIED TO BE A TRUE COPY OF ORIGINAL FILED IN MY OFFICE
C.C.C.P. & G.S.
RICHLAND COUNTY
SOUTH CAROLINA

08 MAR -5 PM 12:50
CLERK OF COURT
C.C.P. & G.S.
RICHLAND COUNTY, S.C.

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that on or about 2/26/2008 defendant James W Trexler did violate the criminal laws of the State of South Carolina (or ordinance of [X] County/ [ ] Municipality of Richland / Olympia Magistrate) as set forth below:

DESCRIPTION OF OFFENSE: Animals / Ill treatment of animals, in general, overworking - 1st offense (Tried

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him or her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as soon thereafter as is practicable

Sworn to and subscribed before me on 02/27/2008 (L.S.)

Signature of Issuing Judge

Harold A. Cuff

Judge Code: 5906

Judge's Address 1601 - B Shop Road
Columbia, SC 29201-4847

Judge's Telephone (803)576-2550

Issuing Court: [X] Magistrate [ ] Municipal [ ] Circuit

ORIGINAL ORIGINAL ORIGINAL ORIGINAL

APP. 669

BAIL set by

Judge Hall

on 2/28/08

Type and Amount: $10,000 PR Cmc

Name of Surety: _____

PRELIMINARY HEARING held by

Judge _____

on _____

Defendant Attorney: _____

Decision: _____

DISPOSITION before

Judge _____

on _____

by _____
(indicate jury trial, bench trial, plea, nol. pros., etc.)

Disposition: _____

Sentence: _____

JURORS

_____ _____

_____ _____

_____ _____

WITNESSES

Name: _____
Address: _____
Telephone: _____

Name: _____
Address: _____
Telephone: _____

Name: _____
Address: _____
Telephone: _____

Name: _____
Address: _____
Telephone: _____

Name: _____
Address: _____
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Name: _____
Address: _____
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Name: _____
Address: _____
Telephone: _____

Name: _____
Address: _____
Telephone: _____

CODEFENDANTS

_____

_____

APP. 670

WITNESSES

(S) Investigator Holly Wagner, RCSD

ARREST WARRANT NUMBER

DP08059

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury
Date: MAR 13 2008

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. 2008-GS-40-02282

The State of South Carolina

County of Richland

COURT OF GENERAL SESSIONS

MARCH TERM 2008

101

THE STATE
vs.

James W. Trexler

Indictment for

ILL TREATMENT OF ANIMALS

SC Code: 47-01-40(B)
CDR Code: 2804
Class F/F

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

I _____ hereby appear in my own proper person and plead guilty to the within indictment or to

CERTIFIED TRUE COPY OF ORIGINAL FILED

Defendant

Witness:

C.C.C. PLS. AND G.S.

Nolle Pros

C. Dale Scott

C. Dale Scott
Assistant Attorney General
12-15-09

APP. 671

STATE OF SOUTH CAROLINA)
)
COUNTY OF RICHLAND)

INDICTMENT

At a Court of General Sessions, convened on March 12, 2008, the Grand Jurors of Richland County present upon their oath:

ILL TREATMENT OF ANIMALS

That James W. Trexler did in Richland County, on or about February 26, 2008, inflict excessive or repeated unnecessary pain or suffering upon a 2 year old Bay filly, or by omission or commission caused this to be done, all in violation of SC Code of Laws § 47-1-40.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

Wm B. Giese

WARREN B. GIESE, SOLICITOR

WITNESSES

(S) Investigator Holly Wagner, RCSD

ARREST WARRANT NUMBER

DP08060

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury
Date: MAR 13 2008

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. 2008-GS-40-02283

The State of South Carolina

County of Richland

COURT OF GENERAL SESSIONS

MARCH TERM 2008

101

THE STATE
vs.

James W. Trexler

Indictment for

ILL TREATMENT OF ANIMALS

SC Code: 47-01-40(B)
CDR Code: 2804
Class F/F

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

I hereby appear in my own proper person and plead guilty to the within indictment or to

CERTIFIED TRUE COPY OF ORIGINAL FILED RICHLAND COUNTY SOUTH CAROLINA

Defendant

Witness:

C.C.C. PLS. AND G.S.

Nolle Pros

C. Dale Scott

C. Dale Scott
Assistant Attorney General
12-15-09

APP. 673

STATE OF SOUTH CAROLINA)
)
COUNTY OF RICHLAND)

INDICTMENT

At a Court of General Sessions, convened on March 12, 2008, the Grand Jurors of Richland County present upon their oath:

ILL TREATMENT OF ANIMALS

That James W. Trexler did in Richland County, on or about February 26, 2008, inflict excessive or repeated unnecessary pain or suffering upon a 20 year old Gray Stallion, or by omission or commission caused this to be done, all in violation of SC Code of Laws § 47-1-40.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

WARREN B. GIESE, SOLICITOR

WITNESSES

(S) Investigator Holly Wagner, RCSD

ARREST WARRANT NUMBER

DP08061

ACTION OF GRAND JURY

TRUE BILL

Pamela Bridge

Foreperson of Grand Jury

Date: MAR 13 2008

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2008-GS-40-02284

The State of South Carolina

County of Richland

COURT OF GENERAL SESSIONS

MARCH TERM 2008

101

THE STATE
vs.

James W. Trexler

Indictment for

ILL TREATMENT OF ANIMALS

SC Code: 47-01-40(B)
CDR Code: 2804
Class F/F

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

I _____ hereby appear in my own proper person and plead guilty to the within indictment or to

CERTIFIED TRUE COPY OF ORIGINAL FILED, RICHLAND COUNTY SOUTH CAROLINA

Defendant

Witness:

C.C.C. PLS. AND G.S.

Nolle Pros

C. Dale Scott

C. Dale Scott
Assistant Attorney General
12-15-2009

STATE OF SOUTH CAROLINA)
)
COUNTY OF RICHLAND)

INDICTMENT

At a Court of General Sessions, convened on March 12, 2008, the Grand Jurors of Richland County present upon their oath:

ILL TREATMENT OF ANIMALS

That James W. Trexler did in Richland County, on or about February 26, 2008, inflict excessive or repeated unnecessary pain or suffering upon a 6 year old Bay Stallion, or by omission or commission caused this to be done, all in violation of SC Code of Laws § 47-1-40.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

Warren B. Giese

WARREN B. GIESE, SOLICITOR

WITNESSES

(S) Investigator Holly Wagner, RCSD

ARREST WARRANT NUMBER

DP08062

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury

Date: MAR 13 2008

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2008-GS-40-02285

The State of South Carolina

County of Richland

COURT OF GENERAL SESSIONS

MARCH TERM 2008

101

THE STATE

vs.

James W. Trexler

Indictment for

ILL TREATMENT OF ANIMALS

SC Code: 47-01-40(B)

CDR Code: 2804

Class F/F

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

I hereby appear in my own proper person and plead guilty to the within indictment of to-

CERTIFIED TRUE COPY OF ORIGINAL FILED, RICHLAND COUNTY, SOUTH CAROLINA

Defendant

Witness:

C.C.C. PLS. AND G.S.

Nolle Pros

C. Dale Scott

Assistant Attorney General

12-15-09

APP. 677

STATE OF SOUTH CAROLINA)
)
COUNTY OF RICHLAND)

INDICTMENT

At a Court of General Sessions, convened on March 12, 2008, the Grand Jurors of Richland County present upon their oath:

ILL TREATMENT OF ANIMALS

That James W. Trexler did in Richland County, on or about February 26, 2008, inflict excessive or repeated unnecessary pain or suffering upon a 15-20 year old Bay Stallion, or by omission or commission caused this to be done, all in violation of SC Code of Laws § 47-1-40.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

Wm B. Giese

WARREN B. GIESE, SOLICITOR

WITNESSES

Holly Wagner RCSO

ARREST WARRANT NUMBER

Direct Presentment

DP09296

ACTION OF GRAND JURY

TRUE BILL

OCT 15 2009

Foreperson of Grand Jury

Date:

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2009-GS-40- 9627

The State of South Carolina

County of Richland

COURT OF GENERAL SESSIONS

October_____ 2009 TERM

THE STATE
v.

James W. Trexler
DOB: 1/14/1960

Indictment for

III Treatment of Animals

SC Code: 47-01-040(B)
CDR Code: 2804

CERTIFIED TRUE COPY
OF ORIGINAL FILED
[illegible] U.S.
RICH[illegible] COUNTY
SOUTH[illegible]

Nolle Pros
C. Dale Scott
Assistant Attorney General
7-15-10

APP. 679

STATE OF SOUTH CAROLINA)
)
COUNTY OF RICHLAND)

INDICTMENT FOR
ILL-TREATMENT OF ANIMALS

At a Court of General Sessions, convened on October 14, 2009 the Grand Jurors of Richland County present upon their oath:

ILL-TREATMENT OF ANIMALS

That between the dates of August 1, 2007 and March 3, 2008, James W. Trexler, did at 207 Misty Meadows Road, in Richland County, inflict excessive or repeated unnecessary pain or suffering upon animals. To wit, by omission or commission, James W. Trexler did cause repeated unnecessary suffering upon: a 6 (six) year old Chestnut Gelding (Horse #41), and/or a 10 (ten) year old Brown Filly (Horse #42) and/or an 10 (ten) year old Black Filly (Horse #43) and/or 10 (ten) year old Black Filly (Horse #44) and/or 20 (twenty) year old Gray Filly (Horse #45) and/or a 10 (ten) year old Gray Filly (Horse #46) and/or a 20 (twenty) year old Gray Filly (Horse #47) and/or 5 (five) year old Bay Filly (Horse #48) and/or a 15-20 (fifteen-twenty) year old Chestnut Filly (Horse #49) and/or a 5 (five) year old Chestnut Filly (Horse #50) and/or a 4 (four) year old Chestnut Filly (Horse #51) and/or a 4 (four) year old Chestnut Filly (Horse #52) and/or 15-20 (fifteen-twenty) year old Chestnut Filly (Horse #53) and/or a 7 (seven) year old Bay Filly (Horse #54) and/or a 4 (four) year old Bay Filly (Horse #55) and/or a 4 (four) year old Bay Filly (Horse #56) and/or a 4.5 (four and half) year old Bay Filly (Horse #57). This in violation of § 47-1-40 (B) of the S.C. Code of Laws, 1976, as amended.

17

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

HENRY MCMASTER (cds)
ATTORNEY GENERAL

WITNESSES

Holly Wagner RCSO

ARREST WARRANT NUMBER

Direct Presentment

DP09297

ACTION OF GRAND JURY

TRUE BILL

OCT 15 2009

Foreperson of Grand Jury

Date:

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2009-GS-40- 9628

The State of South Carolina

County of Richland

COURT OF GENERAL SESSIONS

October_____ 2009 TERM

THE STATE
v.

James W. Trexler
DOB: 1/14/1960

Indictment for

III Treatment of Animals

SC Code: 47-01-040(B)
CDR Code: 2804

CERTIFIED TRUE COPY
OF ORIGINAL FILED,
[illegible]
CLERK OF COURT
RICHLAND COUNTY
SOUTH CAROLINA

Nolle Pros
C. Dale Scott
Assistant Attorney General
C. Dale Scott
7-15-10

APP. 681

STATE OF SOUTH CAROLINA)
)
COUNTY OF RICHLAND)

INDICTMENT FOR
ILL-TREATMENT OF ANIMALS

At a Court of General Sessions, convened on October 14, 2009 the Grand Jurors of Richland County present upon their oath:

ILL-TREATMENT OF ANIMALS

That between the dates of August 1, 2007 and February 25, 2008, James W. Trexler, did at 1248 Zeigler Road, in Richland County, inflict excessive or repeated unnecessary pain or suffering upon animals. To wit, by omission or commission, James W. Trexler did cause repeated unnecessary suffering upon: a 15-20 (fifteen-twenty) year old Gray Filly (Horse #1), and/or a 10-15 (ten-fifteen) year old Gray Filly (Horse #2) and /or an 8 (eight) month old Bay Stallion (Horse #3), and/or an 8 (eight) month old Bay Stallion (Horse #4), and/or a 2-3 (two-three) year old Gray Filly (Horse #5), and/or a 3.5 (three and a half) year old Bay Stallion (Horse #6) and/or a 10 (ten) year old Bay Filly (Horse #7) and/or a 5 (five) year old Bay Stallion (Horse #8) and/or a 10-15 (ten-fifteen) year old Bay Filly (Horse #9) and/or a 10-15 (ten-fifteen) year old Bay Filly (Horse #10) and/or a 4 (four) year old Bay Stallion (Horse #11) and/or a 4 (four) year old Gray Stallion (Horse #12) and/or a 4 (four) year old Gray Stallion (Horse # 13) and/or a 1-2 (one-two) year old Gray Filly (Horse #14) and/or a 2 (two) year old Gray Filly (Horse #15) and/or a 10-15 (ten-fifteen) year old Bay Filly (Horse #16) and/or a 20 (twenty) year old Bay Filly (Horse #17) and/or a 20 (twenty) year old Chestnut Filly (Horse #18) and/or a 9 (nine) month old Gray Filly (Horse #19) and/or a 2 (two) year old Brown Stallion (Horse #20) and/or a 2 (two) year old Bay Filly (Horse #21) and/or a 7 (seven) year old Bay Filly (Horse #22). This in violation of § 47-1-40 (B) of the S.C. Code of Laws, 1976, as amended.

22

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

HENRY MCMASTER (cds)
ATTORNEY GENERAL

WITNESSES

Holly Wagner RCSO

ARREST WARRANT NUMBER

Direct Presentment

DP09 298

ACTION OF GRAND JURY

TRUE BILL

OCT 15 2009

Foreperson of Grand Jury

Date:

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2009-GS-40- 9629

The State of South Carolina

County of Richland

COURT OF GENERAL SESSIONS

October_____ 2009 TERM

THE STATE
v.

James W. Trexler
DOB: 1/14/1960

Indictment for

III Treatment of Animals

SC Code: 47-01-040(B)
CDR Code: 2804

CERTIFIED TRUE COPY
OF ORIGINAL FILED,
Jane W. Thomas
C.C.R.C.S.
RICHLAND COUNTY
SOUTH CAROLINA

Nolle Pros
C. Dale Scott
Assistant Attorney General
C. Dale Scott
7-15-10

STATE OF SOUTH CAROLINA	)	INDICTMENT FOR
	)	ILL-TREATMENT OF ANIMALS
COUNTY OF RICHLAND	)	

At a Court of General Sessions, convened on October 14, 2009 the Grand Jurors of Richland County present upon their oath:

ILL-TREATMENT OF ANIMALS

That between the dates of August 1, 2007 and February 25, 2008, James W. Trexler, did at 1248 Zeigler Road, in Richland County, inflict excessive or repeated unnecessary pain or suffering upon animals. To wit, by omission or commission, James W. Trexler did cause repeated unnecessary suffering upon an adult horse aged 8 (eight) months to 2 (two) years found dead and buried at 1248 Zeigler Rd. This in violation of § 47-1-40 (B) of the S.C. Code of Laws, 1976, as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

HENRY MCMASTER (cds)
ATTORNEY GENERAL

WITNESSES

Holly Wagner RCSO

ARREST WARRANT NUMBER

DP09303

ACTION OF GRAND JURY

TRUE BILL

OCT 15 2009

Foreperson of Grand Jury
Date:

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. 2009-GS-40- 9635

The State of South Carolina

County of Richland

COURT OF GENERAL SESSIONS

October_____ 2009 TERM

THE STATE
v.

James W. Trexler
DOB: 1/14/1960

Indictment for

III Treatment of Animals

SC Code: 47-01-040(B)
CDR Code: 2804

CERTIFIED TRUE COPY
OF ORIGINAL FILED,
C.C.G.S.
RICHLAND COUNTY
SOUTH CAROLINA

Nolle Pros
C. Dale Scott
Assistant Attorney General

7-15-10

STATE OF SOUTH CAROLINA	)	INDICTMENT FOR
	)	ILL-TREATMENT OF ANIMALS
COUNTY OF RICHLAND	)	

At a Court of General Sessions, convened on October 14, 2009 the Grand Jurors of Richland County present upon their oath:

ILL-TREATMENT OF ANIMALS

That between the dates of August 1, 2007 and February 25, 2008, James W. Trexler, did at 412 Derby Lane, in Richland County, inflict excessive or repeated unnecessary pain or suffering upon animals. To wit, by omission or commission, James W. Trexler did cause repeated unnecessary suffering upon: a 20 (twenty) year old Gray Stallion (Horse #31), and/or a 7 (seven) year old Black Stallion (Horse #32) and/or a 15-20 (fifteen-twenty) year old Bay Stallion (Horse #33), and/or a 6 (six) year old Bay Stallion (Horse #34) and/or a 2 (two) year old Bay Filly (Horse #35). This in violation of § 47-1-40 (B) of the S.C. Code of Laws, 1976, as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

HENRY MCMASTER (cds)
ATTORNEY GENERAL

WITNESSES

Holly Wagner, RCSO

ARREST WARRANT NUMBER

Direct Presentment

DP09393

ACTION OF GRAND JURY

TRUE BILL

DEC 17 2009

Foreperson of Grand Jury
Date:

VERDICT

Foreperson of Petit Jury
Date:

Docket Number 2009-GS-40- 12496

The State of South Carolina
County of Richland

COURT OF GENERAL SESSIONS

DECEMBER **2009 Term**

AG

THE STATE

vs.

James W. Trexler
DOB: 1/14/1960

INDICTMENT FOR

CRIMINAL CONSPIRACY, C/L
CONSPIRACY DEFINED

S.C. CODE §16-017-0410
CDR Code: 0049
FELONY CLASS F

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

I, _____ hereby appear in my own proper person and plead guilty to the within indictment or to

Defendant

Witness:

C.C.C. Pls. And G.S.

CERTIFIED TRUE COPY
ORIGINAL FILED,
RICHLAND COUNTY
SOUTH CAROLINA

Nolle Pros
C. Dale Scott
Assistant Attorney General
C. Dale Scott
7-15-10

APP. 687

STATE OF SOUTH CAROLINA)
) IN THE COURT OF GENERAL SESSIONS
COUNTY OF RICHLAND)

INDICTMENT

At a Court of General Sessions, convened on DECEMBER 16, 2009, the Grand Jurors of Richland County present upon their oath:

CRIMINAL CONSPIRACY, C/L CONSPIRACY DEFINED

The Defendant, James W. Trexler, did in Richland County, on or about October 1, 2007 to on or about March 3, 2008, willfully and unlawfully, combine with Hazelene Trexler and/or Terry A. Trexler, for the purpose of committing the crime(s) of *ILL-TREATMENT OF ANIMALS,* a felony, in violation of §16-017-0410, THE CODE OF LAWS OF SOUTH CAROLINA, (1976), as amended.

Against the peace and dignity of the State, and contrary to the statute in such cases made and provided.

HENRY MCMASTER (CDS)
SOUTH CAROLINA ATTORNEY

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF RICHLAND	)	
James W. Trexler,	)	Civil Action No.: 2010-CP-40-1343
	)	
Plaintiff,	)	
	)	
v.	)	
	)	AFFIDAVIT OF CHRIS COWAN
	)	
	)	
McClasky Newspapers, Inc., Richland County, and the Richland County Sheriff's Department,	)	
	)	
	)	
Defendants.	)	

I, Chris Cowan, being duly sworn, state:

1. The matters stated herein are known by me herein are known by me to be true of my personal knowledge unless stated upon information and belief, and, as to those matters, I believe them to be true.

2. I am a Captain in the Richland County Sheriff's Department.

3. I supervise the office of public information for the Richland County Sheriff's Department.

4. On Wednesday, February 27, 2008, while I was the Senior Public Information Coordinator for the Richland County Sheriff's Department, I disseminated a press release regarding the arrest of Hazelene E. Trexler, Terry A. Trexler and James Trexler. A true and authentic copy of the release is attached hereto as Exhibit A and incorporated herein by reference.

5. The release was sent by me to, among others, The State newspaper, The Associated Press, WLTX, WACH and WOLO.

6. The press release was prepared by and on behalf of the Richland County Sheriff's Department.

7. The press release that is attached hereto as Exhibit A is a public record.

8. The press release that is attached hereto as Exhibit A stated that the charges made against James Trexler were, "5 counts of ill treatment of animals" and "1 count of kidnapping (stems from an incident where J. Trexler held a HSPCA investigator against her will/refused to allow the investigator to leave the farm on 2/13 during an evaluation of the horses)."

Further affiant sayeth not.

Chris Cowan

SWORN to before me this 9th day of February, 2011

NOTARY PUBLIC FOR S.C.
My commission expires: 11/2/16

-----Original Message-----
From: Clevan, Chris [mailto:CClevan@RCSD.NET]
Sent: Wednesday, February 27, 2008 9:42 PM
For Arrest; Riposta; 57; brandi WIS; Brittany Leaphart WIS; Christie Vaughan (Christie Vaughan); cw47; D LANE; Enfoques (Enfoques); Mike Wortlock (Mike Wortlock); newsdirectorWIS; Poole, Joye; Randy Johnsrud (Randy Johnsrud); ROAR; WOLO (Robin WOLO); Santaniello, Tony; Sarah Gregory (sknapp@wltx.com); Stephanie WLTX; Stephanie Wach 57 News (Wach 57 News); WIS-TV (counterWIS@wltv.com); WLTX-TV (metro) (Sheila.grimes.com); WOLO; WOLO chatrets; WOLO-TV (mynewsroom@wolo.com); Beatty, Adam; AP Columbia (AP Columbia); Cupaiuolo, Dawn; Kenley Young; Omara, Dan; CS Safety; Hopkins, Lisa; Tate, Ishmael; Davis, Kelly; McGirt, Tonya; 1170AM; 940AM; Doug Williams/WJXC (Doug Williams/WJXC); Dr. Geragenti; Jerry Grimes; Dallas LED (dallas LED); Sonja Perez (sperez@periagroupcomm.unigloms.com); TJ McKay (tj.mckay@cbtcomm.com); WCOS; WIOS; wmbk; WNOK; WSCO; WTCB; WTCR; wtcs; WTCB; WTCB; WYOC; WWDM (E-mail2); Bob Keener (E-mail); Carolina news; Dan Cook (E-mail); Deputy Newsletter; easley chronicle; fort jackson leader; Free Times Julie; Gaffney News; Gretchen Daum; Heidi Thomas (Heidi Thomas); Hispanic News (E-mail); Isaac Washington (E-mail); Jacobi Sumter (E-mail); Jennifer Dowden (jennifer.dowden@richlandonline.com); John adams; Joseph Azar; kirk hutner; Kirk Luther (E-mail); Kwon (E-mail); lee sligh editor; Liz Wheeler/Chronicle; lori tracki; Luis Franco (luisfranco@yahoo.com); Merle Vic (E-mail); michelle jackson; Mimi Maccock (E-mail); Mary Boone (E-mail); Mr. Hill; Penaranda, Gustavo; SC PIO (RC-PIO); Spartan Daily (E-mail); Rick Peterson (E-mail); Vida Latina (Vida Latina); Ballentine/Dutch Fork; Martha Bruce; Sumter Item; Times and Democrat Orangeburg; ABC - Augusta (hyrmp@wjbf.com); Atlanta Constitution (adjohnson.insideajc@mac.com); CBS Augusta (newsroom@wrdw.com); Greg Chernault (greg.cushing@wsoc-tv.com); NBC - Atlanta (kpillow@wsb.granett.com); NBC - Atlanta (news1182we@yahoo.com); NBC - Savannah Morning News (mcarlisi@wsav.com)
Subject: those responsible for severe neglect/injury to horses, in custody

Richland County Sheriff's Department

LEON LOTT
Sheriff

Richland County Sheriff Leon Lott announced that at approximately 8:00 PM tonight the Richland County Sheriff's Departments Fugitive Task Force apprehended Hazelene E. Trexler (DOE [illegible]erry A. Trexler (DO[illegible] and James Trexler (DOB [illegible] at 412 Derby Lane in Hopkins.

Richland County Sheriff Leon Lott stated the Sheriff's Department and HSPCA continue to investigate the severe and barbaric treatment of 28 horses that were in the custody of and suppose to have been cared for by the Trexlers; even as the trio were being arrested in Hopkins tonight, investigators and veterinarians care for the horses that sustained injuries ranging from malnutrition to infections that being left untreated cause lameness to halters growing into the faces of the horses.

Sheriff Leon Lott added that this case is disturbing because these horses are helpless to the hands of their owners and the Trexlers have proven time and again that they have no business owning any animals. Sheriff Leon Lott stated that investigators from the Sheriff's Department and the HSPCA will continue to work with the Solicitors Office here and authorities in Georgia to make sure the Trexlers receive the punishment they deserve and are prosecuted to the fullest extent of the law. Sheriff Leon Lott stated that the Trexlers have been transported to Alvin S. Glen Detention Center where they await a bond hearing.

Charges:

- Hazelene E. Trexler
  28 counts of ill treatment of animals
- Terry A. Trexler
  28 counts of ill treatment of animals
- James Trexler
  3 counts of ill treatment of animals
  1 count of kidnapping (stems from an incident where J.Trexler held a HSPCA investigator against her will/refused to allow the investigator to leave a farm on 2/13 during an evaluation of the horses)

[illegible]

2/29/2008

Exhibit A

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	OF THE FIFTH JUDICIAL CIRCUIT
COUNTY OF RICHLAND	)	Case Number: 2010-CP-40-1249
James W. Trexler,	)	
Plaintiff,	)	
vs.	)	PLAINTIFF'S RESPONSES TO DEFENDANT'S INTERROGATORIES
The Associated Press, Barrington Broadcasting, a South Carolina Corp., Pacific & Southern Company, Inc., and Raycom TV Broadcasting, Inc.	)	
Defendants.	)	

TO: THE DEFENDANTS ABOVE NAMED AND TO THEIR ATTORNEY, JAY BENDER, ESQUIRE:

1. Give the names and addresses of persons known to the party or counsel to be witnesses concerning the facts of this case, and indicate whether or not written or recorded statements have been taken from the witnesses and indicate who has possession of such statements.

RESPONSE: *James W. Trexler*
9253 Nabors Drive
Charleston, South Carolina 29412
The Plaintiff has not provided any type of statement to date.

Terry Trexler

Columbia, South Carolina 29211
Mr. Trexler has not provided any type of statement to date.

2. Set forth a list of photographs, plats, sketches, statements, or other prepared documents in possession of the party that relate to the claim or defense in this case.

RESPONSE: *See attached disc of bates stamped documents*

3. Set forth an itemized statement of all damages, exclusive of pain and suffering, claimed to have been sustained by the party.

RESPONSE: *Loss of retirement benefits*
Loss of health insurance benefits for family

4. List the names and addresses of all expert witnesses whom the party proposes to use as a witness at the trial of this case, and provide a summary of the opinions which the expert is expected to give and a statement of the facts relief upon by the expert in reaching each opinion.

RESPONSE: *Dr. Oliver Wood*
Post Office Box 24677
Columbia, South Carolina 29224

5. For each person known to the party or counsel to be a witness concerning the facts of the case, set forth either a summary sufficient to inform the other party of the important facts known to or observed by such witness, or provide a copy of any written or recorded statements taken from such witnesses.

RESPONSE: *James Trexler will provide testimony to support the allegations of the Amended Complaint*

Terry Trexler will provide testimony that James Trexler had no involvement with the management or care of horses.

6. Identify by date, publisher and headline any publication plaintiff contends to be defamatory.

RESPONSE:

DATE	*SOURCE*	*PARAGRAPH /LINE*	*STATEMENT*
02/26/08	*WIS TV*	*Para 1/ Line 2*	*Then more horses were confiscated from her son James' land.*
02/26/08	*WIS TV*	*Para 9/ Line 1*	*Five of the horses taken Tuesday were removed from property belonging to James Trexler, the Assistant Commissioner of Agriculture.*
02/27/08	*WIS TV*	*Para 4 / Line 1*	*Then on Tuesday, officials took five more horses from Trexler's son James.*
02/26/08	*WIS-TV News at 6*	*(BS 0013) Para 2/ Line 1*	*Today... The Humane Society got a tip that Trexler's son had horses at a different farm in Richland County. James Trexler is the State's assistant Commission of Agriculture.*

02/26/08	*WIS-TV 7 O'Clock Report*	*(BS 0016) Para 2 / Line 1*	*Today... A Humane Society Spokeswoman says the horses were found... malnourished... on a property owned by James Trexler... he's the State's Assistant Commissioner of Agriculture.*
02/26/08	*WIS-TV Nightcast*	*(BS 0020) Para 3 / Line 1*	*Tonight's horses were found on property belonging to a high-ranking state official.*
02/26/08	*WIS-TV Nightcast*	*(BS 0023) Para 1/ Line 1*	*were found on property owned by James Trexler, the Assistant Commission of Agriculture for the State of South Carolina.*
02/27/08	*WIS-TV News at 6*	*(BS 0027) Para 1 / Line 1*	*W-I-S News 10 has learned the owner of that property, James Trexler, has been suspended from his job as Assistant State Agriculture Commission.*
02/27/08	*WIS-TV 7 O'Clock Report*	*(BS 0031) Para 1 / Line 1*	*Yesterday, five more horses were confiscated, this time from property belonging to James Trexler.*
02/27/08	*WIS-TV Nightcast*	*(BS 0035) Para 3 / Line 1*	*He also faces a much more serious charge of kidnaping stemming from an incident where the Sheriff's Department says he held a Humane Society Investigator against her will during an evaluation of his horses last week.*
02/28/08	*WIS-TV 530A Sunrise*	*(BS 0038) Para 3 / Line 1*	*James also faces a much more serious charge of kidnaping stemming from an incident where the Sheriff's Department says he held a Humane Society Investigator against her will during an evaluation of his horses last week*
03/04/08	*WIS-TV News at 6*	*(BS 0133) Para 3 / Line 1*	*Last Week –authorities took dozens of horses from property belonging to the Trexlers.*
03/05/08	*WIS-TV Nightcast*	*(BS 0143) Para 3 / Line 1*	*Last week– authorities took dozens of horses from property belonging to (the) Hazel...Terry... and James Trexler.*
03/07/08	*WIS-TV Midday*	*(BS 0177) Para 1 / Line 1*	*Those charges came as officials seized horse after horse on property belonging to the Trexler family.*

03/07/08	*WIS-TV Nightcast*	*(BS 0182) Para 1 / Line 1*	*... Trexler family farm in Richland County.*
03/08/08	*WIS-TV Saturday morning*	*(BS 0185) Para 1 / Line 1*	*malnourished horses were found on the Trexler family farm in Richland County.*
03/09/08	*WIS-TV SUN WE Nightcast*	*(BS 0191) Para 3 / Line 1*	*After malnourished horses were found on the family farm in Richland County.*
03/10/08	*WIS-TV 530A Sunrise*	*(BS 0193) Para 3 / Line 1*	*After malnourished horses were found on the family farm in Richland County.*
03/10/08	*WIS-TV Midday*	*(BS 0195) Para 2 / line 1*	*Hazel Trexler and her two sons.. Terry and James were arrested last month investigators said they found malnourished horses on the family farm in Richland County.*
04/10/08	*WIS-TV Nightcast*	*(BS 0204) Para 2 / Line 1*	*He was one of the four dozen taken from the family farm owned and operated by Hazel Trexler and her sons James and Terry.*
04/12/08	*WIS-TV Saturday Morning*	*(BS 0206) Para 2 / Line 1*	*He was one of the four dozen taken from the family farm owned and operated by Hazel Trexler and her sons James and Terry.*
03/01/08	*WIS-TV Website*	*(BS WIS 0268)*	*COLUMBIA, SC (WIS) - The Humane Society has confiscated 28 horses they found malnourished on a property that at one point was owned by the Trexler family.*
03/09/08	*WIS-TV Website*	*(BS WIS 0272) Para 3 / Line 1*	*Mrs. Trexler and her two sons, Terry and James, were arrested last month after malnourished horses were found on the family farm in Richland County.*
02/27/08	*WIS-TV Website*	*(BS WIS 0276) Para 1 / Line 2*	*Then more horses were confiscated from her son James' land.*

04/10/08	*WIS-TV Website*	*(BS WIS 0296) Para 1 / Line 1*	*COLUMBIA, SC (WIS) - There are new developments in the case involving the Trexler family horses.*
03/03/08	*WIS-TV Website*	*(BS WIS 0303) Para 1 / Line 1*	*COLUMBIA, SC (WIS) - The Humane Society has seized 17 more horses believed to be owned by the Trexlers, a family that has been accused of neglecting a number of horses in a case that broke last week.*
02/26/08	*WIS-TV Website*	*(BS WIS 0311) Para 1 / Line 1* *Para 6 / Line 1*	*RICHLAND COUNTY, SC (WIS) - The state's Assistant Commissioner of Agriculture has been suspended after investigators say they found five more neglected horses at a Richland County Farm.* *Tuesday, the Humane Society got a tip that James Trexler had horses at a different farm in Richland County.*
04/01/08	*WIS-TV Website*	*(BS WIS0315) Para 2 / Line 1* *Para 3 / Line 2*	*Forty-five horses were seized from several different farms owned or operated by the Trexler family.* *Two of those horses seized from the Trexler farms are getting a second chance in foster care.*
02/27/08	*Associated Press 20:44:46**	*Para 1 / Line 1*	*COLUMBIA, SC (AP) - Assistant Agriculture Commissioner James Trexler has been suspended from his job as the Humane Society investigates whether horses were neglected at his Richland County farm.*
02/27/08	*Associated Press 20:44:46*	*Para 1 / Line 1* *Para 4 / Line 1*	*COLUMBIA, SC (AP) - Assistant Agriculture Commissioner James Trexler has been charged with five counts of ill treatment of animals and kidnaping.* *Authorities checked Trexler's farm after the Humane Society said it found malnourished animals on a farm owned by Trexler's mother earlier this week.*

02/27/08	*Associated Press 20:44:53*	*Para 2 / Line 1*	*He has been charged with five counts of ill treatment of animals after an investigation of horses on his property that officials say were malnourished.*
02/27/08	*Associated Press 20:44:46*	*Para 2 / Line 1*	*He has been charged with five counts of ill treatment of animals after an investigation of horses on his property that officials say were malnourished.*
02/28/08	*Associated Press 18:36:01*	*Para 2/ Line 2* *Para 12 / Line 1*	*Authorities said five horses on his Hopkins property were found without food in stalls filled with manure and mud.* *A tip led officials to investigate James Trexler's property on Tuesday, Graham said.*
02/29/08	*Associated Press 12:11:36*	*Para 4 / Line 2*	*Property records show James Trexler at some point also owned the land where the bones were found.*
03/01/08	*Associated Press 17:53:50**	*Para 2/ line 1* *Para 20 / Line 1*	*The remains of at least nine horses were found in separated shallow graves on the Sumter County property once owned by Assistant Agriculture Commissioner James Trexler and his mother and brother, said Sumter County Sheriff's Sgt. Randy Wright.* *Investigators were planning to search another piece of property the Trexlers had leased in Lexington County.*
03/05/08	*Associated Press 15:29:20*	*Para 5/ Line 2*	*Five more were on James Trexler's property, where he lives.*
02/28/08	*Associated Press 03:04:00**	*Para 9/ Line 1* *Para 10/Line 1*	*Sheriff Leon Lott says the kidnaping charges was filed because Trexler refused to let a Humane Society investigator leave his farm earlier this month.* *The Humane Society says five horses, a do and two rabbits were found malnourished at Trexler's farm Tuesday.*

02/28/08	*Associated Press 03:04:10*	*Para 2 / Line 3*	*The Humane Society says five horses, a dog and two rabbits were found malnourished at Trexler's farm Tuesday.*
02/28/08	*Associated Press 11:16:10**	*Para 5 / Line 1*	*The Humane Society says it found malnourished animals at Trexler's farm this week.*
02/28/08	*Associated Press 11:20:54**	*Para 1/ Line 3*	*The Humane Society says it found malnourished animals at Trexlers's farm this week.*
02/28/08	*Associated Press 15:15:05**	*Para 11/ Line 1*	*The Humane Society says it found malnourished animals at Trexlers's farm this week.*
02/28/08	*Associated Press 20:26:09**	*Para 3/ Line 1*	*Authorities said five horses on his Hopkins property were found without food in stalls filled with manure and mud.*
02/27/08	*WACH TV Website*	*Para 3/Line 1*	*Then on Tuesday, officials took five more horses from Trexler's son, James.*
03/07/08	*WACH TV*	*Para 6/ Line 2*	*Five more were found on James Trexler's property.*
03/20/08	*WACH TV*	*Para 1/ Line 1*	*Good news for the 45 abused and neglected horses seized from Hazelene, James and Terry Trexler's farm.*
04/07/08	*WACH TV*	*Para 1/Line 1*	*Along with the 45 horses seized from the Trexler property last month as a result of malnourishment, seven dogs were also taken into the Humane Society's protective custody.*
04/11/08	*WACH TV*	*Para 1/ Line 1*	*In a WACH FOX News follow up, the Humane Society is reporting that one of the horses seized 45 days ago from property owned by former South Carolina Agriculture official James Trexler has died.*
04/11/08	*WACH TV*	*Para 1/ line 1*	*IN a WACH FOX news follow up, the Humane Society is reporting that one of the horses seized 45 days ago from property owned by former South Carolina Agriculture official James Trexler has died.*

08/14/08	*Associated Press*	*Para 1 /Line 1*	*COLUMBIA, SC (AP) - A forensic report on horse remains found on property managed by a former South Carolina agriculture official's family indicates that some of the animals most likely starved to death.*
01/22/09	*Associated Press*	*Para 5/ Lines 1 & 2*	*Dozens of horses were seized last year on properties associated with the family. An analysis of horse remains found on property managed by the Trexlers showed other animals likely starved to death.*
07/13/09	*WACH TV*	*Para 1/ Line 1*	*45 malnourished and weak horses were seized from Trexler family properties in February 2008.*
02/27/08	*WLTX 5 AM*	*Para 3/ Line 1* *Para 7/ line 1*	*Earlier this week... the Humane Society took 28 horses from two properties owned by the family.* *He's been charged with five counts of ill treatment to animals and with kidnaping.*
02/28/08	*WLTX 5 AM*	*Para 4/ Line 1* *Para 8/ Line 1*	*Earlier this week... the Humane Society took 28 horses from two properties owned by the family.* *He's been charged with five counts of ill treatment to animals and with kidnaping.*
02/28/08	*WLTX 6 AM*	*Para 4/ Line 1* *Para 10/Line 1*	*Earlier this week... the Humane Society took 28 horses from two properties owned by the family.* *He's been charged with five counts of ill treatment to animals and with kidnaping.*
02/28/08	*WLTX Noon*	*Para5 / Line 1*	*Earlier this week... the Humane Society took 28 horses from two properties owned by the family.*
02/28/08	*WLTX 6 PM*	*Para 3/ Line 1*	*Each of them are facing multiple charges stemming from an investigation of severe and barbaric treatment of 28 horses that were in the Trexlers' custody.*

02/27/08	*WLTX*	*Para 3/ Line 1*	*The Humane Society believes they all belong to the Trexler family.*
02/28/08	*WLTX*	*Para 2 / Line 1*	*The property was once owned by the Trexler family, and three family members are at the center of a horse abuse case in Richland County.*
03/04/08	*WLTX*	*Para 1/ Line 1*	*Bones from two deceased horses found on land leased by the Trexler family have been sent for examination in Florida.*
03/07/08	*WLTX*	*Para 1/ Line 1*	*Columbia (WLTX) -- Officials at the Department of Agriculture say James Trexler has resigned, after authorities say he allowed horses to be neglected on his property.*
03/07/08	*WLTX*	*Para 7 / Line 1*	*She was one of the five rescued from James Trexler's property, officials say she was locked in a stall and rarely let out.*
03/21/08	*WLTX*	*Para 2/ Line 1*	*Authorities say they seized malnourished horses owned by the family last month.*
12/15/08	*WLTX*	*Para 1/ Line 1*	*Back In February, nearly four dozen horses were seized in the Midlands from properties owned by the Trexler Family.*
02/01/11	*WLTX*	*Para 2/ Line 1*	*In 2008, the Humane Society began taking horses from Richland County properties owned by the Trexler family.....*
02/01/11	*WLTX*	*Para 2/Line 2*	*In court, the Trexlers pleaded no contest and gave up rights to the horses, Humane Society director Wayne Bennessel said.*

7. With respect to those publications identified in response to the interrogatory above, please state with specificity the reason you contend the publication is defamatory.

RESPONSE: *Each of the publications contain a statement of inference that James Trexler owned horses that were malnourished or owned property where horses were kept. At the time of the publications, James Trexler owned no horses, nor did he own or control any property where horses were*

maintained. All defendants knew that James Trexler owned no horses, and also that he was not the owner of the property that was the subject of the publications. The inclusion of James Trexler in as an owner of the horses and/or property where horses were maintained defamed his reputation, causing severe damage to his professional standing.

THE LAW OFFICES OF WILLIAM H. JOHNSON, LLC

By: _____

William H. Johnson
Attorney for the Plaintiff
411 North Brooks Street
Post Office Box 137
Manning, South Carolina 29102
(803) 435-0909 Telephone
(803) 435-2858 Facsimile

May 24, 2011

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	OF THE FIFTH JUDICIAL CIRCUIT
COUNTY OF RICHLAND	)	Case Number: 2010-CP-40-1249
James W. Trexler,	)	
Plaintiff,	)	
vs.	)	CERTIFICATE OF SERVICE
The Associated Press, Barrington Broadcasting, a South Carolina Corp., Pacific & Southern Company, Inc., and Raycom TV Broadcasting, Inc.	)	
Defendants.	)	

PERSONALLY APPEARED BEFORE ME, Terri H. Ridgeway, who being duly sworn says that she is an employee of THE LAW OFFICES OF WILLIAM H. JOHNSON, LLC, attorneys for the ***Plaintiff***, that she did serve the below described documents on the attorneys for the ***Defendants*** by personally placing a copy of said documents(s) in the United Stated Mail, postage prepaid, and addressed as follows:

Jay Bender, Esquire
Baker, Ravenel Bender
Post Office Box 8057
Columbia, South Carolina 29202

DESCRIPTION OF DOCUMENTS:

Plaintiff's Responses to Defendants' Interrogatories to the Plaintiff

Terri H. Ridgeway

SWORN TO BEFORE ME this 24 day of May, 2011

Notary Public for South Carolina
My Commission Expires: 4/22/15

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF RICHLAND	)	
James W. Trexler,	)	Civil Action No.: 2010-CP-40-1249
	)	
Plaintiff,	)	
	)	
v.	)	
	)	REQUEST FOR ADMISSIONS OF THE
	)	ASSOCIATED PRESS, RAYCOM TV
	)	BROADCASTING, INC., BARRINGTON
	)	BROADCASTING SOUTH CAROLINA
	)	CORP., AND PACIFIC & SOUTHERN
	)	CO., INC.
	)	
The Associated Press, Barrington Broadcasting South Carolina Corp., Raycom TV Broadcasting, Inc. The Spartanburg Herald Journal, Inc. and the Pacific & Southern Co., Inc.,	)	
	)	
Defendants.	)	

TO: WILLIAM H. JOHNSON, ESQUIRE, ATTORNEY FOR PLAINTIFF:

Pursuant to Rule 36 of the South Carolina Rules of Civil Procedure, defendants, The Associated Press, Raycom TV Broadcasting, Inc., Barrington Broadcasting South Carolina Corp., and Pacific & Southern Co., Inc., hereby request that the plaintiff admit or deny the truth of the following matters within thirty days of service hereof.

1. Admit that the document attached hereto as Exhibit A and incorporated herein by reference is a true and authentic copy.

2. Admit that the document attached hereto as Exhibit A and incorporated herein by reference was prepared on behalf of the Richland County Sheriff's Department.

3. Admit that the document attached hereto as Exhibit A and incorporated herein by reference was disseminated to those persons and news organizations identified in the "To:" portion of the document.

4. Admit that the document attached hereto as Exhibit A and incorporated herein by reference was sent by or on behalf of Chris Cowan.

5. Admit that Chris Cowan is a deputy in the Richland County Sheriff's Department.

6. Admit that the document attached hereto as Exhibit A and incorporated herein by reference is a public record under South Carolina law.

7. Admit that the document attached hereto as Exhibit A and incorporated herein by reference states that charges were made against James Trexler for "5 counts of ill treatment of animals."

8. Admit that the document attached hereto as Exhibit A and incorporated herein by reference states that James Trexler was charged with "1 count of kidnapping (stems from an incident where J. Trexler held a HSPCA Investigator against her will/refused to allow the investigator to leave a farm on 2/13/ during an evaluation of the horses.)"

9. Admit that the publications complained of by plaintiff in the within-captioned action reported the charges made against James Trexler that were stated in the document that is attached hereto as Exhibit A and incorporated herein by reference.

10. Admit that any publication stating that James Trexler had been charged with kidnapping was a fair and accurate statement of the contents of the document attached hereto as Exhibit A and incorporated herein by reference.

11. Admit that at common law, the publication of a fair and accurate statement of the contents of a public record is privileged.

-----Original Message-----
From: Cowan, Chris Public [CCowan@RCSD.NET]
Sent: Wednesday, February 27, 2008 9:42 PM
To: Andy Alpaugh 57; Brad WIS; Brittany Leaphart WIS; Christie Vaughan (Christie Vaughan); cw47; D LAITE; Enforcers (Enforcers); Nita Woodall (Nita Woodall); newsdirectorwis; Poole, Jere; Randy Johnson (Randy Johnson); Robin WOLO (Robin WOLO); Santarelli, Terry ; Sarah Gregory (sthappen@wltx-tv.com.); Stephanie WLTX; Stephanie81; Watch 57 News (Watch 57 News); WIS-TV (counterWIS@wltv.com); WLTX-TV (news11@wltx.com); WOLO; WOLO channels; WOLO-TV (eyewitnessnews@wolo.com); Boom, Adam; AP Columbia (AP Columbia); Kilgore, Dawn; Kenley Young; Omara, Dan; CS Safety; Phipps, Lee; Tate, Ishmael; Davis, Kelly; McGirt, Tonya; 1170AM; 940AM; Doug Williams/WLXC (Doug Williams/WLXC); Dr. Cowpaw; Jerry Grimes; Dickes 10 (dicks 105); Sonya Perez (sperez@pressgenmunicipal.com); TJ Hickey (tj.mickey@clt.comm.com); WCOS; WCOS; wmhr; WMDK; WSCQ; WTCB; WTCB; wtcb; WTCB; WTCB; WTCO; WVDC; WWDM (E-mail 2); Bob Reeder (E-mail); chiefnis news; Dan Cook (E-mail); Deputy Newsletter; editor chronicle; fort jackson leader; Free Times Julie; Gamecock (News); Gretchen Daum; Heidi Thomas (Heidi Thomas); Hispanic News (E-mail); Isaac Washington (E-mail); Jackie Sumter (E-mail); Jennifer Dowden (jennifer.dowden@richlandonline.com); John Adams; Joseph Azar; kirk luther; Kirk Luther (E-mail); Leon (E-mail); lee sligh editor; Lisa Wheeler/BCChronicle; tori macks; Luis Franco (luisfrancosp@yahoo.com); Pete Vic (E-mail); michele jackson; Mimi Hancock (E-mail); Mary Boone (E-mail); MILHII; Fernanda, Gustavo; SC PIO (SC PIO); Rebekah Bailey (E-mail); Rick Patterson (E-mail); Vida Latina (Vida Latina); Ballentine/Dutch Fork; Murray & Lee; Sumter Item; Times and Democrat (Orangeburg); AEC - Augusta (tyrapaugh@aol.com); Atlanta Constitution (arfeature.insider)(CQuic.com); CBS Augusta (newsroom@wrdw.com); Greg Charnel (greg.charnel@wsoc-tv.com); NBC - Atlanta (tip4ourgirls.gmail.com); NBC - Atlanta (newsllatweb@aol.com); NBC - Savannah Morning News (macarins@wsav.com)
Subject: Those responsible for severe neglect/injury to horses, in custody

Richland County Sheriff's Department

LEON LOTT
Sheriff

Richland County Sheriff Leon Lott announced that at approximately 8:00 PM tonight the Richland County Sheriff's Departments Fugitive Task Force apprehended Hazelene E. Trexler (DOB [redacted] erry A. Trexler and James Trexler [redacted]) at 412 Derby Lane in Hopkins.

Richland County Sheriff Leon Lott stated the Sheriff's Department and HSPCA continue to investigate the severe and barbaric treatment of 28 horses that were in the custody of and suppose to have been cared for by the Trexlers; even as the trio were being arrested in Hopkins tonight, investigators and veterinarians care for the horses that sustained injuries ranging from malnutrition to infections that being left untreated cause lameness to halters growing into the faces of the horses.

Sheriff Leon Lott added that this case is disturbing because these horses are helpless to the hands of their owners and the Trexlers have proven time and again that they have no business owning any animals. Sheriff Leon Lott stated that investigators from the Sheriff's Department and the HSPCA will continue to work with the Solicitors Office here and authorities in Georgia to make sure the Trexlers receive the punishment they deserve and are prosecuted to the fullest extent of the law. Sheriff Leon Lott stated that the Trexlers have been transported to Alvin S. Glen Detention Center where they await a bond hearing.

Charges:

- Hazelene E. Trexler
  28 counts of ill treatment of animals
- Terry A. Trexler
  23 counts of ill treatment of animals
- James Trexler
  5 counts of ill treatment of animals
  1 count of kidnapping (stems from an incident where J.Trexler held a HSPCA investigator against her will/refused to allow the investigator to leave a farm on 2/13 during an evaluation of the horses)

[redacted]

2/29/2008

Exhibit A

12. Admit that at the time of the publications complained of by plaintiff, plaintiff was an Assistant Commissioner of the South Carolina Department of Agriculture.

13. Admit that at the time of the publications complained of by plaintiff, plaintiff was one of three assistant commissioners of the South Carolina Department of Agriculture.

14. Admit that at the time of the publications complained of by plaintiff, plaintiff's duties as Assistant Commissioner of Agriculture included the direction and supervision of the Administration, Finance, Budget and Information Technology sections of the South Carolina Department of Agriculture, and participation in the overall direction and management of the South Carolina Department of Agriculture.

15. Admit that the South Carolina Department of Agriculture is an agency of the State of South Carolina.

Jay Bender
BAKER, RAVENEL & BENDER, L.L.P.
3710 Landmark Drive, Suite 400
Post Office Box 8057
Columbia, South Carolina 29202
(803) 799-9091
Attorneys for Defendant The Associated Press
Raycom TV Broadcasting, Inc.
Barrington Broadcasting South Carolina Corp.
and Pacific & Southern Co., Inc.,

Columbia, South Carolina

September 13, 2010

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF RICHLAND	)	
James W. Trexler,	)	Civil Action No.: 2010-CP-40-1249
	)	
Plaintiff,	)	
	)	
v.	)	CERTIFICATE OF SERVICE
	)	
	)	
	)	
The Associated Press, Barrington Broadcasting South Carolina Corp., Raycom TV Broadcasting, Inc. The Spartanburg Herald Journal, Inc. and the Pacific & Southern Co., Inc.,	)	
	)	
Defendants.	)	

I, Teresa K. Todd, Legal Assistant to Jay Bender, an employee of Baker, Ravenel & Bender, L.L.P., hereby certify that I have, on the date indicated below, served counsel below with a Request for Admission by mailing a copy of same via United States Mail, postage pre-paid and return address clearly indicated on said envelope, to counsel at the following address:

William H. Johnson, Esquire
2 North Brooks Street
Manning, SC 29102

Edward T. Fenno, Esquire
171 Church St., Suite 160
Charleston, SC 29401

Teresa K. Todd

September 15, 2010

Columbia, South Carolina

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	OF THE FIFTH JUDICIAL CIRCUIT
COUNTY OF RICHLAND	)	Case Number: 2010-CP-40-1249
James W. Trexler,	)	
	)	
Plaintiff,	)	
	)	PLAINTIFF'S RESPONSES TO DEFENDANTS
vs.	)	THE ASSOCIATED PRESS, RAYCOM TV
	)	BROADCASTING, INC., BARRINGTON
The Associated Press, Barrington	)	BROADCASTING SOUTH CAROLINA CORP.,
Broadcasting, a South Carolina Corp.,	)	AND PACIFIC & SOUTHERN CO., INC.
Gannett Company, Inc., Raycom TV	)	REQUEST FOR ADMISSIONS
Broadcasting, Inc., and The Spartanburg	)	
Herald Journal, Inc.	)	
	)	
Defendants.	)	
	)	

TO: JAY BENDER, ATTORNEY FOR THE DEFENDANTS, THE ASSOCIATED PRESS, RAYCOM TV BRAODCASTING, INC., BARRINGTON BROADCASTING SOUTH CAROLINA CORPORATION AND PACIFIC & SOUTHERN COMPANY:

1. Admit that the document attached hereto as Exhibit A and incorporated herein by reference is a true and authentic copy.

DENIED

2. Admit that the document attached hereto as Exhibit A and incorporated herein by reference was prepared on behalf of the Richland County Sheriff's Department.

DENIED

3. Admit that the document attached hereto as Exhibit A and incorporated herein by reference was disseminated to those persons and news organizations identified in the "To:" portion of the document.

DENIED

4. Admit that the document attached hereto as Exhibit A and incorporated herein by reference was sent by or on behalf of Chris Cowan.

ADMITTED

5. Admit that Chris Cowan is a deputy in the Richland County Sheriff's Department.

ADMITTED

6. Admit that the document attached hereto as Exhibit A and incorporated herein by reference is a public record under South Carolina law.

ADMITTED

7. Admit that the document attached hereto as Exhibit A and incorporated herein by reference states that charges were made against James Trexler for "5 counts of ill treatment of animals."

ADMITTED

8. Admit that the document attached hereto as Exhibit A and incorporated herein by reference states that James Trexler was charged with "1 count of kidnaping (stems from an incident where J. Trexler held a HSPCA Investigator against her will/refused to allow the investigator to leave a farm on 02/13/ during an evaluation of the horses.)"

ADMITTED

9. Admit that the publications complained of by plaintiff in the within-captioned action reported the charges made against James Trexler that were stated in the document that is attached hereto as Exhibit A and incorporated herein by reference.

DENIED

10. Admit that any publication stating that James Trexler had been charged with kidnaping was a fair and accurate statement of the contents of the document attached hereto as Exhibit A and incorporated herein by reference.

ADMITTED

11. Admit that at common law, the publication of a fair and accurate statement of the contents of a public record is privileged.

ADMITTED

12. Admit that at the time of the publications complained of by plaintiff, plaintiff was an Assistant Commissioner of the South Carolina Department of Agriculture.

ADMITTED

13. Admit that at the time of publications complained by plaintiff, plaintiff was on of three assistant commissioners of the South Carolina Department of Agriculture.

DENIED

14. Admit that at the time of the publications complained of by plaintiff, plaintiff's duties as Assistant Commissioner of Agriculture included the direction and supervision of the Administration, Finance, Budget and Information Technology sections of the South Carolina Department of Agriculture, and participation in the overall direction and management of the South Carolina Department of Agriculture.

DENIED

15. Admit that the South Carolina Department of Agriculture is an agency of the State of South Carolina.

ADMITTED

THE LAW OFFICES OF WILLIAM H. JOHNSON, LLC

William H. Johnson
Attorneys for the Plaintiff
411 North Brooks Street - Post Office Box 137
Manning, South Carolina 29102
(803) 435-0909 Telephone
(803) 435-2858 Facsimile
william@whjohnsonlaw.com

October 18, 2010

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	OF THE FIFTH JUDICIAL CIRCUIT
COUNTY OF RICHLAND	)	Case Number: 2010-CP-40-1249
James W. Trexler,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	CERTIFICATE OF SERVICE
	)	
The Associated Press, Barrington Broadcasting, a South Carolina Corp., Gannett Company, Inc., Raycom TV Broadcasting, Inc., and The Spartanburg Herald Journal, Inc.	)	
	)	
Defendants.	)	

PERSONALLY APPEARED BEFORE ME, Terri H. Ridgeway, who being duly sworn says that she is an employee of THE LAW OFFICES OF WILLIAM H. JOHNSON, LLC, attorneys for the ***Plaintiff***; that she did serve the documents described below on the attorney for the ***Defendants, The Associated Press, Raycom TV Broadcasting, Barrington Broadcasting South Carolina Corporation and Pacific & Southern Company,*** by personally placing a copy of said documents(s) in the United Stated Mail, postage prepaid, and addressed as follows:

Jay Bender, Esquire
Baker, Ravenel Bender
Post Office Box 8057
Columbia, South Carolina 29202

Edward Fenno, Esquire
Fenno Law Firm, LLC
171 Church Street, Suite 160
Charleston, South Carolina 29401

Description of Documents:

Plaintiff's Responses to Defendants, The Associated Press, Raycom TV Broadcasting, Barrington Broadcasting South Carolina Corporation and Pacific & Southern Company's Request for Admission

October 18, 2010

Terri H. Ridgeway

SWORN TO BEFORE ME this 18th
day of October, 2010

Jennifer E. Harrington
Notary Public for South Carolina
My Commission Expires: 10/29/2018

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF RICHLAND	)	
James W. Trexler,	)	Civil Action No.: 2010-CP-40-1249
	)	
Plaintiff,	)	
	)	
v.	)	
	)	AFFIDAVIT OF HUGH E. WEATHERS
	)	
The Associated Press, Barrington Broadcasting South Carolina Corp., Raycom TV Broadcasting, Inc. and the Pacific & Southern Co., Inc.,	)	
Defendants.	)	

2011 AUG 29 PM 1:14
JEANNETTE W. McBRIDE
C.C.P. & G.S.
FILED

I, Hugh E. Weathers, being duly sworn, state:

1. The matters stated by me herein are known by me to be true unless stated upon information and belief, and, as to those matters, I believe them to be true.

2. I am the South Carolina Commissioner of Agriculture, having been serving in that position since September 2004.

3. As Commissioner of Agriculture I am responsible for the management of the South Carolina Department of Agriculture, an agency of the State of South Carolina created by the General Assembly in 1879.

4. In exercising my responsibilities for management of the agency I appointed three persons to serve as Assistant Commissioner of Agriculture.

5. The Assistant Commissioners formed the top tier of career, as distinguished from elected, managers of the agency.

6. James W. Trexler was an Assistant Commissioner prior to my arrival at the Agency, however, I restructured his position and expanded his supervisory

authority over the Administration, Finance, Budget and Information Technology Sections of the agency.

7. As an Assistant Commissioner James W. Trexler was involved in liaison with the members and staff of the General Assembly concerning the agency and its budget.

8. As an Assistant Commissioner James W. Trexler represented the agency in meetings with other agency officials for the purpose of coordinating agency programs.

9. As an Assistant Commissioner James W. Trexler researched issues and prepared reports, position papers and policy statements for the agency.

10. As an Assistant Commissioner James W. Trexler directed special projects designed to have a long-term effect on the operation of the State Farmers' Market and the agency's Lab and Consumer Services activities.

11. James W. Trexler's job description as an Assistant Commissioner noted that he was to work with other senior staff "in the overall direction and management of the S.C. Department of Agriculture."

12. As an Assistant Commissioner James W. Trexler was actively involved in the management of the agency, and, as he noted in his letter of resignation, a copy of which is attached hereto as Exhibit A and incorporated herein by reference, he thanked me for giving him an "opportunity to help lead this agency as Assistant Commissioner of Agriculture."

13. I considered James W. Trexler to be an official of the agency with a significant role in the agency's operation, and I am informed and believe persons

within and without the agency had the right to, and did, consider James W. Trexler in this same light.

SWORN TO before me this 25th day of August 2011

HUGH E. WEATHERS

NOTARY PUBLIC FOR SOUTH CAROLINA

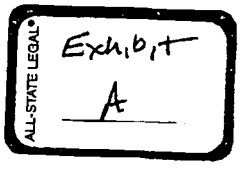
My commission expires: My Commission Expires March 13, 2013

First let me begin by saying thank you to Commissioner Weathers who gave me this opportunity to help lead this agency as Assistant Commissioner of Agriculture. Due to unforeseen difficulties in trying to help family members I have found myself in the position of having to resign for the betterment and perception of the department. I look forward to other opportunities.

I effectively resign my position March 5, 2008. I hope nothing but the best for Commissioner Weathers and the Department of Agriculture.

Respectfully,

James W. Trexler



STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF RICHLAND	)	
James W. Trexler,	)	Civil Action No.: 2010-CP-40-1249
	)	
Plaintiff,	)	
	)	
v.	)	CERTIFICATE OF SERVICE
	)	
	)	
	)	
The Associated Press, Barrington Broadcasting South Carolina Corp., Raycom TV Broadcasting, Inc., and the Pacific & Southern Co., Inc.,	)	
	)	
	)	
	)	
Defendants.	)	

FILED
2011 AUG 29 PM 1:14
JEANETTE W. McBRIDE
C.C.P. & G.S.

I, Teresa K. Todd, Legal Assistant to Jay Bender, an employee of Baker, Ravenel & Bender, L.L.P., hereby certify that I have, on the date indicated below, served counsel below with an Affidavit of Hugh E. Weathers by mailing a copy of same via United States Mail, postage pre-paid and return address clearly indicated on said envelope, to counsel at the following address:

William H. Johnson, Esquire
2 North Brooks Street
Manning, SC 29102

William K. Austin, Esquire
W. Westbrook Wills, III, Esquire
Austin, Fowler & Wills, LLP
38 Broad Street
Suite 200
Charleston, SC 29401

Teresa K. Todd

August 29, 2011

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF RICHLAND	)	
James W. Trexler,	)	Civil Action No.: 2010-CP-40-1249
	)	
Plaintiff,	)	
	)	
v.	)	
	)	AFFIDAVIT OF GEORGETTE RIVERS
	)	
	)	
	)	
	)	
	)	
	)	
The Associated Press, Barrington Broadcasting South Carolina Corp., Raycom TV Broadcasting, Inc. The Spartanburg Herald Journal, Inc. and the Pacific & Southern Co., Inc.,	)	
	)	
	)	
	)	
	)	
Defendants.	)	

I, Georgette Rivers, being duly sworn, state:

1. The matters stated by me herein are known by me to be true of my own personal knowledge unless stated upon information and belief, and, as to those matters, I believe them to be true.

2. I am the Human Resource Manager for the South Carolina Department of Agriculture.

3. In my position as Human Resource Manager, I am the custodian of position descriptions for employees of the agency.

4. The South Carolina Department of Agriculture is a department of government, and is under the direction of an elected Commissioner of Agriculture.

5. James W. Trexler, also known as Jim W. Trexler, was formerly employed by the South Carolina Department of Agriculture.

6. In February 2008, James W. Trexler was an employee of the South Carolina Department of Agriculture.

7. Through February 2008 until the termination of Mr. Trexler's employment with the South Carolina Department of Agriculture his employment title was "Executive Assistant III."

8. A true and accurate copy of Mr. Trexler's position description is attached hereto as Exhibit A and incorporated herein by reference.

9. As Mr. Trexler's position description indicates, Mr. Trexler's job duties included:

> Directs and supervises the Administration, Finance, Budget and Information Technology Sections of the S.C. Department of Agriculture;
>
> Coordinates special projects for the Commissioner and of Administration to fulfill goals and objectives.
>
> Completes special projects that enhance the image of SC Department of Agriculture;
>
> Oversees special projects that will have a long-term effect relative to of the Farmer's Market and Lab/Consumer Services evaluations;
>
> Works with other Senior Staff in the overall direction and management of the S.C. Department of Agriculture;
>
> Provides information to legislators and legislative staff concerning the agency and its budget;
>
> Represents the agency head in meetings with other agency officials for the purpose of coordinating various programs;
>
> Researches issues and prepares reports, position papers, and policy statement for the agency.

10. As Mr. Trexler's position description indicates, he had eight employees under this supervision.

11. In February of 2008, Mr. Trexler was the only employee of the Department of Agriculture to have the title Executive Assistant III. The Department's internal title for Mr. Trexler was Assistant Commissioner. In addition to Mr. Trexler, two other employees had the internal title of Assistant Commissioner.

Further affiant sayeth not.

Georgette Rivers

Georgette Rivers

SWORN to before me this 4th day of November, 2010.

NOTARY PUBLIC FOR S.C.
My commission expires: June 2, 2013

South Carolina Department of Agriculture
Position Description & Employee Performance Management System (EPMS) Form

Employee Name:	***Jim W. Trexler***	***Social Security #:***
State Class Title:	***Executive Assistant III***	

Position Supervision

Describe the guidelines and supervision an employee receives in order to do this job, including the employee's independence and discretion.

Reports directly to the Commissioner of Agriculture.

List the classification titles and number of the three highest level subordinate position(s) reporting directly to you.

Titles	Number
1. Administrative Manager I	1
2. Acct/Fiscal Mgr I	1
3. Sr. Info Resource Consultant	1
Total Number of Employees Under Your Supervision:	8

Qualifications

List what you consider to be the qualifications required for entry into this position.

Education, Training, and Experience (cite major areas of study, type & years of experience)

A Masters Degree and 5 years of experience in Public Administration; or an equivalent combination of education and experience.

Special Licenses, Registrations or Certifications

Skills and Abilities

Knowledge of the laws, rules, and regulations pertinent to the agency. Ability to communicate effectively.
Knowledge of state government budget, finance, procurement and Information Technology policy and procedures.

Additional Requirements

This position could require working extended hours when the Legislature in in session. Some over night travel may be necessary.

Job Purpose

Coordinates legislative matters and special projects for the Commissioner. Assists in the overall direction and management of the agency.

Job Duties, Objectives, Success Criteria and Performance Evaluation

Indicate the importance of the job duty/objective in terms of overall criticality to job success by assigning to it a percentage. Indicate essential and marginal duties/objectives by checking the appropriate block. Essential duties/objectives are the most critical, important duties/objectives for which the job was created. Marginal duties/objectives are non-critical and could be performed by another position. The percentage of importance for job duties/objectives with success criteria should total 100%.

At the end of each review period check the rating which reflects the employee's actual performance for each job duty/objective. **Include a descriptive explanation for "Substantially Exceeds" and "Below" ratings**

Substantially Exceeds Expectations: Work that is characterized by exemplary accomplishment throughout the rating period. Performance that is consistently above the success criteria of the job.

Exceeds Expectations: Work that is frequently and consistently above the success criteria of the job throughout the rating period.

Meets Expectations: Work that routinely meets the success criteria of the job. Majority of employees should be in this category.

Below Expectations: Work that is/has failed to meet the success criteria of the job.

Job Duties/Objectives and Success Criteria (Essential and Marginal)

Each job duty should be assigned a weight reflective of job duty importance. Weights for all objectives should not exceed 15%. The weights will be listed on page 5. Although not specified in the job duties/objectives section below, employees may perform other related duties as required.

1. 50 % ☒ Essential ☐ Marginal	Job Duty/Objective Directs and supervises the Administration, Finance, Budget and Information Technology Sections of the S.C.Department of Agriculture Success Criteria An audit report that has very few exception items reported. Timely preparation of all pertinent reports internal and external to the agency. Satisfactory support service provided to the divisions in the agency with regards to all matters related to supervised functions. Provide professional leadership for subordinates and works well with fellow managers within the Agency.
Actual Performance/Comments	**Performance Rating** 4 = Substantially Exceeds 3 = Exceeds Expectations 2 = Meets Expectations 1 = Below Expectations
2. 25 % ☒ Essential ☐ Marginal	Job Duty/Objective Coordinates special projects for the Commissioner and Administration to fulfill goals and objectives. Completes special projects that enhance the image of the SC Department of Agriculture. Oversees special projects that will have a long-term effect relative to the Farmers Market and Lab/Consumer Services evaluations. Success Criteria Provide effective information to support the goals of the Agency. Provide information in a precise and succinct manner to enable the user to make informed decisions. Carry out projects in a manner that enhances the image of professionalism of the Agency to its stakeholders.

Actual Performance/Comments	**Performance Rating** 4 = Substantially Exceeds 3 = Exceeds Expectations 2 = Meets Expectations 1 = Below Expectations
3. 10 % ☒ Essential ☐ Marginal	Job Duty/Objective Works with other Senior Staff in the overall direction and management of the S.C. Department of Agriculture. Success Criteria Enagage with other Agency staff to provide insights on the impact of Agency plans and actions on the areas of the Agency under direct supervision. Provide timely and precise information to other senior staff to allow them to make informed decisions to better execute the mission of the Agency.
Actual Performance/Comments	**Performance Rating ___** 4 = Substantially Exceeds 3 = Exceeds Expectations 2 = Meets Expectations 1 = Below Expectations
4. 10 % ☒ Essential ☐ Marginal	Job Duty/Objective Provides information to legislators and legislative staff concerning the agency and its budget. Represents the agency head in meetings with other agency officials for the purpose of coordinating various programs. Success Criteria A thorough understanding by the user of the information provided. Provide information and/or represent the Agency with professionalism.
Actual Performance/Comments	**Performance Rating ___** 4 = Substantially Exceeds 3 = Exceeds Expectations 2 = Meets Expectations 1 = Below Expectations
5. 5 % ☒ Essential ☐ Marginal	Job Duty/Objective Researches issues and prepares reports, position papers and policy statement for the agency. Success Criteria Preparation and presentation of precise and usable information that adequately prepares the user to make completely informed decision
Actual Performance/Comments	**Performance Rating ___** 4 = Substantially Exceeds 3 = Exceeds Expectations 2 = Meets Expectations 1 = Below Expectations
6. ____ % ☐ Essential ☐ Marginal	Job Duty/Objective Success Criteria
Actual Performance/Comments	**Performance Rating** 4 = Substantially Exceeds 3 = Exceeds Expectations 2 = Meets Expectations 1 = Below Expectations
7. ____ % ☐ Essential ☐ Marginal	Job Duty/Objective Success Criteria

Actual Performance/Comments	Performance Rating ____ 4 = Substantially Exceeds 3 = Exceeds Expectations 2 = Meets Expectations 1 = Below Expectations
8. ____ % ☐ Essential ☐ Marginal	Job Duty/Objective Success Criteria
Actual Performance/Comments	Performance Rating ____ 4 = Substantially Exceeds 3 = Exceeds Expectations 2 = Meets Expectations 1 = Below Expectations

Performance Characteristics

For each performance characteristic, check the rating which reflects the employee's actual performance	
1. ALL EMPLOYEES: Teamwork: Degree to which one works effectively and cooperatively with others and other departments in achieving organizational goals. Degree of responsiveness to organizational needs.	☐ Acceptable ☐ Unacceptable
2. Self Management: Works with minimal supervision, manages own time effectively, maintains control over all current projects/responsibilities. Follows up on all relevant issues.	☐ Acceptable ☐ Unacceptable
3. Problem Analysis: Able to identify problems and relevant issues and break problems into components. Sees relationships and alternative solutions and arrives at sound conclusions through a logical process.	☐ Acceptable ☐ Unacceptable
4. Judgement: Able to reason, compare, understand, and think rationally on the job. Makes quality of work-related decisions based on sound conclusions/data. Able to separate facts from opinions.	☐ Acceptable ☐ Unacceptable
5. Leadership: Employee can be relied upon to guide others to the accomplishment of objetives/responsibilities, to promote teamwork, and to resolve problems.	☐ Acceptable ☐ Unacceptable
6. Promoting Euqal Opportunity: Ensuring that employees and potential employees are provided with equal opportunities.	☐ Acceptable ☐ Unacceptable
7. Customer Service: To effectively and efficiently meet the needs of those served by continually assessing performance based on customer feedback.	☐ Acceptable ☐ Unacceptable
8.	☐ Acceptable ☐ Unacceptable

Supervisory Summary and Comments

Please include information regarding areas in which employee has excelled, as well as the steps that need to be taken by the employee and the supervisor to further enhance performance and career development.

State of South Carolina)
)
County of Richland)

James W. Trexler,) 10-CP-40-1343
)
Plaintiff,)
vs.)
) Deposition
McClatchy Newspapers, Inc.,)
Richland County and the) of
Richland County Sheriff's)
Department,) James W. Trexler
Defendants.)
)
James W. Trexler,)
) 2010-CP-40-1249
Plaintiff,)
vs.)
)
The Associated Press,)
Barrington Broadcasting, a)
South Carolina Corp.,)
Pacific & Southern Company,)
Inc., and Raycom TV)
Broadcasting, Inc.,)
)
Defendants.)

Deposition of James W. Trexler, taken before Sandra J. Ayers, a notary public in and for the State of South Carolina, commencing at the hour of 4:41 p.m., Wednesday, September 14, 2011, at the office of Davidson & Lindemann, P.A., 1611 Devonshire Drive, Second Floor, Columbia, South Carolina.

Reported by
Sandra J. Ayers

folks been here like 15/16 years; we need to promote those guys."

"Okay."

"You're to help me get that done."

"Okay." So we worked out to whereby he got those in a position, and he said, "Oh, okay. What we're going to name you now is assistant commissioner."

I said, "Okay. What exactly does that mean?"

He says, "What that's going to do is you're going to be in charge of what he termed "the back-room functions" of the agency."

And I said, "Okay." So he let me do that. My responsibilities primarily were to make sure that the organization paid its bills, that we procured under the state procurement law, and that the IT section ran like it ought to run. And then the Commissioner Weathers, being from the farm, didn't know a whole lot about budget and finance. So whenever he had to go to a meeting in regards to, let's say, a legislator initially early on, in the first -- my -- my first tenure in this job, he would take me with him. Because he wouldn't know the budget, and, periodically, once a month we'd meet on the budget.

Then after a while, he -- we -- we had one legislative lobbyist, then he hired another one, which used to be the director of PRT, and brought him on as -- as a lobbyist. We had two lobbyists, and my primary support function was to support him, the commissioner, and the two lobbyists in regards to the financial information they needed, and the accounting information they needed, to inform legislators so that they could make the appropriate decisions in regards to where the budget was at, running a deficit; not running a deficit. Paying your bills; not paying your bills. What's your projects. And as we moved on in this thing, he said, "Look, you've got all this experience; we're trying to move this farmers' market. We need you to go over here, and I need you to help me"; and, basically, I want you to be the project manager for relocating the farmers' market.

And it was kind of like, What does that mean?

"Well, you're going to keep up with the accounting. When the bond bill comes out, we got a bond bill, you keep up accounting on the bond bill. You keep up accounting on the projects, and if I've got questions, and I've got to go meet with someone about money, you go with me."

So the basics of it is, I just financially ran the -- the program in relocating the -- the farmers' market.

Primarily, that's what I did. I mean, it sounds like a glorified position: assistant commissioner. It wasn't anything but a back-room accountant, and that's all I did. And I ran the agency internally from back-room function; I had no public presence. The basics of it is, he was the one I was giving the information to. So my whole career was that. And when I got there and worked for the Department of Agriculture, it was the same thing. Commissioner Weathers, like I say, he was from a farm; he didn't know. And so, basically, he asked me to make sure the bills were paid, and to make sure the lights stayed on, and make sure he had plenty of money in his gas tank to go where he needed to go across the state. And that was my function.

Q To the best of your recollection, about when were you named assistant commissioner?

A It was probably about the same year; probably two -- I -- I'd -- really, like I said, I don't remember; it's probably about 2005.

Q Okay.

A I mean, title is one thing; doing the duties -- I was doing the same thing I'd always been doing.
Q Okay. Well, with the title, did you also get a promotion to this executive assistant III level?
A You know, I don't know how that -- all that happened. All I know is that based on the fact that I was the only employee in the agency, and I had come to that agency -- that agency had historically been a very low-paying agency. The previous commissioner had not done very well at retaining funds for that agency. What -- the equipment was antiquated. All I know, when I came in, I had a ton of experience, so that I'd been there 27 years. I had a ton of experience in regards of the fact that I had a great education. And I -- a master's in public administration. So the basics of it is, he didn't decide that; who decided that was the office of human resources, which is under the Budget and Control Board.
Q When you say "he" didn't decide that --
A No. The Commissioner didn't decide that. What -- what he did, he submitted my stuff to the Budget and Control Board. And the Budget and Control Board make that decision about where I should be classified, and based on my years of experience, my

education, and my level of experience. Service, education, and experience, they decided that the only person the agency, period, that could assume or -- that's where I should be classified. So I just happened to be the only guy in there that had that kind of level of experience that had transferred in. The Budget and Control Board said, "Here, you're an executive assistant III." I mean, he really had no control over that. I mean, that's really a regulation of the Budget and Control Board.

Q It's sounds like you're downplaying your role a little bit with the --

A No --

Q -- Department of Agriculture.

A Not at all. No. I'm just telling you the way it was. I went there as a legislative liaison and I ran the agency. And far as background -- and when I say "run the agency," I mean I kept the lights on; I kept his gas tank full. As far as going out and -- or glad-handing, or going to functions, or going to agency head meetings, or any of these type of things? No, never. My whole career was built on working behind the man. I never wanted to be "the man"; it was always: I support whoever the

MR. BENDER: Because we want to get him back down to Charleston at a decent hour.

EXAMINATION

BY MR. BENDER:

Q Mr. Trexler, I'm Jay Bender. I represent the Associated Press, Barrington Broadcasting, the Pacific & Southern Company, and Raycom TV Broadcasting in defense of the suit --

(Sotto voce discussion between Mr. Garfield and Mr. Hayes.)

Q -- brought by you through an amended complaint.

You've done an excellent job answering Mr. Garfield's questions out loud. I'd ask you to do the same here, and if you don't understand a question I ask, ask me to repeat or rephrase it, and I'll be happy to do so. If you provide an answer, we'll proceed on the belief that your answer is to my question; is that fair?

A Yes, sir.

Q And you're doing a good job of answering out loud still.

The original suit brought by you also included as plaintiffs, your mother and your brother; is that correct?

A Not that I'm aware of.

Q Okay. You're not aware that the suit was initially brought by you, your brother, and your mother against a number of people, including Frank Fusco -- and a number of other people?
A Are we -- we dealing with something that is prior -- we're I'm talking about the current -- the current issues we had before you -- currently, are we?
Q No.
A We're --
Q I'm --
A -- talking about --
Q I'm --
A -- something happened before?
Q I'm asking about the initially summons and complaint filed in this action that's now pending against my clients.
A I don't know anything about that. I mean, I -- I -- I took and I filed, basically, on my own with William Johnson -- these lawsuits that are before you, sir.
Q Okay. And it was initiated by an amended summons and an amended complaint. What I want to know is: amended from what?
A I don't know, sir.

Q Okay. You didn't have anything to do with the first complaint that was filed in this case that bears the --
A When --
Q -- case --
A -- was that filed --
Q -- number --
A -- sir?
Q It was in --
MR. WILLS: (To the deponent) Let him --
Q -- 2010.
MR. WILLS: -- let him finish his question.
Q It's 2010-CP-40-1249. That's the case number.
Do you -- You didn't have anything to do with filing the initial complaint in that action?
A Well -- and it was against who?
Q Against a number of defendants, but none of the ones in this action, identified by name. The number of individuals, including Frank Fusco, who I understand was at the Budget and Control Board, the commissioner of agriculture, the attorney for the commissioner of agriculture, and a number of other people.
A Whoever filed that must've included me. I have no knowledge of that. Must've taken as a class action

suit or something. I don't know, but I'm not aware of that, no, sir.
Q All right. So you went to William Johnson and said, "I want to sue," and he filed an amended complaint for you?
A I don't know what he filed. I asked him to take cases for me.
Q Okay. Do you know Mary Ellen Tobias?
A Yes, sir.
Q And how do you know Mary Ellen Tobias?
A She was an employee of the Department of Agriculture.
Q What was her area of responsibility at the Department of Agriculture?
A She was a equine marketing person.
(Sotto voce discussion between Mr. Garfield and the court reporter.)
Q So her area was horses?
A Yes, sir.
Q All right. Did you ever have a conversation with Mary Ellen Tobias before the events leading to your arrest about horses on property owned or controlled by you?
A I had conversation with Mary Ellen Tobias about horses, yes, sir.

A To my knowledge, yes, sir.
Q Oh. And you were the project manager for that?
A I don't know exactly what he termed it, but I helped him with the financial figures, and to -- and if different people -- players -- and in relationship to the government, I helped him get involved with that and understand the process. I was -- I -- I, kind of -- it was a couple of us guys. It was Wayne Mack, who was the director of marketing and myself. Mack, from the aspect of knowing the vendors and the marketing systems of the state, and myself, from the financial aspects of the state. It wasn't -- I was a lone project manager by myself. It was a couple of us guys involved in that. One of them was Wayne Mack and then it was myself, and, of course, the commissioner was the driver.
Q Now, the -- that was the farmers' market that was by the football stadium here in Columbia?
A Yes, sir.
Q And the university bought that?
A To my knowledge, yes, sir.
Q Okay. Were you involved in that?
A I was involved with the commissioner when he met with the trustees in regards to the financial

aspect of it; in regards to what we could and couldn't do in relationship to the Budget and Control Board; in regards to a bond bill; in regards to the proceeds of the money when it was -- how it was going to be deposited, how they would pay it over a number of years, etc.

Q Where was that meeting?

A It was in the Department of Agriculture.

Q Who was there?

A Commissioner Weathers, Wayne Mack, myself, and several members of the board of trustees.

Q Do you recall the names of any of those trustees?

A Buyck --

Q Mark Buyck?

A Yes, sir. Another gentleman, Floyd, from Florence.

Q Okay.

A I think a guy from Sumter -- I think Bahnbueller, I think might've --

Q Bahnmuller?

A -- been one of them.

Yes, sir.

Q At the time, I think.

A Yes, sir. I think the --

Q I think he's gone now. I think he's dead --

A Oh.

Q -- but I could --
MR. GARFIELD: (To Mr. Bender) Arthur?
THE DEPONENT: Really?
MR. BENDER: I could be wrong. Art Bahnmuller?
MR. GARFIELD: Art? Yeah.
MR. BENDER: I -- I think.
Q Did you talk at that meeting?
A No, sir.
Q Just sat there?
A Yes, sir.
Q Okay. Did the commissioner introduce you?
A Yes, sir.
Q What'd he introduce you as?
A Just Jim Trexler. "This is Jim Trexler."
Q Okay. And did you have a role to play in how the money would be used that came from the university?
A No, sir.
Q Who had the role to play in that?
A Commissioner.
Q But -- did you give him any advice on that?
A No, sir.
Q So why'd you go?
A Because when you look at a bond bill, how much bond bill do you have? And what is the cycles in which

you can get the money drawn down by the Budget and Control Board, and how does the Budget and Control Board operate? Because when I was at Budget Control -- when I was with the Budget and Control Board and with the Ways and Means Committee, I had intrical (as spoken) knowledge in regards to how that system worked financially. So, basically, when you start drawing up bond bills, you just can't go over to the Budget Control and Board and say, "Give me all this money." There's draw schedules, there's CIB schedules, there's all these schedules you got to work through. And so from a financial standpoint, my background -- have worked in all that. He needed me, because when it come down to Budget and Control Board asking, "Well, how soon can you get off the property?" And you've got to look at the schedules and understand where you can draw money. And then what authorizations you got to go through to get that money spent. And then, as well as, if they -- when they buy the market, where's the money going to go? Into what accounts -- and how do you restrict these accounts from it being confiscated in a budget shortfall?

I mean, all this stuff is real complicated, and unless you know it from financial and worked in

it for 27 years and understand it, and you cold turkey walking in off the farm, you don't understand how this stuff works and, therefore, you needed somebody like me to sit beside him and give him the financial advice and the accounting background he needed to get the job done. And it -- and -- and -- and that's what I served as, was his accountant, basically.

Q And you were the guy that knew how to do all of that?

A Yes, sir.

Q And helped him make the decisions to do what was done?

A He made the decision, and I put the money where he said put it once he got my advice --

(Sotto voce discussion between Mr. Garfield and Mr. Hayes.)

A -- in where to put it.

Q Sure. But you helped him get to that point where he could do that?

A Yes, sir.

Q And because he was just off the farm, he couldn't have done it without you?

A I think he probably could've done it. There'd've been somebody, but the basics of it is, he needed

somebody that understood the system to help him, like they all do.
Q And that somebody was you?
A Yes, sir.
Q You have listed in responses to interrogatories that your witnesses will be you and your brother?
A I don't know what he's listed as, sir.
Q Okay. Do you know of any other witnesses that you plan to call besides Oliver Wood?
A Left up to my attorneys. I don't know.
Q Okay. Do you know anybody at the Associated Press?
A I know one person over there.
Q Who do you know?
A Meg Kinard.
Q All right. Does Meg Kinard have any ill will towards you?
A Not that I know of.
Q Okay. Do you know anybody at the AP who has ill will towards you?
A No, sir.
Q All right. Do you know anybody at Barrington Broadcasting?
A I don't know who that is.
Q Do you know any broadcast journalists?
A I know one. I don't know if he's still around or

not. His name is J. R. Berry.
Q All right. Does J. R. Berry bear any will -- ill will towards you?
A No, sir.
Q Okay. How do you know J. R.?
A He grew up over in Sumter County. That's where I grew up.
Q Okay. How about at Raycom? Do you know anybody at Raycom?
A Who is Raycom?
Q WIS.
A No, sir.
Q Barrington's WACH -- do you know anybody there?
A No, sir.
Q And J. R. Berry is at WLTX.
So you know Meg Kinard at the AP?
A I met her one time.
Q Okay. And you know J. R. Berry at WLTX?
A Yes, sir.
Q But you don't know any other journalists?
A No, sir.
Q Do you know anybody in any of those organizations who might bear ill will towards you?
A No, sir.
Q All right. Now, with respect to what was published

about you, it's true that you were arrested?
A Yes, sir.
Q It's true that you were arrested for mistreatment of animals?
A Yes, sir.
Q And it's true that the Richland County Sheriff's Department sent out a press release that said you had been arrested for kidnapping?
A Yes, sir.
Q And when you were arrested, the arrest warrant said that it was for horses you owned that were mistreated; is that correct?
A Yes, sir.
Q Okay.

MR. BENDER: I'll recess now.

REEXAMINATION

BY MR. GARFIELD:
Q Just one question or two questions: Do you have any knowledge as to anyone who's affiliated with the Richland County Sheriff's Department that bears any ill will towards you?
A Not that I know of.
Q Okay.

MR. GARFIELD: (To the deponent) Thank you.

MR. BENDER: (To the deponent) Thank you very

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF RICHLAND	)	
James W. Trexler,	)	Civil Action No.: 2010-CP-40-1249
	)	
Plaintiff,	)	
	)	
v.	)	ORDER GRANTING
	)	SUMMARY JUDGMENT
The Associated Press, Barrington Broadcasting South Carolina Corp., Raycom TV Broadcasting, Inc. The Spartanburg Herald Journal, Inc. and the Pacific & Southern Co., Inc.,	)	
	)	
Defendants.	)	

This matter came before the court on defendants' motion for summary judgment. A hearing on the motion was held in open court on January 19, 2012 with all parties appearing through counsel.

Plaintiff's Amended Complaint, filed June 23, 2010, initially included an additional defendant, the *Herald-Journal* newspaper of Spartanburg and, in addition to the defamation claim before the court, claims for civil conspiracy, outrage and negligence. Plaintiff voluntarily dismissed the suit against the newspaper and dismissed with prejudice all claims but the defamation claim prior to the hearing on defendants' motion for summary judgment.

Defendants advanced as grounds for summary judgment the bar of the statute of limitations, absence of falsity, and lack of proof of the requisite level of fault, either "actual malice" or common law malice. Defendants supported their motion with the pleadings, responses to interrogatories and requests for admission together with affidavits, certified copies of records and excerpts of

plaintiff's deposition. Plaintiff's counter-affidavits addressed only his status as a public official.

Rule 56(e), SCRCP requires a party responding to a properly supported motion for summary judgment to set forth by affidavit or otherwise "specific facts showing that there is a genuine issue for trial." A nonmoving party who bears the burden of proof on an issue, responding to a motion that points out that there is an absence of evidence to support the nonmoving party's action, "may not rest upon the mere allegations...of his pleadings." Rule 56(e), SRCP. As the Supreme Court of South Carolina held in *Baughman v. American Tel. & Tel. Co.*, 306 S.C. 101, 410 S.E.2d 537 (1991), the nonmoving party is charged with the responsibility of coming forward with specific facts demonstrating a genuine issue of fact for trial, saying:

> Once moving party carries its initial burden, opposing party must, under Rule 5(e), "do more than simply show that there is some metaphysical doubt as to the material facts" but must come forward with 'specific facts showing that there is a *genuine issue for trial.*'" *Matsushita Elec. Indus. Co. v. Zenith Radio Corp.*, 475 U.S. 574, 586-87, 106 S.Ct. 1348, 1356, 89 L.Ed.2d 538, 552 (1986) (emphasis in original).

Baughman, supra, 410 S.E.2d at 545.

A nonmoving party who fails to make a showing of facts sufficient to establish an essential element of that party's claim on which that nonmoving party bears the burden of proof cannot establish that a genuine issue of material fact exists, and the moving party is entitled to summary judgment as a matter of law. *Id.*

Plaintiff filed nothing with the court which identified specific facts in dispute relative to his libel claim, relying entirely on counsel's description of material not before the court to argue that questions of material fact existed.

STATUTE OF LIMITATIONS

Turning first to the statute of limitations issue, it is undisputed that the allegations challenged in this motion are contained in an Amended Complaint which together with an Amended Summons was filed on June 23, 2010. Defendants take the position that the applicable two-year statute of limitations bars plaintiff's claim with respect to all publications prior to June 22, 2008 because prior to the filing of the Amended Complaint no defendant identified in the Amended Complaint had been named in any action initiated by plaintiff. S.C. Code Ann. §15-3-550(1) (Rev. 2005). Two legal issues are presented by the statute of limitations defense: (1) when did plaintiff's libel claim accrue, and (2) did the allegations in the Amended Complaint "relate back" to an earlier filed Complaint?

First, a cause of action for libel accrues so as to commence the running of the statute with publication of the material upon which the claim is based. As the South Carolina Court of Appeals has held, a plaintiff's claim for defamation "accrues at the moment when the plaintiff has a legal right to sue on it. *Brown v. Finger*, 240 S.C. 102, 124 S.E.2d 781 (1962)." *Jones v. City of Folly Beach*, 326 S.C. 360, 483 S.E.2d 770, 774 (Ct. App. 1997). As the Court of Appeals explained in its holding in *Jones, supra*, a defamation claim accrues upon publication whether or not a plaintiff is aware of the publication "because South Carolina has not adopted the discovery rule in libel and slander cases." *Id.*, 775. In response

to defendants' interrogatory number 6, filed by defendants in support of their motion, plaintiff identified by date, publisher and headline publications contended to be defamatory occurring between February 26, 2008 and February 1, 2011. For all but three publications, plaintiff's claim for defamation accrued between February 26, 2008 and March 21, 2008. The Amended Summons and Amended Complaint were filed June 23, 2010. Application of the statute bars plaintiff's action for all publications prior to June 22, 2010 unless the allegations in the Amended Complaint "relate back" to an earlier filed complaint.

The second issue then is, did the Amended Complaint which for the first time identified these defendants as parties "relate back" to an earlier filed complaint which did not name these defendants, but listed thirteen (13) defendants identified individually by name and "ALL MEDIA COMPANIES THAT PRODUCED OR REPORTED ON ANY EVENT RELATING TO THE PLAINTIFFS IN 2008, 20[illegible]t, which was purported to be amended by the Ame[illegible]ject of this motion, named as plaintiffs Hazele[illegible]rexler. This Complaint was filed on February 23, 2[illegible]ny of the defendants now appearing before the c[illegible]mended Complaint "relate back" to this Complaint, there is no statue of limitations bar as the statute would have been tolled by the filing of the February 23, 2010 Complaint. At the motion hearing counsel for plaintiff argued that the Amended Complaint should relate back as the naming in the February 23 Complaint of "ALL MEDIA COMPANIES" as defendants was the equivalent of naming unknown "John Doe" parties and providing names when the identities of these unknowns became

False →

available. There are two problems with counsel's assertion. Plaintiff testified in his deposition that he had no knowledge of the earlier-filed Complaint, and that Complaint did not comply with the applicable procedural rule for designating unknown parties.

The South Carolina Rules of Civil Procedure provide a mechanism for designating unknown parties, stating in the applicable part:

> *Unknown Parties.* When a party does not know the name of an adverse party he may state that fact in the pleadings and designate such adverse party by any name and the words "whose true name is unknown," and when his true name is discovered the pleadings must be amended accordingly.

Rule 10(a)(1), SCRCP.

The plaintiffs in the February 23, 2010 filing failed to comply with the requirements of this rule and did not state that any party's true name was unknown. There is nothing in the record to indicate that the designation "ALL MEDIA COMPANIES" was a designation of adverse parties "whose true name[s] were unknown" or perhaps more significantly, that the defendants now before the court were being identified in the Amended Complaint in place of previously unknown parties. The record does reflect in contrast to counsel's argument that the Amended Complaint bears all the attributes of a new, separate litigation with a single plaintiff, rather than three plaintiffs, bringing an action against parties which had not been identified previously, while each of the previously named defendants was dropped. The addition of new parties, such as defendants herein, is not an amendment that relates back to a period prior to the running of a statute of limitations. *Gause v. Smithers,* 384 S.C. 130, 681 S.E.2d 607 (Ct. App. 2009). Similarly destructive to plaintiff's argument that the Amended Complaint was

filed to correct his misidentification of defendants against which he had intended to bring an action, is his deposition testimony that he was not aware of the February 23, 2010 Complaint in which he was named as a plaintiff along with his mother and brother, and that he had no knowledge of such a suit. If plaintiff did not know about the Complaint naming "ALL MEDIA COMPANIES" as defendants he could not have by that document misidentified these defendants later named in the Amended Complaint. It seems obvious plaintiff did not misidentify any defendant in a suit he did not know existed.

The action against these defendants was commenced with the filing of the Summons and Complaint on June 23, 2010. Applying the limitation of section 15-3-550(1), plaintiff is barred from asserting a libel claim for any publication prior to June 22, 2008. Asked in defendants' interrogatories to "Identify by date, publisher and headline any publication plaintiff contends to be defamatory" plaintiff identified only three publications subsequent to June 22, 2008. These publications were made on December 15, 2008 and two on February 1, 2011 on WLTX-TV (operated by defendant Pacific & Southern Company, Inc.). Since two of these publications occurred subsequent to the filing of the Amended Summons and Amended Complaint, they are not before the court. Allegations in a complaint must relate to the facts existing at the time of the filing of the complaint, and the issues raised by the allegations are to be determined as of the date of the complaint; therefore, the publications identified in response to defendants' interrogatories, which were made subsequent to the date of the Amended Complaint, can provide no support for plaintiff's libel claim. See 71 *C.J.S.* Pleading §327. All other publications identified by plaintiff in his response

to interrogatories, with the exception of a publication on WLTX on December 15, 2008, are barred by the operation of section 15-3-550(1).

FALSITY

The clearest official statement of South Carolina libel law is contained in then Justice Jean H. Toal's concurring opinion in *Holtzscheiter v. Thomson Newspapers, Inc.* [*Holtzscheiter II*], 332 S.C. 502, 506 S.E.2d 497 (1998). Justice Toal started her analysis with an articulation of the elements of defamation:

> The elements of defamation include: (1) a false and defamatory statement concerning another; (2) an unprivileged publication to a third party; (3) fault on the part of the publisher; and (4) either actionability of the statement irrespective of special harm or the existence of special harm caused by the publication. *See* Restatement [2d Torts] §558.

Supra, 506 S.E.2d at 506.

Plaintiff complains in his Amended Complaint that defendants published falsely that he was a kidnapper, and that authorities had removed from his property horses that had been starved and abused. Defendants acknowledge that the news report that plaintiff had been charged with kidnapping was false, but, as will be discussed more fully below, rely on the common law fair report privilege to defeat plaintiff's claim in this regard. With respect to the other publications claimed to be false, defendants point to plaintiff's deposition testimony wherein he admitted that it was true that he had been arrested for mistreatment of horses and that the warrants by which plaintiff had been arrested stated that plaintiff owned the horses that were mistreated. When a publication concerns a matter of public interest, such as an accusation of the commission of criminal acts, or when

the publisher is a media defendant, a plaintiff must prove the falsity of the publications upon which the libel claim rests. *Philadelphia Newspapers, Inc. v. Hepps*, 475 U.S. 767 (1986); *Erickson v. Jones Street Publishers, L.L.C.*, 368 S.C. 444, 629 S.E.2d 653 (2006). Plaintiff made no submission in response to defendants' motion to demonstrate the existence of genuine issues of fact with respect to the falsity of the publications, and his allegations alone are insufficient to overcome defendants' showing.

Beyond plaintiff's failure to offer evidence to indicate that a genuine issue of material fact existed with regard to the falsity of the publications, defendants demonstrated that the publications were true or substantially true. In the context of a libel claim, truth or substantial truth of the publication is an absolute defense. *Parker v. Evening Post Pub. Co.*, 317 S.C. 236, 452 S.E.2d 640 (Ct. App. 1994), cert. denied 516 U.S. 1172 (1976). In analyzing a claim of falsity, a court is to examine the "gist" or "sting" of the publication, and if either is substantially true, other inaccuracies in the publication will not constitute the requisite falsity to support a libel claim. *Hearst-Argyle Television, Inc.*, 561 F.Supp. 2d 546 (D.S.C. 2008) (applying South Carolina law); *Ross v. Columbia Newspapers, Inc.*, 266 S.C. 75, 221 S.E.2d 770 (1976); *Dauterman v. State-Record Co.*, 249 S.C. 512, 154 S.E.2d 919 (1967). The "gist" and the "sting" of the publications regarding plaintiff were that plaintiff had been arrested for mistreatment of horses he owned, and the mistreatment consisted of depriving the horses "of necessary quantities of wholesome foodstuff suitable for the species and age." These publications were true or substantially true as borne out by the arrest warrants submitted to the court by defendants in support of their motion as these

warrants authorized the arrest of plaintiff for the abuse of horses which the warrants said he owned.

Plaintiff's counsel without submitting any supporting affidavits, or even filing with the court the news reports upon which this action rests, argued that the publications were false because they reported that the horses were "starved" and plaintiff was associated with the mistreatment of more horses than were identified in the arrest warrants. The difference between "starved" and deprived "of necessary quantities of wholesome foodstuff" is insufficient to make the reports false. A common definition of "starve" includes, "To suffer from deprivation," *Webster's II New College Dictionary* (1995), and plaintiff was charged in five arrest warrants with intentionally and knowingly depriving horses of food. Plaintiff's counsel also argued that the publications were false because they connected plaintiff with far more horses than were identified in the arrest warrants. Even without the publications before the court it may be assumed that the publications did connect plaintiff with more horses than were identified in the five arrest warrants before the court. The arrest warrants identified but five horses which were said to have been owned and mistreated by plaintiff whereas the eight True Bills, submitted to the court by defendants in support of their motion, returned by the Richland County Grand Jury indicting plaintiff for felony "Ill-treatment of animals" identified forty-eight (48) horses upon which the Grand Jury found plaintiff had inflicted "excessive or repeated unnecessary pain or suffering." Plaintiff must meet his burden of proof on falsity by demonstrating by evidence rather than conjecture or allegation that there is a genuine issue of material fact for trial. Plaintiff's arguments that there is a difference between

starved and deprived of food and he was tied in the publications to more horses than were mentioned in the arrest warrants do not create a genuine issue of material fact for trial. Based on the record before the court, defendants have shown the news reports as characterized by plaintiff were true or substantially true. There can be no libel claim for the publication of reports that are true or substantially true, and plaintiff in responding to the motion failed to provide any support by affidavit or otherwise for his contention that false publications had been made.

FAIR REPORT PRIVILEGE

As discussed above, defendants reported that plaintiff had been arrested for kidnapping, and this report was not true. That having been said, the report of the kidnapping charge by these defendants cannot be the basis for a libel claim as the reports were based on the contents of a press release prepared and disseminated by the Richland County Sheriff's Department. Defendants filed the affidavit of Sheriff's Department Captain Chris Cowan to establish that he prepared the press release that identified plaintiff as having been arrested for kidnapping, and that he disseminated the press release to defendants herein and others. It has long been the law of South Carolina that fair and accurate reports of official acts, records and reports are privileged. *White v. Wilkerson*, 328 S.C. 179, 493 S.E.2d 345 (1997); *Padgett v. Sun News*, 278 S.C. 26, 292 S.E.2d 30 (1982); *Reinhardt v. State-Record Co.*, 235 S.C. 480, 112 S.E.2d 500(1960); *Lybrand v. The State Co.*, 179 S.C. 208, 184 S.E. 580 (1936). Plaintiff argued that a press release was not a "public" record, thereby making inapplicable defendants' fair report privilege claim. Plaintiff cited no authority for this

proposition and plaintiff's argument was not persuasive. The privilege urged by defendants attaches to official acts and records, and the dissemination by the Sheriff's Department of a press release describing criminal charges leveled against plaintiff and his family members is beyond doubt an official record. Plaintiff argues that since the press release was disseminated by e-mail rather than facsimile or paper copy it cannot be a record, but cited no authority for this proposition. The scope of the fair report privilege does not turn on the method of delivery or presentation of the official record or act. The official, privileged communication in *White, supra,* was a statement by the mayor at a press conference and on a radio talk show. The fair report privilege attaches to the communication and not the method of its delivery. But, plaintiff's narrow view of what constitutes a record notwithstanding, under the South Carolina Freedom of Information Act a press release prepared and used by the Sheriff's Department is a public record regardless of its physical form or characteristics. S.C. Code Ann. §30-4-20(c) (Rev. 2007). The Sheriff's Department got the facts wrong on the kidnapping charge in the press release, but the Department's error does not defeat defendants' privilege which attached to defendants' accurate publications of the charges contained in the press release.

FAULT ON THE PART OF THE PUBLISHER

At common law libel was a strict liability tort with an accompanying presumption of fault in the form of common law malice, but the law of libel has undergone significant changes since 1964, and the common law presumption of malice no longer applies placing on plaintiffs the burden of proving the requisite level of fault on the part of a defendant. The fault burden, as Justice Toal has

explained is influenced by a plaintiff's status as a private or public person, "The degree of fault a plaintiff must establish depends upon his status as a public or private figure." *Holtzscheiter II, supra,* 506 S.E.2d at 507. A public official or public figure must prove "actual" or "constitutional" malice. *New York Times Co. v. Sullivan,* 376 U.S. 254 (1964); *Elder v. Gaffney Ledger,* 341 S.C. 108, 533 S.E.2d 899 (2000). A private figure plaintiff bringing a libel action based on a publication related to a matter of public interest and published by a media defendant cannot rely on the common law presumption of common law malice, but must prove that a publisher acted with common law malice. *Gertz v. Robert Welch, Inc.,* 418 U.S. 323 (1974); *Erickson v. Jones Street Publishers, L.L.C.,* 368 S.C. 444, 629 S.E.2d 653 (2006).

Each of the defendants before the court is a "media" defendant, and undoubtedly the arrest and felony indictment of the state's Assistant Commissioner of Agriculture on charges of abusing horses is a matter of public interest. *Philadelphia Newspapers, Inc., supra;* see, *Doe v. Berkeley Publishers,* 329 S.C. 412, 496 S.E.2d 636 (1998). At a minimum, since plaintiff is not entitled to rely on the common law presumption of malice, he is obligated to come forward with evidence in the form of specific facts to support the proposition that a genuine issue of material fact exists with respect to fault, malice, on the part of the publishers. Plaintiff has pointed to nothing in the record that would satisfy this burden with respect to either common law malice or constitutional malice. Nothing filed by plaintiff in response to defendants' motion addresses either version of malice, and no witness listed by plaintiff in response to defendants' interrogatories is identified as one who will provide evidence on

malice. Since the burden of proof on the malice issue rests with plaintiff, his failure to demonstrate the existence of specific facts showing that there is a genuine issue for trial relative to either variety of malice is fatal to his claim for libel. *Anderson v. Liberty Lobby*, 477 U.S. 242 (1986); *Baughman v. American Tel. & Tel. Co., supra*. Plaintiff's attempt to cite comments posted by third parties on defendants' websites as evidence of malice is unavailing. Congress has by statute insulated those who provide interactive websites from liability as publishers of the comments posted by third parties. *Zeran v. America Online, Inc.*, 129 F.3d 327 (4th Cir. 1997); 47 U.S.C. §230. Plaintiff has failed to demonstrate by reference to the material before the court specific facts in dispute on either type of malice, and, as discussed above, he may not rely on mere allegations in his pleadings to meet his burden. *Baughman, supra.*

Plaintiff contends that he is a private figure. Even if plaintiff were a private figure for purposes of this litigation, he has failed to carry his burden on the fault issue in opposition to defendants' motion. Plaintiff has pointed to nothing in the record that demonstrates he has evidence to establish at trial that defendants acted with common law malice, *e.g.*, hatred, ill will, sprite or conscious disregard of plaintiff's rights, in publishing the news reports of which he complains. Asked in his deposition if he could identify any journalist or any person in defendants' organizations who might bear ill will toward plaintiff, he testified no.

Even assuming plaintiff's private figure status is at variance with the material before the court. It seems clear beyond doubt that plaintiff is a public official in the context of this litigation. He acknowledged in his letter of

resignation, filed by defendants in support of their motion, that he was an Assistant Commissioner of Agriculture, and that he helped to lead the agency. Plaintiff testified in his deposition, and the Commissioner of Agriculture testified in his deposition, that plaintiff was the department's liaison with the General Assembly, the State Budget and Control Board and the Board of Trustees of the University of South Carolina as project manager for the relocation of the State Farmer's Market.

Plaintiff sought to minimize the significance of his title as Assistant Commissioner, but the title, acknowledge by plaintiff in his resignation letter signified to those with whom plaintiff came in contact that he had responsibility for the operation of a state agency. Plaintiff himself acknowledged in his deposition that he had an important position in the agency, saying, "I went there as legislative liaison and I ran the agency." Had plaintiff's title been "head bookkeeper" or something similarly limited, he might be considered a private figure for some cases, but in the context of publications concerning his arrest and indictment for mistreatment of horses, public interest in his activity in this particular context, apart from his title, makes him a public official. *McClain v. Arnold*, 275 S.C. 282, 270 S.E.2d 124 (1980). As a public official, plaintiff was obligated in response to the motion for summary judgment to demonstrate that he had clear and convincing evidence of actual malice. *Anderson v. Liberty Lobby, supra; New York Times Co. v. Sullivan, supra; Elder v. Gaffney Ledger, supra.* Plaintiff was obligated to demonstrate with specific facts that the persons making the decisions to publish the reports of which he complains in fact entertained serious doubts as to the truth of the publications or had a high degree

of awareness of probable falsity of the publications. *Elder, supra.* Plaintiff made no such demonstration, nor did he identify in his responses to defendants' interrogatories any witness who could address the issue of constitutional or actual malice on the part of any defendant. Plaintiff's counsel noted at argument that many depositions had been taken in the case, including the depositions of numerous reporters from defendant organizations, but none of these depositions was either filed or identified as containing testimony that would establish actual malice. Plaintiff has failed to make the requisite showing on actual malice.

CONCLUSION

Based on the foregoing, it is clear that plaintiff has failed to meet his burden in responding to a properly supported motion for summary judgment. Each publication cited by plaintiff as the basis of his libel claim, save one, is either barred by the statute of limitations or outside the scope of his Amended Complaint. But, beyond the statute of limitations issue, defendants have demonstrated with the material filed in support of their motion that he publications complained of by plaintiff relative to his arrest and his indictment for mistreatment of horses are true or substantially true. Plaintiff had the burden of presenting evidence to demonstrate specific, material facts in dispute, but failed to do so. The publications concerning plaintiff's arrest for kidnapping while untrue are privileged as a matter of law. Finally, plaintiff has not come forward with any evidence to demonstrate the existence of a genuine issue of material fact on the malice component of his claim. Plaintiff was a public official for purposes of this action, but his response to the motion would not have been

adequate to establish the existence of a genuine issue of material fact on the malice of the defendants even if he were a private figure.

For the reasons stated herein, IT IS HEREBY ORDERED that defendants' motion for summary judgment be, and the same hereby is, granted, and the within-captioned action is dismissed.

AND IT IS SO ORDERED.

Columbia, South Carolina

_____, 2012

_____

JOSEPH M. STRICKLAND
SPECIAL CIRCUIT COURT JUDGE
SITTING BY DESIGNATION OF THE
CHIEF JUSTICE

STATE OF SOUTH CAROLINA COUNTY OF RICHLAND James W. Trexler, Plaintiff, vs. Richland County and the Sheriff of Richland County, in his official Capacity, a/k/a Richland County Sheriff's Department, Defendants.	IN THE COURT OF COMMON PLEAS FIFTH JUDICIAL CIRCUIT Civil Case No.: 2010-CP-40-1343 PLAINTIFF'S MEMORANDUM IN OPPOSITION TO DEFENDANTS' MOTION FOR SUMMARY JUDGMENT

RICHLAND COUNTY FILED
2010 OCT 23 AM 11:21
ANNETTE W. McBRIDE C.C.P. & G.S.

COMES NOW Plaintiff James W. Trexler ("Plaintiff") pursuant to Rule 56 (e), SCRCP, and responds to Richland County and the Sheriff of Richland County, in his official capacity, a/k/a/ Richland County Sheriff's Department's (collectively "Defendants") Motion for Summary Judgment as follows:

INTRODUCTION

This is a malicious prosecution and defamation case that arises out of the Richland County Sheriff Department's ("RCSD") participation in the instigation and continuation of Plaintiff's 2008 arrest and subsequent prosecution over the course of two and a half years on misdemeanor and felony charges of ill treatment to animals. Plaintiff's defamation claim arises out of a press release the RCSD published to a multitude of media outlets in connection with that arrest and prosecution, which contained false,

defamatory information about Plaintiff.

Plaintiff alleges the RCSD partnered with the Humane Society for the Prevention of Cruelty To Animals ("HSCPA") in the instigation and unjustified continuation of legal process against him, without probable cause, and with actual or constructive knowledge Plaintiff was not involved with any activity or ownership upon which the charges against him were based. Plaintiff further alleges that as a direct result of the malicious prosecution and defamation he lost his job, salary, pension, retirement benefits, his ability to obtain like employment, and has suffered irreparable harm to his personal and professional reputation.

Defendants have moved for summary judgment on both of Plaintiff's causes of action alleging the following seven grounds: (1) they are entitled to absolute sovereign immunity under S.C. Code Ann. § 15-78-60(17); (2) the action is barred by the law-of-the-case doctrine of based on the decision in a companion case; (3) they are entitled to absolute or qualified privilege with regard to defamatory statements they published concerning Plaintiff; (4) Plaintiff has failed to state a claim against them for malicious prosecution; (5) Richland County is not a proper party defendant pursuant to the South Carolina Tort Claims Act; (6) they are not subject to joint and several liability under the South Carolina Tort Claims Act; and 7) they are not subject to punitive damages under the South Carolina Tort Claims Act.

Defendants' motion is without merit as ample evidence exists in the record to create a genuine issue of material fact with regard to each of Plaintiff's causes of action. For the reasons discussed below, this Court should deny Defendants' motion.

FACTS

Prior to March of 2008, Plaintiff's mother and brother operated a for profit Arabian horse breeding business in Richland County, South Carolina under the name Carolina Arabian Show Horses, LLC ("Carolina Arabian"). At that time, Plaintiff was a veteran employee of the South Carolina Department of Agriculture. (See Second Amended Complaint §12; see also Trexler Aff., November 14, 2011 attached hereto as Exhibit "A"). Plaintiff has never had any interest in the ownership or operation of Carolina Arabian, or the horses owned by that company. (See Trexler Dep., p. 106, September 14, 2011 attached hereto a part of Exhibit "B").

In early 2008, Carolina Arabian maintained its horses on two leased properties, one located at 1820 Zeigler Road South in Eastover, Richland County, South Carolina ("Zeigler Rd."), and the other located on Misty Meadow Road, in Hopkins, Richland County, South Carolina. Plaintiff's mother and brother also maintained five Carolina Arabian horses needing special attention in a barn at their home located at 412 Derby Lane in Hopkins, Richland County, South Carolina ("412 Derby Ln."). Plaintiff previously lived at the 412 Derby Ln. residence but moved to New Zion, South Carolina in 2007. (See Exhibit B, pages 43-44). In early 2008, and at all times relevant to this action, Plaintiff had no ownership interest in the 412 Derby Ln. property, and did not live there. (See 412 Derby Ln. Deed attached hereto as Exhibit "C").

In February of 2008, the HSPCA began investigating an alleged report of malnourished horses at the Zeigler Rd. property. On February 13, 2008, Michelle Hart (now Michelle Hines) ("Hart"), an agent of the HSPCA, attempted to enter the Zeigler

Road property to investigate the horses by climbing a fence surrounding the horse pasture. (See RCSD ACISS Investigative Follow Up Report number 080224156/1 attached hereto as Exhibits "D.1 and D.2;" see also HSPCA Cruelty Report number 282008-1000 attached hereto as Exhibit "E")[1]. When Plaintiff's brother noticed Hart trespassing on the property and confronted her, she fled back across a neighboring property to her truck, which she had parked in a neighbor's driveway. (See id.). Plaintiff's brother reacted by positioning his truck across the neighbor's driveway to prevent Hart from leaving before the police arrived. (See id.) As a result of the incident, Plaintiff's brother was arrested and charged with felony kidnapping. (See Arrest Warrant for Terry Trexler attached hereto as Exhibit "F").

Following the alleged kidnapping incident, the RCSD partnered with the HSPCA to investigate the reported malnourished horses at the Zeigler Rd. Property. On February 19, 2008, Hart and HSPCA Cruelty Investigator Elisabeth Perry ("Perry") met with Investigator Holly Wagner of the RCSD ("Wagner") to formulate a strategy for investigating the horses owned by Plaintiff's mother and brother. (See Exhibit "D" at date entry 2/19/2008). Also present at the February 19th meeting was Mary Ellen Tobias, a colleague of Plaintiff's at the South Carolina Department of Agriculture, although neither Perry nor Wagner knew who she was or why she was at the meeting. (See Perry Dep. 80:6-25, 81:1-25, January 19, 2012 attached hereto as part of Exhibit "G;" see also Wagner Dep. 37:15-25, 38:1-25, November 3, 2011 attached hereto as part of Exhibit

[1] Exhibits "D.1" and "D.2" represent the same continuous report by Holly Wagner of the RCSD chronologically at two different points in time and reflecting the additions to the report she made

"H"). Nevertheless, during the meeting the group collectively decided to obtain a search warrant to enter the Zeigler Rd. property and evaluate the horses. Also during that meeting, Investigator Wagner also took a formal statement from Hart regarding the kidnapping incident. (See Statement of Michelle Hart, February 19, 2008 attached hereto as Exhibit "I"). Hart also positively identified Plaintiff's brother as the alleged kidnapper from photographs Wagner showed her during the meeting. (See Exhibit "G," 48:1-6; see also Exhibit "H," 47:21-25).

On February 25, 2008, after obtaining the search warrant anticipated in the February 19th meeting, the RCSD and the HSPCA executed a joint search of the Zeigler Rd. property which resulted in the RCSD and HSPCA confiscating every one of the twenty-three horses Plaintiff's mother and brother maintained at that property. (See Search Warrant with for 1248 Zeigler Road with Return is attached hereto as Exhibit "J"). At the time of the search and confiscation of the horses at the Zeigler Rd. property, the RCSD and the HSPCA had information that Plaintiff's mother and brother owned the horses they were confiscating. (See Exhibit "D" under date entry 2/25/2008). Furthermore, Plaintiff's mother arrived on the scene during the search and confiscation and made clear to the RCSD, the HSPCA, and the media, in no uncertain terms, that she owned all of the horses being confiscated from the Zeigler Rd. property. (See Exhibit "H," 80:16-25, 81:1-24).

On February 25, 2008, at some point during the search of the Zeigler Road property, the HSPCA allegedly received a "tip" that more undernourished horses were

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over as her investigation progressed..

seen at 412 Derby Ln., where Plaintiff's mother and brother resided. (See Exhibits "D.1" and "D.2" under date entry 2/25/2008). The RCSD and the HSPCA jointly decided to obtain a search warrant for 412 Derby Ln. On February 26, 2008, Hart of the HSPCA obtained a search warrant for 412 Derby Ln., authorizing the search of the residence and surrounding curtilage. (See Search Warrant for 412 Derby Ln. with Return attached hereto as Exhibit "K"). To obtain the search warrant, Hart falsely certified to the magistrate that Plaintiff resided at 412 Derby Lane. (See id.). That same day, pursuant to the search warrant, Hart and Perry of the HSPCA together with Wagner of the RCSD executed the search of 412 Derby Ln. (See Exhibit "D" under date entry 2/26/2008). During the search the RCSD and the HSPCA confiscated all five horses they found at that property claiming the horses were neglected, without food and water, and that they found no evidence whatsoever the horses were being fed. (See id.). Following the search of 412 Derby Ln. and seizure of the horses at that location, Perry, with the full knowledge, condonation, and participation of the RCSD, sought and obtained warrants for Plaintiff's arrest by providing false information to the magistrate who issued the arrest warrants. (See 5 Arrest Warrants for James Trexler, February 27, 2008 attached hereto as Exhibit "L.1 – L.5").

On February 27, 2008, the RCSD allegedly received a "tip" Plaintiff's brother and mothers, were in the 412 Derby residence. (See Exhibit "D" under date entry 2/25/2008; see also Exhibit "H." 82:21-25, 83:1-7). At approximately 7:30 p.m., the RCSD fugitive task forcibly entered the 412 Derby Ln. residence by smashing the front door down with a battering ram, and arrested Plaintiff's brother and his 70 year-old mother. The shock of

the RCSC breaking down the front door of the house and arresting Plaintiff's mother triggered in her a cardiac event, which necessitated her immediate transport to the hospital by the RCSD. (See Exhibit "B," 171:6-8). Plaintiff was not present at 412 Derby Ln. when the RCSD Fugitive Task Force arrested his brother and mother, as he was living in New Zion. (Id.) However, after taking Plaintiff's mother and brother into custody, an agent of the RCSD called Plaintiff on his mobile phone and inquired as to his whereabouts. Plaintiff responded that he was in New Zion where he was living at the time, some 45 minutes away. (Id.). The RCSD agent told him that his mother and brother were being arrested on animal cruelty charges and told him there were dogs out in the yard and that if Plaintiff did not come take care of them the RCSD would confiscate them. (Id.). Plaintiff indicated he would come take care of them and that he would be there in about 45 minutes. (Id.). When Plaintiff arrived at the Derby Ln. residence, RCSD agents informed him he was under arrest and charged with five counts of misdemeanor mistreatment of animals. (Id.).

Prior to obtaining search warrants for the 412 Derby Ln. property and Plaintiff's arrest warrants, no one from the RCSD or the HSPCA checked any property, tax, or other records to determine if Plaintiff owned 412 Derby Ln. or was the owner of the horses they confiscated there. (See Perry Dep., Exhibit "G," 111:2-25, 112:1-5; see also Wagner Dep., Exhibit "H," 103:7-18).

The same night, at 9:42 p.m. Chris Cowan ("Cowan"), Public information Officer for the RCSD, drafted and sent an e-mail press release (the "Press Release") to a

multitude of media outlets to inform them of the arrest of the Plaintiff and his mother and brother. (See Press Release attached hereto as Exhibit "M").

The Press Release stated as follows:

> Richland County Sheriff Leon Lott announced that at approximately 8:00 p.m. tonight the Richland County Sheriff Department's Fugitive Task Force apprehended Hazelene E. Trexler (DOB), Terry A. Trexler (DOB , and James Trexler (DOB at 412 Derby Lane in Hopkins.
> Richland County Sheriff Leon Lott stated the Sheriff's Department and the HSPCA continued to investigate severe and barbaric treatment of 28 horses that were in the custody of and supposed to have been cared for by the Trexlers; even as the trio were being arrested in Hopkins tonight, investigators and veterinarians care for the horses that sustained injuries ranging from malnutrition to inflictions that being left untreated cause lameness to halters growing into the faces of the horses.
> Sheriff Leon Lott added that this case is disturbing because these horses are helpless to the hands of their owners and the Trexlers have proven time and again that they have no business owning any animals. Sheriff Leon Lott stated that investigators from the Sheriff's Department and the HSPCA will continue to work with the Solicitor's Office here and authorities in Georgia to make sure the Trexlers receive the punishment they deserve and are prosecuted to the fullest extent of the law. Sheriff Leon Lott stated that the Trexlers have been transported to Alvin S. Glen Detention Center where they await a bond hearing.
> Charges:
> -Hazelene E. Trexler
> 28 counts of ill treatment of animals
> -Terry A. Trexler
> 23 counts of ill treatment of animals
> -James Trexler
> 5 counts of ill treatment of animals
> 1 count of kidnapping (stems from an incident where J. Trexler held a HSPCA investigator against her will and refused to allow the investigator to leave a farm on 2/13 during an evaluation of the horses)

On March 5, 2008, as a result of his arrest and continued prosecution for mistreatment of animals, Plaintiff's employment with the South Carolina Department of Agriculture was terminated. (See Trexler Aff., Exhibit "A"). Thereafter, the RCSD

continued to work with the HSPCA and assistant solicitor Jill Andrews in the prosecution of the case against Plaintiff. (See Exhibit "M;" see also Exhibit "E" under date entries 4/12/2008 and 4/16/2008; see also Indictments of James Trexler, March Term 2008 attached hereto collectively as Exhibit "N"). Interestingly, Assistant Solicitor Jill Andrews was also on the Board of the HSPCA. (See Wagner Dep., Exhibit "H," 141:25, 142:1). Allegedly based on reports from the RCSD and the HSPCA continued investigation of horse abuse at properties other than 412 Derby Ln., on or about March 12, 2008, the office of the solicitor increased all charges against Plaintiff from misdemeanors to felony cruelty to animals. (See March 2008 Indictments, Exhibit "N"). RCSD Investigator Wagner gave testimony before the Grand Jury on the March 2008 Indictments of James Trexler. (Id.). Then, despite no further investigation by the RCSD as to Plaintiff's ownership of the horses he was charged with mistreating, in September 2009, Plaintiff was indicted on 43 counts of felony cruelty to animals and faced up to 30 years in prison. (See Indictments of James Trexler, October Term 2009 attached hereto collectively as Exhibit "O;" see also Wagner Dep., Exhibit "H," 148:23-25, 149:3-6).

On July 15, 2010, the Richland County Court of General Sessions dismissed all charges then pending against Plaintiff on the merits. (See Order for Destruction of Arrest Records, August 23, 2010 attached hereto as Exhibit "P"). From the inception of the RCSD and the HSPCA's prosecution of Plaintiff until the court dismissed all charges on July 15, 2008, Plaintiff maintained his innocence, and pleaded accordingly.

ARGUMENT AND CITATION OF AUTHORITY

I. Summary Judgment

Summary Judgment is appropriate where the "pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law. Rule 56(c), SCRCP. In evaluating a motion for summary judgment, the Court "is to liberally construe the record in favor of the nonmoving party and give the non moving party the benefit of all favorable inferences that might reasonably be drawn therefrom." Estes v. Roper Temp. Servs., Inc., 304 S.C. 120, 121, 403 S.E.2d 157, 158 (Ct. App. 1991). Because summary judgment is a drastic remedy, the Court should invoke it cautiously "so that no person will be improperly deprived of a trial of the disputed factual issues." Baughman v. American Tel. & Tel. Co., 306 S.C. 101, 112, 410 S.E.2d 537, 543 (1991)(quoting Watson v. Southern Ry. Co. 470 F. Supp. 483, 486 (D.S.C. 1975)). In determining whether any triable issue of fact exists, the Court must view the **evidence and all reasonable inferences** that may be drawn from the evidence in the light most favorable to the non-moving party. Rule 56(c), SCRCP (emphasis added).

II. Plaintiff's Cause of Action for Malicious Prosecution Must Survive Summary Judgment Because a Genuine Issue of Material Fact Exists as to Whether the RCSD Lacked Probable Cause to Arrest and Continue to Participate in the Prosecution of Plaintiff.

To maintain an action for malicious prosecution, a plaintiff must demonstrate 1) the institution or continuation of original judicial proceedings, either civil or criminal; 2)

by, or at the instance of, the defendant; 3) termination of such proceeding in plaintiff's favor; 4) malice in instituting such proceeding; 5) want of probable cause, and 6) resulting injury or damage. Parrott v. Plowden Motor Company, 246 S.C. 318, 321, 143S.E.2d 607, 608 (1965)(referencing 34 Am.Jur., Malicious Prosecution, Sec. 6, p. 706; Prosser v. Parsons, 141 S.E.2d 342; Gibson v. Brown, et al., 141 S.E.2d 653.).

"Probable cause is defined as a good faith belief that a person is guilty of a crime when this belief rests on such grounds as would induce an ordinarily prudent and cautious [person], under the circumstances, to believe likewise." Jones v. City of Columbia, 301 S.C. 62, 65, 389 S.E.2d 662, 663 (1990). Furthermore, "[p]robable cause is determined as of the time of the arrest, based on facts and circumstances-objectively measured-known to the arresting officer" Jackson v. City of Abbeville, 366 S.C. 662, 667, 623 S.E.2d 656, 659 (2005) and "[o]nly those facts and circumstances which were or should have been known to the prosecutor at the time he instituted the prosecution should be considered." Parrott, 246 S.C. 318 at 322, 609; see also Brown v. Bailey, 215 S.C. 175, 54 S.E.2d 796 (1945). In an action for malicious prosecution, a plaintiff must demonstrate the prosecution was instituted maliciously and without probable cause. Id.; see also Margolis v. Telech, 239 S.C. 232, 122 S.E.2d 417 (1961). However malice may be inferred from a want of probable cause. See Brown v. Bailey, 215 S.C. 175, 54 S.E.2d 769 (1949).). As pointed out in Baker v. Hornick, 57 S. C. 213, 35 S. E. 524, 529 (1900), "where a person instituted a prosecution against another without probable cause, it is difficult to conceive of any other motive but a malicious one for bringing the prosecution."

One who instigates prosecution based solely on information received from another acts without probable cause. 34 Am.Jur. 735, Malicious Prosecution, Section 51 instructs:

> The failure of a person who has received information tending to show the commission of a crime to make such further inquiry or investigation as an ordinarily prudent man would have made in the same circumstances, before instituting a proceeding, renders him liable for proceeding without probable cause. One may not rely without further investigation on representations of another where the information received is such as to put an ordinarily prudent and cautious person on inquiry, or, it has been held, where he has no personal knowledge of the truth of the representation.

"The prosecutor must not only actually believe in the guilt of the accused, but the belief must also . . . be supported by circumstances sufficiently strong in themselves to warrant a reasonably cautious or prudent [person] in that belief." 34 Am.Jur. 733, Malicious Prosecution, § 49. In determining the existence of probable cause, the facts must be "regarded from the point of view of the party prosecuting; the question is not what the actual facts were, but what he honestly believed them to be. Eaves v. Broad v. Broad River Elec. Co-op., Inc., 277 S.C. 475, 478, 289 S.E.2d 414, 415 (1982). Ordinarily the existence of probable cause is a question to be decided by the jury. Parrott supra at 323, 609 (in dicta); Caldwell v. Bennett, 22 S.C. 1 (1884); Wheeler v. Nesbitt, 65 U. S. 544, 551, 16 L. Ed. 765 (1860) (want of probable cause is evidence of malice for the consideration of the jury).

Here, the RCSD worked hand in hand with the HSPCA and participated with that agency to instigate original judicial proceedings against Plaintiff. From the very

beginning and through each of the joint investigation of alleged mistreated horses and the arrest of Plaintiff and his mother and brother, the RCSD had an active part in determining a course of action in the investigation, advising the HSPCA on obtaining arrest and search warrants, participating in the searches and seizure of the horses, evaluating the horses, bringing the charges against Plaintiff, and ultimately arresting him. It is also undisputed that the RCSD participated in the continued prosecution of Plaintiff by giving testimony before the Grand Jury and continuing to work with Assistant Solicitor Andrews to bring additional and heightened charges against Plaintiff with no additional evidence to implicate him. Two and a half years later, such proceedings terminated in Plaintiff's favor. See Exhibit "P"). Plaintiff has also alleged monetary and reputation damage directly resulting from prosecution instigated and continued by the RCSD. (See Second Amended Complaint at paragraphs 71 and 72.)

Essentially Defendants claim Plaintiff cannot prove they acted without probable cause in instigating and continuing legal process against him. Notwithstanding ample authority, supra, establishing that the existence of probable cause is a question to be decided by the jury, Defendants argue probable cause exists, here, as a matter of law merely because a magistrate signed a warrant to arrest Plaintiff and the Grand Jury "true billed" the indictments against him. While a true bill is "prima facie" evidence of probable cause, the presumption is rebuttable. See Law v. S. Carolina Dept. of Corrections, 365 S.C. 424, 629 S.E.2d 642 (2006). In Law, the Court found probable cause existed as a matter of law where the indictments against plaintiff were true billed by the Grand Jury **and** where the underlying facts supported probable cause to instigate

or pursue criminal charges. See id. at 437, 649 (emphasis added). In Law, the court found the facts and circumstances underlying the instigation of proceedings against the Appellant did support the presumption of probable cause created by true-billed indictments by the Grand Jury only because they were the result of a thorough investigation, included the interviews of over forty witnesses, and were based on actual knowledge of historical conspiracy. Law at 437, 647.

Here, unlike in Law, evidence exists to show the RCSD and the HSPCA not only instigated proceedings against Plaintiff based on unreliable information from other individuals, but they did so without any performing independent investigation whatsoever as to whether Plaintiff actually owned any horses or owned the land on which allegedly mistreated horses were found. Unbelievably, the HSPCA, with the knowledge of the RCSD, also obtained Plaintiff's arrest warrant by swearing as true in an affidavit to a Magistrate facts it did not know to be true, and in fact were false. Perry, swore to the Magistrate that probable cause existed for Plaintiff's arrest based on the fact that Plaintiff was the owner of the five subject horses. However, evidence exists to show Perry, in fact, did not know, as she swore she did, that Plaintiff owned any of the horses he was accused of mistreating, nor did she have any reason to believe, when she swore out the warrant, that he was the owner. (addressed below).

In her deposition taken on January 17, 2012, counsel for Plaintiff asked Ms. Perry if she did any investigation before making the affidavit to obtain a warrant for Plaintiff's arrest to determine whether Plaintiff owned the horses. Ms. Perry responded "they [horses] were on his property so -- I mean --" (Perry Dep., Exhibit "G," 108:3). When

counsel for Plaintiff asked Ms. Perry if she represented Plaintiff as the owner of the horses based solely on the fact he allegedly owned the property, Ms. Perry indicated she thought that was not the only reason why, but she could not recall any other reasons. (Id. at 108:4-13). Ms. Perry admitted in her deposition she did no search of the ownership records of the subject horses to determine who owned them. (Id. at 111:22-23).

Counsel for Plaintiff also asked RCSD Investigator Wagner whether, to her knowledge, the HSPCA did any investigation into whether Plaintiff owned any horses before swearing an affidavit to obtain his arrest warrant. Despite being involved with every step of the joint RCSD/HSPCA investigation, Investigator Wagner indicated she did not know of any investigation that was done by the HSPCA into whether Plaintiff actually owned the horses he was accused of abusing. (See Wagner Dep., Exhibit "G," 105:5-16). Investigator Wagner also indicated that Elizabeth Perry never communicated to her she had evidence Plaintiff owned the subject horses prior to attesting that probable cause existed to arrest Plaintiff. (Id. 112:11-15). Furthermore, when Counsel for Plaintiff asked Ms. Perry if she did any investigation of property records to determine whether Plaintiff owned the property on which the subject horses were found and seized, Ms. Perry indicated that the HSPCA did not have the ability to do that kind of search. (Perry Dep., Exhibit "G," 111:17-20).

More troubling still is the evidence that Elizabeth Perry actually lied in her affidavit to the Magistrate to obtain an arrest warrant for Plaintiff. Ms. Perry's affidavit states that upon the RCSD and HSPCA's search of the property purportedly belonging to Plaintiff, no food or hay was found on the property. (See Arrest Warrants for James

Trexler, Exhibits "L.1 – L.5"). However, she stated just the opposite in her January 17, 2012 deposition. When counsel for Plaintiff inquired as to whether during the search of the property purportedly belonging to Plaintiff she looked inside the garage, Ms. Perry state she did. When counsel for Plaintiff asked what she saw there, Ms. Perry admitted she saw horse food. (Perry Dep., Exhibit "G," 113: 7-14). Of course, Investigator Wagner was also present for, and participated in the search of 412 Derby Ln. and was presumably aware of the horse food found in the garage. (See Search Warrant for 412 Derby Ln., Exhibit "K").

RCSD Investigator Wagner, herself, admitted in her deposition that it would be improper for an affiant, in order to obtain an arrest warrant, to swear to a magistrate as true facts he or she knew were false. (Wagner Dep., Exhibit "H," 111:11-14). The U.S Supreme Court was of the same opinion in Franks v. State of Delaware, 438 U.S 154, 98 S.Ct 2674 (1978). "The requirement that a warrant not issue but upon probable cause, supported by Oath or affirmation, would be reduced to a nullity if [an affiant] was able to use deliberately falsified allegations to demonstrate probable cause, and, having misled the magistrate, then was able to remain confident that the ploy was worthwhile." Id. at 168, 2682. Nevertheless, despite first hand knowledge the arrest warrant for Plaintiff's arrest was based on false information, the RCSD made no objection to the warrant, and executed it, ironically, by tricking Plaintiff into driving 45 minutes from Mt. Zion to the 412 Derby Ln. property to care for animals there, and then arresting for ill treatment of animals him once he arrived.

Unlike in Law, 365 S.C. 424 (2006) supra, the RCSD and HSPCA did little to no

investigation as to whether Plaintiff owned the horses or the land the horses were on prior to arresting him, and the facts supporting the indictment are insufficient to create probable cause as a matter of law. Indeed, genuine issues of material fact exist as to the validity and execution of the Plaintiff's arrest warrant, knowingly obtained through by improper means.

Moreover, evidence also exists to support Plaintiff's assertion the RCSD manipulated its own records in an attempt to "manufacture" probable cause for his arrest, after the fact. Examination of the evolution of RCSD Investigator Wagner's Investigative Follow Up Report from two different time periods, as reflected in Exhibits "D.1" and "D.2," shows the reports were modified after Plaintiff's arrest to specifically implicate him, by name, as being involved with the mistreatment of the horses initially identified at the Zeigler Rd. property. Exhibit "D.1" is a copy of Wagner's Investigative Follow Up Report created on 2/22/2008 and containing date entries starting on 2/13/2008 and ending on 2/27/2008. Exhibit "D.2" is a copy of a continuation of the same report, created on 2/22/2008, but with date entries starting on 2/13/2008 and ending on 3/10/2008. Information in the header of the Exhibit "D.2" shows the report created on 2/28/2008, and was last modified by the creator on 4/07/2008, after Plaintiff was arrested and released on bond. Interestingly, the language of the reports in Exhibits "D.1" and "D.2" between 2/13/2008 and 2/27/2008 is identical with the exception of an inserted paragraph under the date entry of 2/19/2008 in Exhibit "D.2" that does not exist under that date entry in Exhibit "D.1." Specifically, the inserted paragraph reads:

> Michelle [Hart] told me the first time she went to investigate the property

> on Zeigler Rd. no one was around and the gate was locked so she posted the property. Then she received a call from a man who said he was James Trexler with the SC Department of Agriculture. He was very belligerent and told her he owned the horses and she could not go on his property to look at the horses. That is why she had to go on Lori Stokes' property to try to take pictures of the horses.

(See Exhibits "D.1" and "D.2" under date entry 2/19/2008). Of note is the fact that the date entry 2/19/2008 precedes the creation of either of the report versions and was subsequent to Investigator Wagner's taking of Hart's formal written statement (Exhibit "I"). Importantly, neither Michelle Hart's HSPCA cruelty report from the same date entry, nor her official written statement made to Investigator Wagner on 2/19/2008 mention anything at all about Hart receiving a call from someone claiming to be James Trexler of the S.C. Department of Agriculture. (See Exhibit "E" under date entry 2/13/2008; see also Statement of Michelle Hart, Exhibit "I").

Considering the foregoing, genuine issues of material facts exist with regard to the RCSD and the HSPCA acting in concert to prosecute Plaintiff, without probable cause. As such, this Court should deny Defendants' motion for summary judgment as to Plaintiff's cause of action for malicious prosecution, and allow a jury to weight the facts and circumstances underlying the issue of probable cause.

III. Plaintiff's Cause of Action for Defamation Must Survive Summary Judgment Because a Genuine Issue of Material Fact Exists as to Whether the RCSD Acted With Reckless Disregard for the Truth in drafting and publishing the Press Release.

To establish a claim for defamation Plaintiff must prove "1) a false and defamatory claim was made; 2) the unprivileged statement was published to a third party; 3) the publisher was at fault; and 4) either the statement was actionable regardless of

harm or the publication of the statement caused special harm." Erickson v. Jones Street Publishers, LLC, 368 S.C. 444, 465, 629 S.E.2d 653, 664 (2006). "A communication is defamatory if it tends to harm the reputation of another as to lower him in the estimation of the community or deter third persons from associating or dealing with him." Holtzscheiter v. Thompson Newspapers, Inc., 332 S.C. 502, 510, 506 S.E.2d 497, 502 (1998) (Holtzscheiter II) (quoting Lesesne v. Willingham, 83 F. Supp. 918, 921 (E.D.S.C. 1949)).

If the defamatory meaning of a statement is obvious on the face of the statement, the statement is defamatory per se. Id. Defamation is actionable per se if it involves "written or printed words which tend to degrade a person, that is, to reduce his character or reputation in the estimation of his friends or acquaintances, or the public, or to disgrace him, or to render him odious, contemptible, or ridiculous . . ." Id. "If a defamation is actionable per se, then under common law principles the law presumes the defendant acted with common law malice and that the plaintiff suffered general damages." Fleming v. Rose, 338 S.C. 524, 533 526 S.E.2d 732, 737 (Ct. App. 2000). "[T]o prevail in a defamation action, a plaintiff must establish that the defendant's statement referred to some ascertainable person, and that the plaintiff was the person to whom the statement referred." Burns v. Gardner, 328 S.C. 608, 493 S.E.2d356 (S.C. Ct.App.1997). Surrounding circumstances, however, may reasonably imply the identity of an individual not otherwise immediately ascertainable from the face of the allegedly defamatory statement. Neeley v. Winn–Dixie Greenville, Inc., 255 S.C. 301, 178 S.E.2d 662, 665 (1971)(In a defamation action, the challenged statement must "be such that

persons reading or hearing it will, in the light of surrounding circumstances, be able to understand that it refers to the person complaining, and it must have been so understood by at least one other person.") (quotation omitted). Furthermore, "a motion for summary judgment should be granted only if the court determines the publication is **incapable of any reasonable construction which will render the words defamatory**." Adams v. Daily Telegraph Printing Co. 292 S.C. 273, 279, 356 S.E.2d 118, 122 (Ct. App. 1986) (emphasis added).

Defendants assert Plaintiff was a public official, and therefore must demonstrate the RCSD made defamatory statements about him with "actual malice," the standard announced in New York Times v. Sullivan, 376 U.S. 254, 279 (1964). Plaintiff alleges that he was not a public official. (See Trexler Aff., Exhibit "A"). Therefore, Plaintiff alleges that he is only required to prove the RCSD acted with negligence or gross negligence in publishing defamatory statements about him.

Defendants argue that pursuant to the doctrines of "law-of-the-case" and issue preclusion, Plaintiff is estopped from arguing against his status as a public official based on a ruling in a separate case (James A. Trexler v. The Associated Press, et al., 2010-CP-40-1249) by Judge Strickland that Plaintiff was a public official by virtue of his employment with the South Carolina Department of Agriculture. However, Plaintiff has appealed Judge Strickland's ruling on that very issue. (See Plaintiff's Notice of Appeal, July 18, 2013, attached hereto as Exhibit "Q"). Therefore, the doctrines of "law-of-the-case" and issue preclusion do not apply here, and the issue of whether Plaintiff was a "public official" for the purposes of defamation is still in dispute. See Williamsburg

Rural Water and Sewer Co., Inc. v. Williamsburg County Water and Sewer Authority, 593 S.E.2d 154, 357 S.C. 251 (S.C.App. 2003) (noting that a party in the case "did not appeal either of these findings; therefore, it is the law of this case"); Charleston Lumber Co. v. Miller Housing Corp., 338 S.C. 171, 525 S.E.2d 869 (2000) (stating an unappealed ruling is the law of the case); ML-Lee Acquisition Fund, L.P. v. Deloitte & Touche, 327 S.C. 238, 489 S.E.2d 470 (1997) (unappealed ruling is law of the case); Buckner v. Preferred Mut. Ins. Co., 255 S.C. 159, 161, 177 S.E.2d 544, 544 (1970) (an unchallenged ruling, "right or wrong, is the law of this case and requires affirmance.").

The Defendants also argue that pursuant to the South Carolina Tort Claims act a government agency is immune from liability arising from its employee's conduct "which constitutes..."actual malice"...[.]" SC Code § 15-78-60 (17). Defendants cite Gause v. Doe, 317 S.C. 39, 451 S.E.2d 408 (Ct. App. 1994) in support of this argument. Plaintiff recognizes the precedent set by the Gause case would seemingly preclude a defamed public official from bringing a defamation suit against a government entity under the Tort Claims Act because the public official must prove the government entity acted with "actual malice" in defaming him, which is a listed exception to the entity's waiver of immunity under S.C Code § 15-78-60(17). However, Plaintiff asserts that the Gause case was wrongly decided in this regard. Specifically, in deciding the case, the Gause court failed to recognize the important distinction between the term "actual malice" as used in Section 15-78-60 (17) and "actual malice," otherwise referred to as "constitutional malice," which is the standard set forth in New York Times v. Sullivan, 376 U.S. 254, 279 (1964) as a constitutional threshold for the degree of negligence required to prove

defamation of a public official in function of the important constitutional right to free speech. In the defamation context, "actual malice" has the following meaning: a defamatory statement is made with actual malice if it is made "with knowledge that it was false or with reckless disregard for whether it was false or not. New York Times v. Sullivan, 376 U.S. 254, 279 (1964). "Reckless conduct is not measured by whether a reasonably prudent man would have published, or would have investigated before publishing. There must be sufficient evidence to permit the conclusion that the defendant in fact entertained serious doubts as to the truth of his publication." St. Amant v. Thompson, 390 U.S. 727, 731, 20 L. Ed. 2d 262, 88 S. Ct. 1323 (1968).

In contrast, common law "actual malice," or "actual malice" for purposes other than defamation, includes an element of intent to harm. "Constitutional actual malice required in defamation actions involving public officials is distinguishable from common law malice, which refers to feelings of ill-will, spite, or desire to injure." Boone v. Sunbelt Newspapers, Inc., 347 S.C. 571, 581, 556 S.E.2d 732, 737-8 (2001)(citing Sanders v. Prince, 304 S.C. 236, 403 S.E.2d 640 (1991)).

The Sanders court recognized that important distinction, which it felt compelled to clarify in its opinion as follows:

> First, the trial judge's instructions on the definition of actual malice were erroneous because they included the definition of common law malice. In cases involving the defamation of a public official, the plaintiff must prove that the defendant acted with constitutional actual malice, that is, with knowledge that the statement was false or with reckless disregard of its falsity. New York Times v. Sullivan, 376 U.S. 254, 279–80, 84 S.Ct. 710, 726, 11 L.Ed.2d 686, 706 (1964). Instructions [on common law malice], which permit the jury to impose liability on the basis of the defendant's hatred, spite, ill will, or desire to injure are clearly

> impermissible. Old Dominion Branch No. 496 v. Austin, 418 U.S. 264, 281, 94 S.Ct. 2770, 2780, 41 L.Ed.2d 745, 760 (1974). "Ill will toward the plaintiff, or bad motives, are not elements of the New York Times standard." Id. Since the parties agreed to the charges given at the trial, we do not reverse on this basis. However, in order to facilitate the retrial of this case, we note that the trial judge must instruct the jury on constitutional actual malice as enunciated in New York Times, and must not instruct the jury on common law malice.

Furthermore, to interpret SC Code § 15-78-60 (17)'s "actual malice" to be the same as "constitutional malice" in the defamation context would lead to absurd results, as a governmental agency or state entity could never be held liable for its employee's defamation of a public official. "Statutes, as a whole, must receive practical, reasonable, and fair interpretation, consonant with the purpose, design, and policy of lawmakers." TNS Mills, Inc. v. S.C. Dep't of Revenue, 331 S.C. 611, 624, 503 S.E.2d 471, 478 (1998). An appellate court will reject the interpretation of a statute that would lead to an absurd result the legislature could not have intended. Lancaster Cnty. Bar Ass'n v. S.C. Comm'n on Indigent Def., 380 S.C. 219, 222, 670 S.E.2d 371, 373 (2008).

In any event, a genuine issue of material fact exists as to whether the Plaintiff was a public official, and therefore whether the even the constitutional "actual malice" standard applies. If the Plaintiff was not a public official, the simple negligence standard applies, and there are, likewise, genuine issues of material fact as to whether RCSD was negligent, or grossly negligent, in publishing defamatory statements about the Plaintiff.

Following Plaintiffs arrest on February 27, 2008, Chris Cowan, RCSD Public Information Officer published the Press Release as described above. The Press Release falsely states that Plaintiff had been charged with kidnapping a HSPCA investigator, and

also implicates him in the severe and barbaric treatment of over 28 horses, insinuates this abuse occurred both here and in Georgia, that he acted in concert with his mother and brother to commit these crimes against the horses, and that he along with his family have proven time and again they have no business owning animals. (See Press Release, Exhibit "M").

Cowan admitted in his deposition that he drafted the Press Release from his hand-written notes he took while collecting the information from the investigators with the RCSD and the HSPCA for inclusion in the publication. (See Cowan Dep. 22:1-23:12, 88:11-17, September 8, 2011 attached hereto as Exhibit "R"). Despite Cowan's testimony that he regularly takes copious notes when gathering information for press releases (see Cowan Dep. 78:23-24), Defendants produced in discovery two handwritten pages of notes Chris Cowan used to draft the Press Release, which handwritten notes are attached hereto as Exhibit "S." While the notes are chaotic and jumbled, their examination reveals they contain directly contradictory information regarding who allegedly kidnapped the HSPCA investigator Hart. At the top of the first page of Chris Cowan's handwritten, he has written "James Trexler Blocked in HSPCA Investigator." (See Exhibit "S"). Then, half way down the very same page, under Terry Trexler, Cowan has indicated that individual has been charged with "1 count kidnapping, Blocking in Humane Society Inv, 2/13, evaluation, was Blocked in By Terry. [sic]" (Id.). Despite having direct access to view the RCSD own records and reports for cases, including the investigative reports on the subject case (See Wagner Dep. 130:9-21), Chris Cowan indicates he did not verify or attempt to verify any information given to him by agents of

the RCSD and the HSPCA on which he based the Press Release. (See Cowan Dep. 49:14-51:10). Considering Cowan based the Press Release on the notes he had and conversations with agents of different agencies, an important question of fact exists as to whether Cowan acted with reckless disregard in not taking the time to verify two directly contradictory pieces of information in his own notes as to who was charged with kidnapping before publishing the Press Release to the media. In function of the potential catastrophic effect of getting it wrong, Plaintiff submits Cowan and the RCSD acted recklessly by taking a guess at which individual the RCSD actually charged with kidnapping, and publishing the incorrect information to the media. This is particularly true in light of the fact that Cowan had full opportunity look at the RCSD records, which were immediately available to him, to resolve the obvious discrepancy. Thereafter, Cowan tried to sidestep responsibility for publishing the defamatory material regarding Plaintiff and shift the blame to the HSPCA. In an e-mail Cowan believes he sent to the State Newspaper (the e-mail transmission data was not included when the communication was produced by Defendants) Cowan states,

> Since we have a great relationship I feel it is ok to say thanks for putting the hit in the eye squarely on me this morning's paper [sic.] – I realize I'm responsible for the news releases that go out from RCSD and you guys are worried about backlash from a possible attorney but the Humane Society told you guys yesterday that it was their bad information that caused the error . . . That's what a boxer would call a low blow – easily could have been written to reflect our making the correction and HSPCA being involved in the error.

Chris Cowan's e-mail he believes he sent to the State Newspaper is attached hereto as Exhibit "T." (See also Cowan Dep. 106:8-107:22).

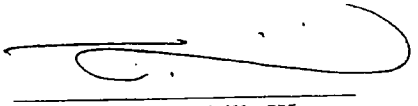
Moreover, a question of fact exists as to whether the press release conveys the message that Plaintiff acted in concert with his mother and brother, and was involved in the "severe and barbaric" treatment of 28 horses, both in South Carolina and in Georgia, has no business owning animals, and deserves to be punished to the fullest extent of the law. Even if Plaintiff were to be considered a public official, the inquiry into whether the RCSD acted with actual malice in defaming him is a question of fact for the jury to weigh the circumstances and make a determination thereon.

Furthermore, as discussed above, Defendants claim S.C Code § 15-78-60 (17) shields the RCSD from liability for defamation where its employee has acted with "actual malice." However, the defamatory statements against Plaintiff were not published to the media as the statements of an employee, but as the statements of the RCSD itself. Press Release states throughout that it is Sheriff Lott who is making the statement. In his deposition, when counsel for Plaintiff asked Sheriff Lott why the press releases are written to reflect that it is he who is reporting the information personally, Sheriff Lott explained it is written that way because "I am the Sheriff of the County and that this is a press release coming from the Sheriff's Department which I am the Sheriff of." (See Lott Dep. 36:2-15, September 11, 2011, attached hereto as Exhibit "U"). Sheriff Lott explained his name is meant to personify the Sheriff's Department as a whole. (See id.). Chris Cowan reiterated that fact in his deposition. When counsel for Plaintiff asked why the Press Release was written as if Sheriff Lott himself were reporting, Cowan explained, "[y]our talking about a Releasc that's speaking on behalf of the Agency as a whole or on

behalf of the Department as a whole. So a press release is a representation of the Agency, and the Sheriff is the head of the Agency." (See Cowan Dep. 94:3-18).

Because genuine issues of material fact exist with regard to Plaintiff's defamation claim and the Plaintiff's status as a public official, this Court should deny Defendants' motion for summary judgment with regard to defamation.

Respectfully submitted,



W. Westbrook Wills III
Law Office of W. Westbrook Wills III
38 Broad Street
Suite 200
Charleston, SC 29401
(843) 805-6300 - tel.
(843) 278-9333 - fax
wwills@wwillslaw.com

William H. Johnson
Law Offices of William H. Johnson, LLC
411 North Brooks Street
PO Box 137
Manning, South Carolina 29102
(803) 435-0909 - tel.
(803) 435-2858 - fax
william@whjohnsonlaw.com

Matthew D. Hamrick
Attorney at Law
875 Lowcountry Blvd., Suite 206
Mt. Pleasant, SC 29464
(843) 693-4700 - tel.
(877) 524-5023 - fax
matt@matthamricklaw.com

This 20th day of September 2013
Charleston, South Carolina

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FIFTH JUDICIAL CIRCUIT
COUNTY OF RICHLAND	)	
	)	Civil Case No.: 2010-CP-40-1343
James W. Trexler,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	CERTIFICATE OF SERVICE
	)	
Richland County and the Sheriff of Richland County, in his official Capacity, a/k/a Richland County Sheriff's Department,	)	
	)	
Defendants.	)	

RICHLAND COUNTY
FILED
2013 OCT 23 AM 11:21
JEANETTE W. McBRIDE
C.C.P. & G.S.

I hereby certify that I have served a copy of the forgoing on counsel of record by e-mail, and by U.S. Mail as required under the South Carolina Rules of Civil Procedure addressed as follows:

Robert D. Garfield, Esq.
1611 Devonshire Drive
Second Floor
Columbia, SC 29202

Dated: October 20, 2013

W. Westbrook Wills III

Exhibit
"A"

STATE OF SOUTH CAROLINA COUNTY OF RICHLAND James W. Trexler, Plaintiff, -vs- The Associated Press, Barrington Broadcasting, a South Carolina Corp., Pacific & Southern Company, Inc., and Raycom TV Broadcasting, Inc. Defendants.	)	IN THE COURT OF COMMON PLEAS OF THE FIFTH JUDICIAL CIRCUIT Case No.: 2010-CP-40-1249 AFFIDAVIT OF JAMES W. TREXLER
James W. Trexler, Plaintiff, -vs- McClatchy Newspapers, Inc., Richland County, and the Richland County Sheriff's Department, Defendants.	)	Case No.: 2010-CP-40-1343

Personally appeared before me, James W. Trexler, who being duly sworn, deposes and states as follows:

1. My name is James W. Trexler, and I am over 18 years of age and competent to make this affidavit.

2. Prior to February 27, 2008, I worked for 27 years as a state employee.

3. In 2002, I was hired as an employee of the South Carolina Department of



Agriculture (the "Department" or "Agency").

4. In September of 2004, Hugh Weathers became Commissioner of Agriculture. Shortly thereafter, Commissioner Weathers decided to evaluate the existing structure and responsibilities of Agency employees. See Exhibit "B."

5. On January 4, 2005 Commissioner Weathers assigned me the responsibility for the management of the budget and the finance section of the Department. See Exhibit "C."

6. Commissioner Weathers often referred to my duties as "back room" or 'back office" functions of the agency.

7. 75% of my job was generic accounting, 10% of my job was to provide budget information to legislators or their staff concerning the Agency's budget, as they needed it. Another 10% of my job consisted of providing support to senior staff in their overall direction of the Agency. See Exhibit "D."

8. As part of my job functions I also provided financial and budget data to Commissioner Weathers, lobbyists he hired to represent the Agency in public and to the legislature. I was not known to the public in any capacity.

9. During my entire tenure with the Department I was regularly evaluated on criteria used exclusively for rank in file state employees through the Employee Performance Management System (EPMS) provided by the Office of Human Resources of the Budget and Control Board. See Exhibit "E."

10. Neither Commissioner Weathers nor members of the Agriculture Commission, who are appointed by the Governor, are evaluated under the EPMS system.

11. I was never elected or appointed to any position at the Department of Agriculture or to any job I've ever held over my 27 years in state government.

12. I was hired into my first job in state government after filling out an employee application, and was promoted in the same manner as any other regular state employee thereafter.

13. No official position known as Assistant Commissioner of Agriculture or Assistant Commissioner of Administration exists at the Agency or in the State of South Carolina.

FURTHER AFFIANT SAYETH NOT.

James W. Trexler

Sworn to before me this 15TH day of NOVEMBER 2011

Notary Public of South Carolina
My commission expired: 12/9/15

Exhibit B

State of South Carolina
Department of Agriculture

Hugh E. Weathers
Interim Commissioner

Wade Hampton Office Building
P.O. Box 11280
Columbia, S.C. 29211

Telephone: (803) 734-2210
Fax: (803) 734-2192
E-Mail: hweathe@scda.sc.gov

January 4, 2005

Mr. James W. Trexler
P.O. Box 11280
Columbia, SC 29211

Dear Jim,

Based upon my evaluation of the management structure of the S.C. Department of Agriculture, I have concluded that the Department will function more efficiently with some adjustment of responsibilities. My evaluation has been both internal to our operation as well as a comparison to other agencies.

The restructure will include, but is not limited to, separation of some of the duties in the Administration Division. As of today, I am assigning to you the responsibility for the management of our budget function as well as the finance section. This change is, in part, designed to allow you to focus your efforts in the areas where your experience in state government will benefit our Agency. I have not thought through a job title adjustment.

Larry Boyleston will head up our governmental relations team. Your role in that effort will be to manage issues related to budget and other fiscal matters. You, along with Beth Crocker, will also assist Larry assist in policy development and management.

Your change of responsibilities to the Department will be an offset. To that end your salary will remain at its present level

You are an integral part of this Agency. I am confident that this change will allow you to better utilize your experience, and the Department will be well served with your skills.

Sincerely,

Hugh E. Weathers

Hugh E. Weathers

Exhibit C

State of South Carolina
Department of Agriculture

Hugh E. Weathers
Interim Commissioner

Wade Hampton Office Building
P.O. Box 11280
Columbia, S.C. 29211

Telephone: (803) 734-2210
Fax: (803) 734-2192
E-Mail: hweathe@scda.sc.gov

January 5, 2005

TO: Senior Staff
Finance Staff

FROM: Hugh Weathers

SUBJ: Management Changes

Based upon my evaluation of the management structure of our agency, I have concluded that the Department will function more efficiently with some adjustments of responsibilities. My evaluation has been both internal to our operation as well as a comparison to other agencies.

The restructure will include, but is not limited to, separation of some duties in the Administration Division. Clarissa Adams will manage human resources and information technology. Jim Trexler will be responsible for the management of our budget function as well as the finance section.

Larry Boyleston will head up our governmental relations team.

This restructuring gives our agency a better framework with which to serve our mission. Thank you for your cooperation and I look forward to a great new year ahead for the Department!

Exhibit D

South Carolina Department of Agriculture
Position Description & Employee Performance Management System (EPMS) Form

Employee Name:	***Jim W. Trexler***	***Social Security #:***	
State Class Title:	***Executive Assistant III***		

Position Supervision

Describe the guidelines and supervision an employee receives in order to do this job, including the employee's independence and discretion.

Reports directly to the Commissioner of Agriculture.

List the classification titles and number of the three highest level subordinate position(s) reporting directly to you.

Titles	Number
1.	
2.	
3.	
Total Number of Employees Under Your Supervision:	

Qualifications

List what you consider to be the qualifications required for entry into this position.

ıucation, Training, and Experience (cite major areas of study, type & years of experience)

ר Masters Degree and 5 years of experience in Public Administration; or an equivalent combination of education a experience.

Special Licenses, Registrations or Certifications

Skills and Abilities

Knowledge of the laws, rules, and regulations pertinent to the agency. Ability to communicate effectively.
Knowledge of state government budget, finance, procurement and Information Technology policy and procedures.

Additional Requirements

This position could require working extended hours when the Legislature in in session. Some over night travel may necessary.

Job Purpose

Coordinates legislative matters and special projects for the Commissioner. Assists in the overall direction a management of the agency.

Job Duties, Objectives, Success Criteria and Performance Evaluation

Indicate the importance of the job duty/objective in terms of overall criticality to job success by assigning to it a percentage
Indicate essential and marginal duties/objectives by checking the appropriate block. Essential duties/objectives are th
ost critical, important duties/objectives for which the job was created. Marginal duties/objectives are non-critical an
ould be performed by another position. The percentage of importance for job duties/objectives with success criteri
should total 100%.

At the end of each review period check the rating which reflects the employee's actual performance for each jc
duty/objective. **Include a descriptive explanation for "Substantially Exceeds" and "Below" ratings**

Definitions:

Substantially Exceeds Expectations:	(Work that is characterized by exemplary accomplishment throughout the rating period; performance that is consistently above the success criteria of the job.)
Exceeds Expectations:	(Work that is substantially and consistently above the success criteria of the job throughout the rating period.)
Meets Expectations:	(Work that routinely meets the success criteria of the job. Majority of employees should be in thi category.)
Below Expectations:	(Work that routinely fails to meet the success criteria of the job.)

Job Duties/Objectives and Success Criteria (Essential and Marginal)

Each job duty should be assigned a weight reflective of job duty importance. Weights for all objectives should not exceed 15%. The weights will be listed on page 5. Although not specified in the job duties/objectives sectio below, employees may perform other related duties as required.

1. 50 % ☒ Essential ☐ Marginal	Job Duty/Objective Directs and supervises the Administration, Finance, Budget and Information Technology Sections c the S.C.Department of Agriculture Success Criteria An audit report that has very few exception items reported. Timely preparation of all pertinent reports internal and external to the agency. Satisfactory support service provided to the divisions in the agency with regards to all matters related to supervised functions. Provide professional leadership fc subordinates and works well with fellow managers within the Agency.

Actual Performance/Comments A few negatives on audit, but not too significant. Good work output by departments under your direction.	**Performance Rating 3** 4 = Substantially Exceec 3 = Exceeds Expectatio 2 = Meets Expectations 1 = Below Expectations

2. 25 % ☒ Essential ☐ Marginal	Job Duty/Objective Coordinates special projects for the Commissioner and Administration to fulfill goals and objectives. Completes special projects that enhance the image of the SC Department of Agriculture. Oversees special projects that will have a long-term effect relative to the Farmers Market, and Lab/Consumer Services evaluations. Success Criteria Provide effective information to support the goals of the Agency. Provide information in a precise an succinct manner to enable the user to make informed decisions. Carry out projects in a manner that enhances the image of professionalism of the Agency to its stakehoders.

Actual Performance/Comments The Farmers Market issue has been a challenge in numerous aspects. Everyone involved must share the resposibility.	**Performance Rating 2** 4 = Substantially Exceec 3 = Exceeds Expectatio 2 = Meets Expectations 1 = Below Expectations

3. 10 % ☒ Essential ☐ Marginal	Job Duty/Objective Works with other Senior Staff in the overall direction and management of the S.C. Department of Agriculture. Success Criteria Enagage with other Agency staff to provide insights on the impact of Agency plans and actions on the areas of the Agency under direct supervision. Provide timely and precise information to other senior staff to allow them to make informed decisions to better execute the mission of the Agency.
Actual Performance/Comments Engagement with other staff has created management issues from time to time that the Commissioner's office has been made aware of. Some of these issues have reflected poorly on the Agency. All staff involved could have performed better.	**Performance Rating 2** 4 = Substantially Exceeds 3 = Exceeds Expectations 2 = Meets Expectations 1 = Below Expectations
4. 10 % ☒ Essential ☐ Marginal	Job Duty/Objective Provides information to legislators and legislative staff concerning the agency and its budget. Represents the agency head in meetings with other agency officials for the purpose of coordinating various programs. Success Criteria A thorough understanding by the user of the information provided. Provide information and/or represent the Agency with professionalism.
Actual Performance/Comments Several comments have come to the Commissioner's Office regarding less than professional representation from time to time. Some instances have reflected poorly on the Agency.	**Performance Rating 1** 4 = Substantially Exceeds 3 = Exceeds Expectations 2 = Meets Expectations 1 = Below Expectations
5. 5 % ☒ Essential ☐ Marginal	Job Duty/Objective Researches issues and prepares reports, position papers and policy statement for the agency. Success Criteria Preparation and presentation of precise and usable information that adequately prepares the user to make completely informed decision
Actual Performance/Comments Presentaion of date is sometimes easy to understand. At other times it is not clearly presented.	**Performance Rating 2** 4 = Substantially Exceeds 3 = Exceeds Expectation 2 = Meets Expectations 1 = Below Expectations
6. _____ % ☐ Essential ☐ Marginal	Job Duty/Objective Success Criteria
Actual Performance/Comments	**Performance Rating** 4 = Substantially Exceeds 3 = Exceeds Expectation 2 = Meets Expectations 1 = Below Expectations
7. _____ % ☐ Essential ☐ Marginal	Job Duty/Objective Success Criteria
Actual Performance/Comments	**Performance Rating** 4 = Substantially Exceed 3 = Exceeds Expectation 2 = Meets Expectations 1 = Below Expectations

8. _____ % ☐ Essential ☐ Marginal	Job Duty/Objective Success Criteria
Actual Performance/Comments	**Performance Rating** 4 = Substantially Exceed 3 = Exceeds Expectation 2 = Meets Expectations 1 = Below Expectations

Performance Characteristics

For each performance characteristic, check the rating which reflects the employee's actual performance	
1. ALL EMPLOYEES: Teamwork: Degree to which one works effectively and cooperatively with others and other departments in achieving organizational goals. Degree of responsiveness to organizational needs.	☐ Acceptable ☒ Unacceptable
2. Self Management: Works with minimal supervision, manages own time effectively, maintains control over all current projects/responsibilities. Follows up on all relevant issues.	☒ Acceptable ☐ Unacceptable
3. Problem Analysis: Able to identify problems and relevant issues and break problems into components. Sees relationships and alternative solutions and arrives at sound conclusions through a logical process.	☒ Acceptable ☐ Unacceptable
4. Judgement: Able to reason, compare, understand, and think rationally on the job. Makes quality of work-related decisions based on sound conclusions/data. Able to separate facts from opinions.	☒ Acceptable ☐ Unacceptable
5. Leadership: Employee can be relied upon to guide others to the accomplishment of objetives/responsiblities, to promote teamwork, and to resolve problems.	☒ Acceptable ☒ Unacceptable
6. Promoting Euqal Opportunity: Ensuring that employees and potential employees are provided with equal opportunities.	☒ Acceptable ☐ Unacceptable
7. Customer Service: To effectively and efficiently meet the needs of those served by continually assessing performance based on customer feedback.	☒ Acceptable ☐ Unacceptable
8.	☐ Acceptable ☐ Unacceptable

Supervisory Summary and Comments

Please include information regarding areas in which employee has excelled, as well as the steps that need to be taken b the employee and the supervisor to further enhance performance and career development.

Exhibit E

OFFICE OF HUMAN RESOURCES PROFILE

DEPARTMENT OF AGRICULTURE

NAME: LAST	FIRST	M	SSN
TREXLER	JAMES	W	

BIRTHDATE	RACE	SEX	MAR STAT	ED	AGENCY HIRE	STATE HIRE	CLASS DATE
	W	M	M	18	01/15/03	03/02/84	01/15/03

F/P	HRS/WK	BASE HRS	FLSA	POS STAT	LEAVE ACCR DATE	MERIT DATE	MERIT STAT
F52	37.50	1950	E	F	03/02/84		

DRIVE ST VEHICLE	DRIVER LICENSE: NUMBER	ST	CLASSES
Y			

CLASS TITLE	BAND	TYPE	POSITION #	DELEGATED	AGY	CLASS	SLOT
EXECUTIVE ASSISTANT III	08	P	00045103	N	P16	A130	0001

AUTH DATE	CREATE DATE	SUPERVISOR CLASS/SLOT	ORG LEVEL	MIN	MID	MAX	HAY PTS
01/15/03	07/01/69	UA010001		54,000	76,954	99,908	

CURRENT LEVEL DATE	SYSTEM	FED CAT	CNTY	GRANT NUMBER	WORK PHONE	DIR PRT
01/15/03	N	E1	40		803/737-2070	Y

LOC	PAY DEDUCTIONS
RICHLAND	

HISTORY

	EFF DATE	REAS	REV DATE	AGY	CLASS	SLOT	BAND/GRADE	EPMS	TRAN CODE	F/P	PAYRATE	ANNUAL EQU	% CHNG
UR	07/15/07		07/15/08	P16	A130	0001	08	MD	13	F52	84,000	84,000	0.00
)	06/17/07	22	07/15/07	P16	A130	0001	08		04	F52	84,000	84,000	+ 5.60
)	06/02/07	03	07/15/07	P16	A130	0001	08		04	F52	79,549	79,549	+ 3.00
)	07/15/06		07/15/07	P16	A130	0001	08	MD	13	F52	77,233	77,233	0.00
)	06/02/06	03	07/15/06	P16	A130	0001	08		04	F52	77,233	77,233	+ 3.00
)	07/15/05		07/15/06	P16	A130	0001	08	MD	13	F52	74,984	74,984	0.00
)	06/02/05	03	07/15/05	P16	A130	0001	08		04	F52	74,984	74,984	+ 4.00
)	07/15/04		07/15/05	P16	A130	0001	08	MD	13	F52	72,100	72,100	0.00
)	06/02/04	03	07/15/04	P16	A130	0001	08		04	F52	72,100	72,100	+ 3.00
0)	07/15/03		07/15/04	P16	A130	0001	08	MD	13	F52	70,000	70,000	0.00
1)	01/15/03	39	07/15/03	P16	A130	0001	08		02	F52	70,000	70,000	0.00
2)	12/16/02	06		F03	UA03	0001	00		02	F52	70,000	70,000	+ 32.38
3)	08/17/98		08/17/99	F09	AH45	0018	07	ER	13	F52	52,877	52,877	0.00
4)	06/02/98	03	08/17/98	F09	AH45	0018	07		04	F52	52,877	52,877	+ 2.50
5)	02/02/98	37	08/17/98	F09	AH45	0018	07		04	F52	51,588	51,588	+ 5.00
6)	02/02/98	24	08/17/98	F09	AH45	0018	07		03	F52	49,132	49,132	0.00
7)	09/02/97	03	03/02/98	F09	AD28	0003	07		04	F52	49,132	49,132	+ 2.50
8)	03/02/97		03/02/98	F09	AD28	0003	07	ER	13	F52	47,934	47,934	0.00
9)	07/01/97			F09	AD28	0003	07		98	F52	47,934	47,934	0.00
0)	05/02/97	22		F09	AD28	0003	07		04	F52	47,934	47,934	NA

TEMP/TG/TL DATA

HRS/DAY	
DAYS/WK	
WK/YEAR	
BEG DATE	END DATE

ADDITIONAL BENEFITS

IND	CD	AMOUNT	DATE

TOTAL FTE	1.0000	STATE	AMT 84,000
TOTAL ADDL BEN		FTE 1.0000	100.00 %
TOTAL LONGEVITY		FEDERAL	AMT
HOURLY PAYRATE	43.07	FTE 0.0000	0.00 %
PAYRATE	84,000	OTHER	AMT
ANNUAL EQUIV	84,000	FTE 0.0000	0.00 %
PAY PERIOD CODE	CGR		
PAY PERIOD AMT	3,500.00		
TOTAL COMP	84,000		

TRANSACTION BLOCK

☐ PERMANENT ☐ TEMPORARY GRANT ☐ TIME LIMITED ☐ TEMPORARY

☐ FILL VACANCY
☐ INC/DEC PAY
☐ REPLACEMENT
☐ TERMINATE
☐ MSS CHANGE
☐ EPMS
☐ ADD

MERIT SYS STAT	EPMS	EFF DATE
REASON CODE		PAYRATE
TERM CODE		TERM DATE

CURRENT TRANSACTION
POSITION DATA CORRECTION
CURRENT TRANSACTION DATE
01/31/08

LONGEVITY HISTORY

EFF DATE	AGY	CLS	GR/BD	F/P	PAY RATE INCREASE	ANN SAL INCREASE	STAT A/I

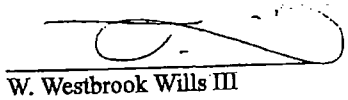
STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	OF THE FIFTH JUDICIAL CIRCUIT
COUNTY OF RICHLAND	)	
	)	Case No.: 2010-CP-40-1249
James W. Trexler,	)	
	)	
Plaintiff,	)	
-vs-	)	
	)	
The Associated Press, Barrington Broadcasting, a South Carolina Corp., Pacific & Southern Company, Inc., and Raycom TV Broadcasting, Inc.	)	**CERTIFICATE OF SERVICE**
	)	
Defendants.	)	
	)	
James W. Trexler,	)	
	)	
Plaintiff,	)	Case No.: 2010-CP-40-1343
-vs-	)	
	)	
McClatchy Newspapers, Inc., Richland County, and the Richland County Sheriff's Department,	)	
	)	
Defendants.	)	

I certify that on this date a copy of the foregoing *Affidavit of James W. Trexler* was served on each party or counsel of record by e-mailing a copy of same, and via United States Mail with sufficient postage and clearly indicated return address at the following addresses:

Jay Bender, Esq.
Baker, Ravenel & Bender LLP
PO Box 8057
Columbia, South Carolina 29202

Robert D. Garfield, Esq.
Davidson & Lindemann, P.A.
1611 Devonshire Drive, Second Floor
PO Box 8568
Columbia, SC 29202-8568

Dated: November 14, 2011.



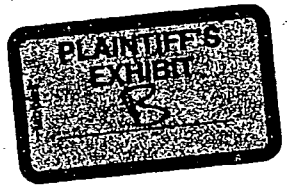
W. Westbrook Wills III

Exhibit
"B"

State of South Carolina)
)
County of Richland)

James W. Trexler,) 10-CP-40-1343
)
Plaintiff,)
vs.)
) Deposition
McClatchy Newspapers, Inc.,)
Richland County and the) of
Richland County Sheriff's)
Department,) James W. Trexler
Defendants.)
)
James W. Trexler,)
) 2010-CP-40-1249
Plaintiff,)
vs.)
)
The Associated Press,)
Barrington Broadcasting, a)
South Carolina Corp.,)
Pacific & Southern Company,)
Inc., and Raycom TV)
Broadcasting, Inc.,)
)
Defendants.)

Deposition of James W. Trexler, taken before Sandra J. Ayers, a notary public in and for the State of South Carolina, commencing at the hour of 4:41 p.m., Wednesday, September 14, 2011, at the office of Davidson & Lindemann, P.A., 1611 Devonshire Drive, Second Floor, Columbia, South Carolina.



Reported by
Sandra J. Ayers

example, would you know if five would be better than one or vice versa?

A Just in, again, back to the criminal aspects of the case that I was involved in where the charges were dismissed on me, going back it was my understanding that a five was supposed to be good.

Q Okay. So you do know something about --

A Something. I don't know what -- how they put the criteria that's established to grade a horse. I don't know that. I don't know what the scale is, what's -- how you get these scores, I don't know.

Q I understand.

A All I know is that a five is supposed to be good.

Q And if five is supposed to be good, what is your impression of what a one is supposed to be?

A It wouldn't be so good.

Q All right. "On February 27th, 2008" -- I continue reading, "I received the warrants from the Humane Society. I received a tip that Hazelene and Terry were in the house at 412 Derby Lane." It says, "I called Captain Lanier of the Fugitive Team and told him about the tip. The Fugitive Team responded to the location and observed a man matching the description of Terry Trexler in the house. He would not answer the door. I faxed a SW" -- the

search warrant -- "to bond court. Once I received the search warrant, I called Captain Lanier. I responded to 412 Derby Lane and served the search warrant. Hazelene and Terry Trexler were arrested. James Trexler was arrested a short time later when he returned to the house at 412 Derby Lane." Now, I'm adding that or I'm assuming that it's 412 Derby Lane. Were you arrested on the property of 412 Derby Lane?

A Yes, sir.

Q And what was your purpose for being at this residence that you no -- no longer live at --

A When --

Q -- on February 27th, 2008?

A I got a call. I was in Sumter County, heading to New Zion, and I got a call from Richland County Sheriff's Department, and they said my mother and brother had been arrested --

Q Uh-huh.

A -- and I needed to turn around and come back.

Q Okay.

A And I needed to be back in 45 minutes. There were dogs in the yard and the house that needed to be cared for. If I didn't get back in 45 minutes, they were going to take and confiscate the animals.

Q Uh-huh.
A I told the officer I was coming back. I came back. He was in an Excursion or Expedition or something across the street. I got out, walked over, talked to him. He said, "Go on and take care of the animals. Your mother is going to the hospital. She's complaining of heart failure, and they've been arrested. But go on to the house and take care of the dogs. I'll be back with you in 30 minutes." I went in the house, and it was about 15 to 20 minutes somebody knocked on the backdoor of the garage. And I opened the door. And it's Richland County police and they -- deputy sheriff and they -- two of them -- and they asked me if I was James Trexler. I told them I was.
Q Uh-huh.
A And they arrested me. And asked me -- well, first they asked me if I own a grey stallion. I said, "No." And then they asked me if I owned another type horse, and I said, "No."

And then they said, "Well, you're under arrest for these warrants." And they arrested me and took me to the detention center.
Q Okay. They served you with five warrants, correct?
A That's correct.

Exhibit
"C"

Instrument: 2006048692 Book/Page: R1189 : 3066 DateTime: 6/2/2006 12:58:00 PM

Book 1189-3066
2006048692 06/02/2006 12:58:00 730 Warranty Deed
Fee:$10.00 County Tax:$0.00 State Tax:$0.00
2006048692 John D. Hamb Richland County ROD

STATE OF SOUTH CAROLINA

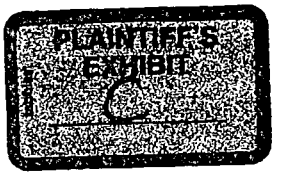
COUNTY OF RICHLAND

KNOW ALL MEN BY THESE PRESENTS, THAT I, JAMES W. TREXLER, (hereinafter called Grantor, for and in consideration of the sum of five and no/100 ($5.00) Dollars and other valuable consideration to the grantor in hand at and before the sealing of these presents, by CAROLINA ARABIAN SHOW HORSES, LLC., (hereinafter called grantee) in the State aforesaid, (the receipt of which is hereby acknowledged) has granted, bargained, sold and released his interest, and by these Presents does grant, bargain, sell and release, unto the Grantee, his heirs, successors and assigns:

All that certain piece, parcel or lot of land, with the improvements thereon, situate, lying and being on the Western side of Hunting Creek Road, South of U.S. Highway No. 76, in the County of Columbia, State of South Carolina, being shown and delineated as Lots 1 and 2, Block O on plat of Hunting Creek Farms by Belter & Smith, Inc., C.E.S. dated August 18, 1971, and recorded in the RMC Office for Richland County in Plat Book X at pages 1629-1629A. Said lots being more particularly shown on a plat for James William Trexler and Julie C. Trexler prepared by Thomas M. Reynolds, R.L.S., dated May 7, 1996, and recorded in Office of the RMC for Richland County in Plat Book ____ at page _____. Said plat is incorporated herein by reference for a more complete and accurate description. Tax Map Nos. 24600-01-45 and 46.

This being the identical property conveyed unto James W. Trexler and Julie C. Trexler by deed of Fred O. Martin and Elizabeth J. Martin dated May 16, 1996 and recorded in the the Office of the RMC for Richland County in Deed Book 1317 Page 578 on May 22, 1996.

Richland County ROD
Richland County Auditor Paul Brawley 2007
This document is not to scale



Instrument: 2006048692 Book/Page: R1189 : 3057 DateTime: 6/2/2006 12:58:00 PM

With all singular the Rights, Members, Hereditaments and Appurtenances to the Premises belonging, or in anywise incident or appertaining.

TOHAVE AND TO HOLD, all the interest of James W. Trexler, the premises before mentioned unto the grantee, his heirs, successors and assigns forever.

James W. Trexler does hereby bind himself and his heirs, to warrant and forever defend all and singular the premises unto the grantee, heirs and assigns against himself and his heirs and against every person whomsoever lawfully claiming or to claim the same, or any part thereof.

This deed transfers the interest of James W. Trexler but does not effect or transfers the interest of Julie C. Trexler in this real property.

IN WITNESS WHEREOF, the Grantors have hereunto set their hand and seal.

Date: June 2, 2006

Signed, Sealed and Delivered in the Presence of:

Witness

Grantor

Witness

Richland County ROD

Richland County Auditor Paul Brawley 2007

This document is not to scale

Instrument: 2006048692 Book/Page: R1189 : 3068 Date/Time: 6/2/2006 12:58:00 PM

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

PERSONALLY appeared before me the undersigned witness, who, being duly sworn, says that (s)he saw the within-named Grantor sign, seal and deliver the within Deed; and that (s)he with the other witness whose signature appears above witnessed the execution thereof.

SWORN to before me June 2, 2006

Witness

Barbara Gardner
Notary Public for South Carolina
My Commission expires: Dec 9, 2013

Grantee's address:

P.O. Box 249
Sumter, SC 29151

Richland County ROD

Richland County Auditor Paul Brawley 2007

This document is not to scale

Instrument: 2006048692 Book/Page: R1189 : 3068 1 DateTime: 6/2/2006 12:58:00 PM

Richland County ROD

Richland County Auditor Paul Brawley 2007

STATE OF SOUTH CAROLINA

AFFIDAVIT

COUNTY OF RICHLAND

PERSONALLY appeared before me the undersigned, who being duly sworn, deposes and says:

1. I have read the information on this Affidavit and I understand such information.

2. The property is being transferred BY James W. Trexler TO Carolina Arabian Show Horses LLC. ON June 2, 2006.

3. Check one of the following: The Deed is

(a) _____ subject to the deed recording fee as a transfer for consideration paid or to be paid in money or money's worth.

(b) _____ subject to the deed recording fee as a transfer between a corporation, a partnership or other entity and a stockholder, partner, or owner of the entity, or is a transfer to a trust or as distribution to a trust beneficiary.

(c) X EXEMPT from the deed recording fee because (exemption # 4)
(explanation, if required)

4. Check one of the following if either item 3(a) or item 3(b) above has been checked.

(a) _____ The fee is computed on the consideration paid or to be paid in money or money's worth in the amount of $_____.

(b) _____ The fee is computed on the fair market value of the realty which is $_____.

(c) _____ The fee is computed on the fair market value of the realty as established for property tax purposes which is $_____.

5. Check YES X or NO _____ to the following: A lien or encumbrance existed on the land, tenement, or realty before the transfer and remained on the land, tenement, or realty after the transfer. If "YES", the amount of the outstanding balance of this lien or encumbrance is $285,000.00.

6. The DEED recording fee is computed as follows:

(a) _____ the amount listed in item 4 above.
(b) _____ the amount listed in item 5 above (no amount place zero)
(c) _____ Subtract Line 6(b) from Line 6(a) and

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Instrument: 2006049592 Book/Page: R1189 : 3058.2 DateTime: 6/2/2006 12:58:00 PM

place the result.

7. As required by Code Section 12-24-70, I state that I am a responsible person who was connected with the transaction as: _____.

8. I understand that a person required to furnish this affidavit who wilfully furnishes a false or fraudulent affidavit is guilty of a misdemeanor and, upon conviction, must be fined not more than one thousand dollars or imprisoned not more than ~~one year~~, or both.

GRANTORS:

SWORN to before me this

2 day of JUNE, 2006

NOTARY PUBLIC FOR SOUTH CAROLINA
MY COMMISSION EXPIRES: Dec 9, 2013

Richland County ROD

Richland County Auditor Paul Brawley 2007

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Exhibit
"D." and "D.2"

Richland County Sheriff's Department

ACISS Investigative Followup Report

Report Number: 0802114413/1 Report Date: 02/22/2008

Primary Information

Report Number:	0802114413/1
Report Date:	02/22/2008
Type Of Report:	Investigative Followup
Reporting LEO:	Wagner, Holly (1209 / Assault / Richland County Sheriff's Department)
Approval Status:	Pending

Narrative

2/13/2008
I received a call from Deputy Simpson. She told me she had been out on a call on Zeigler Rd and the complainant gave her the wrong name. She said he told her his name was James Alfred Trexler I[illegible]. He would not provide her with any ID. After she left the lA. She ran the information in NCIC and it came back as Ter[illegible]r who is wanted out of Sumpter County. She told me she called me because the Humane Society was involved in the incident and after she left she found out the complainant was wanted. I told her I would follow up on the incident. She gave me the incident number, 0802114413

A short time later Inv. Michele Hart of the HSPCA called and told me she was investigating a complaint about some neglected horses on Zeiger Rd South. Michele told me she was on DVM Lori Stokes' property trying to take pictures of the horses on the adjoining property when a man and an older woman showed up and started to yelling and cussing at her. The woman stood between her and the horses and waived her hands in the air and shouted profanity at her. They told her she was trespassing and tried to get her to give them her camera. Michele tried to explain to them that she was with the Humane Society and that she was on Lori Stokes' property with Stokes' permission to be there. Michele said when she realized she was not going to get any more pictures or any cooperation from the two people she decided to leave. While she was walking thru the pasture back to her truck the man drove his truck over behind her truck and blocked her in. He actually told her there was no way she was going to leave. He told her he had called the police and the police had told him to keep her there. I told Michele I had received a call from the deputy who had responded and I would follow up on the incident. We decide to meet on Monday at the Humane Society.

2/19/2008 1000
I met with Inv. Michele Hart, Inv. Liz Perry and Mary Ellen Tobias at the HSPCA to discuss getting a SW to evaluate the horses on Zeigler Rd.
Michele also gave me a written statement about how the man calling himself James Trexler blocked her in and would not let her leave. I showed her DMV pictures of James Trexler and Terry Trexler. She immediately pointed to Terry Trexler and said that is the man who told me he was James Trexler and would not let me leave.

I requested the 911 recording to find out if dispatch had told Trexler to block in Michele and keep her there until the police arrive. I called Deputy Simpson and she confirmed that the Trexler truck was parked blocking Michele and there was no way she could have driven her truck away.

2/22/2008
I received the 911 recording. Dispatch did not tell Trexler to block the truck.

I called the ELA number and spoke to Andrew Rogers. We discussed the incident and possible charges. He told me this incident met the statutory requirements of probable cause for Kidnapping.

2/26/2008 I signed the warrant for Kidnapping against Terry Trexler.

2/27/2008 The Fugitive arrested Terry Alfred Trexler for Kidnapping and Animal Cruelty in another case. Case # 0802241626

Case Closed by Arrest C.J.

8441-A-026

PLAINTIFF'S EXHIBIT 61

Richland County Sheriff's Department

ACISS Investigative Followup Report

Report Number: 08021144413M Report Date: 02/22/2008

Narrative - Continued

Record Status Information	
Record Origination Operator:	Wagner, Holly (1209 / Assault / Richland County Sheriff's Department)
Record Origination Date:	02/22/2008 17:06
Last Update Operator:	Wagner, Holly (1209 / Assault / Richland County Sheriff's Department)
Last Update Date:	03/06/2008 10:10

Reporting LEO	Date	Supervisor	Date
Wagner, Holly (1209 / Assault / Richland County Sheriff's Department)		Robinson, Donald (556 / Assault / Richland County Sheriff's Department)	3/6/2008

Richland County Sheriff's Department

ACISS Investigative Followup Report

Report Number: 0802241526/1 Report Date: 02/28/2008

Report Number:	0802241526/1
Report Date:	02/28/2008
Type Of Report:	Investigative Followup
Description:	Follow up
Reporting LEO:	Wagner, Holly (1209 / Assault / Richland County Sheriff's Department)
Approval Status:	Pending

Record Origination Operator:	Wagner, Holly (1209 / Assault / Richland County Sheriff's Department)
Record Origination Date:	02/28/2008 19:25
Last Update Operator:	Wagner, Holly (1209 / Assault / Richland County Sheriff's Department)
Last Update Date:	04/07/2008 12:15

Wagner, Holly (1209 / Assault / Richland County Sheriff's Department)		Robinson, Donald (555 / Assault / Richland County Sheriff's Department)	4/7/2008

8441-A-030

PLAINTIFF'S EXHIBIT D-9

2/13/2008

I received a call from Deputy Simpson. She told me she had been out on a call on Zeigler Rd and the complainant gave her the wrong name. She said he told her his name was James Alfred Treader DOB [redacted]. He would not provide her with any ID. After she left the I/L. She ran the information in [redacted] and it came back as Terry Alfred Treader who is wanted out of Sumpter County. She told me she called me because the Humane Society was involved in the call and after she left she found out the complainant was wanted. I told her I would follow up on the incident. She gave me the incident number.

A short time later Inv. Michele Hart of the HSPCA called and told me she was investigating a complaint about some neglected horses on Zeiger Rd South. Michele told me she was on DVM Lori Stokes' property trying to take pictures of the horses on the adjoining property when a man and an older woman showed up and started to yelling and cussing at her. The woman stood between her and the horses and waived her hands in the air and shouted profanity at her. They told her she was trespassing and tried to get her to give them her camera. Michele tried to explain to them that she was with the Humane Society and that she was on Lori Stokes property with Stokes' permission to be there. Michele said when she realized she was not going to get any more pictures or any cooperation from the two people she decided to leave. While she was walking from the pasture back to her truck the man drove his truck over behind her truck and blocked her in. He actually told her there was no way she was going to leave. He told her he had called the police and the police had told him to keep her there. I told Michele I had received a call from the deputy who had responded and I would follow up on the incident. We decide to meet on Monday at the Humane Society.

2/19/2008 1000

I met with Inv. Michele Hart, Inv. Liz Perry and Mary Ellen Tobias at the HSPCA to discuss getting a SW to evaluate the horses on Zeigler Rd.
Michele told me the first time she went to investigate the property on Zeigler Rd no one was around and the gate was locked so she posted the property. Then she received a call from a man who said he was James Treader with the SC Department of Agriculture. He was very belligerent and told her he owned the horses and she could not go on his property to look at the horses. That is why she had gone on Lori Stokes' property to try to take pictures of the horses.
Michele also gave me a written statement about how the man calling himself James Treader blocked her in and would not let her leave. I showed her DMV pictures of James Treader and Terry Treader. She immediately pointed to Terry Treader and said that is the man who told me he was James Treader and would not let me leave.

On 2/25/2008 at 0930 RCSD assisted the HSPCA serve a search warrant at 1248 Zeigler Rd South. RCSD secured the property. A DVM Mike Privett and HSPCA checked on the condition of the 23 horses found on the property. There was a 15-gallon water tub that only had a few inches of water in the bottom. All other tubs and buckets on the property were empty. There was no feed, hay or any evidence that there had been any hay on the property. Most of the horses were extremely

8441-A-031

underweight with ribs and hipbones showing. Some of the younger horses had on halters that had been on so long that they were growing into the skin. There were two female dogs and 5 puppies on the property. They did not have any food or water. After a preliminary evaluation of the animals and property it was decided to seize all the animals. The 23 horses, two female dogs and 5 puppies were all taken into custody by the HSPCA.
The HSPCA had information that Terry and Hazel Trexler owned the horses. Hazelene Trexler arrived on the property during the search warrant. She was very upset. At one point she yelled at Michele Hart of the HSPCA "I am going to get you" while pointing her finger at her. Hazel Trexler claimed ownership of all the horses while being interviewed by the media.

The horses were taken to Mike Privett's to be evaluated and cared for.
All the horses were numbered and photographed.
DVM Mike Privett evaluated and documented the body condition of all the horses seized.

The HSPCA had also received information that there were horses in a barn at the home of James Trexler 412 Derby Ln. Hopkins SC. The HSPCA obtained a warrant for that property.
On 2/26/08. RCSD assisted the HSCPA in serving that warrant. One horse was in a pasture. Four horses were found in stalls in the barn. The horses were standing in mud soaked with urine and feces. There was no food, hay or clean water seen on the property. One of the horses was in an emaciated state with ribs and hipbones protruding. The other horses were slightly under nourished. The horses were taken into custody by the HSPCA.

The horses were taken to Mike Privett's to be evaluated and cared for.
All the horses were numbered and photographed.
DVM Mike Privett evaluated and documented the body condition of all the horses seized.

On 2/27/2008 I received the warrants from the Humane Society. I received a tip that Hazelene and Terry were in the house at 412 Derby Ln. I called Capt Lanier of the Fugitive Team and told him about the tip. The Fugitive Team responded to the location and observed a man matching the description of Terry Trexler in the house. He would not answer the door. I faxed a SW to bond court. Once I received the SW I called Capt. Lanier. I responded to 412 Derby Ln and served the SW. Hazelene and Terry Trexler were arrested. James Trexler was arrested a short time later when he returned to the house.

Case Closed By Arrest
CN

On 2/29/2008 at 1000 DVM Nicole Swineheart evaluated the 28 horses at Mike Privett's.

On 2/29/2008 Mike Privett called and told me he had received a tip that there may be more horses on Misty Meadows Rd in Hopkins. He had driven by the location and found 17 horses in a pasture.

8441-A-032

Some of the animals were malnourished. There were rib and hipbones showing. Three of the horses had halters on so tight they were rubbing sores on their heads. The pasture was eaten down had there was no hay or grass. I made contact with s who lives at 207 Misty Medows Rd. He told me he had let Terry and Hazelene Treder put some horses on his land. He said he did not have a contract with them because he had known Terry's father and they only wanted to put the horses there for a few months. Id not know the exact date the horses showed up but it was about two months ago. y gave Mike Privett and the HSPCA permission to go on his property to care for the animals until a SW could be obtained.

was very nervous and wanted to make sure he was not in trouble for the animals. He said he had ask his neighbor to call the HSPCA about the horses. Ray is somewhat evasive during questioning. I believe he is a friend of the Treder's and did not want to turn them in but wanted to make sure he was no in trouble for the condition of the horses on his property.

On 3/1/08 at 1410 a SW was served on 207 Misty Medows Rd along with an on site seizure of the 17 horses. I gave a copy of the SW and On-site seizure to Ray's wife because he was not home.

came home before we had left and I spoke to him about the search warrant and seizure. He said he understood that the horses could not be taken off the property. He agreed to call the sheriff's department if he saw anyone around the horses.

Michele Hart and I went by 412 Derby Lane. in an attempt to notify James Treder of the SW and seizure. No one would come to the door. I believe he was in the house but would not come to the door. I saw the dark truck in the garage and the bull dogs were in the back yard.

I called James Treder's cell phone and spoke to him. I advised him of the warrant and seizure. He told me the horses on Misty Medows Rd were his mother's and he had told his attorney Todd Rutherford about the horses and ask what he should do. He said he had fed the horses on Saturday and Sunday but they were not his and he was waiting on his attorney to tell him what to do about the horses. I ask him about the dogs at 412 Derby Ln. He told me he was taking care of them. He said the bulldogs are in the back yard right now.

I also took copies of the search warrant and on-site seizure to the office of Attorney Todd Rutherford.

3/9/2008

The 17 horses on Misty Medows were transported to DVM Mike Privett's farm.

All the horses were numbered and photographed.

DVM Mike Privett evaluated and documented the body condition of all the horses seized.

3/10/2008

Seventeen warrants each for Terry and Hazelene Treder were signed for the 17 horses on Misty Medows.

8441-A-033

Exhibit "E"

HUMANE SOCIETY

FACSIMILE TRANSMITTAL SHEET

TO:	FROM:
William Johnson	Wayne Brennessel
COMPANY:	**DATE:**
	8/15/2011
FAX NUMBER:	**TOTAL NO. OF PAGES, INCLUDING COVER:**
803-435-2858	7
PHONE NUMBER:	**SENDER'S PHONE NUMBER:**
803.435-0909	(803) 783-1267

RE: JAMES TREXLER

PLAINTIFF'S EXHIBIT E

Humane Society for the Prevention of Cruelty to Animals Confidential Report

HSPCA Cruelty Report 282008-1000

Date created:	2-11-2008	Contact date:	2-8-2008
Created by:	ElisabethPerry	Source:	Phone
Status:	Closed, 2-7-2009	Type:	General neglect
Address:	**1248 Zeigler**		
City:	**Eastover**	**County:**	**Richland**

Case Summary

[FEB-11-08 8:36 AM Elisabeth Perry] Neglected horses, ribs showing

Case Notes

2/11/08 Called complainant for more information. She stated that she was driving around one day looking at properties for sale in the area. She stated that she saw the "for sale" sign and the gate was open so she went up to the house but could not find anybody around. She stated that she noticed the horses were underweight and called the HSPCA.

-- [FEB-12-08 5:10 PM Michele Hines] ----------
Went to address but gate was locked. Posted notice to call. Horses could be seen in pasture but too far away to see body condition.

-- [FEB-12-08 5:26 PM Michele Hines] ----------
Owner called and was very rude on the phone. He stated that I have no authority to inspect his horses and he will not allow access on his properrty.
Called Dr Privot and left message to call and he called back immediately. He stated that he would have Dr stokes call back just as soon as she was free.

-- [FEB-18-08 2:32 PM Michele Hines] ----------
2/12/08 Dr Stokes called and said that I could go on her property at any time. She told me how her property line was 72 beyond the fencing so I could walk the outside of the fence and still be on her property. She stated that I was also welcome to climb the fence to get into the pasture.

-- [FEB-18-08 2:57 PM Michele Hines] ----------
2/13/08 Went to Dr Stokes and parked in front of the gate. the gate was unlocked and I was able to walk in but had to climb the fencing to get into the pasture. As I was walking across the pasture the owners saw me and started calling the horses in. I was only able to get 3 pictures before an older white female came over and started calling me a fucking whoring bitch. She demanded that I give her my camera as she continued to curse at me with the same wordage. A picture of the woman was taken as she continued to yell and curse. She did threaten to shoot me if I trespassed on her property which she said I was doing. I returned to my truck and the lady and a white male with light colored hair, blue eyes and a cyst on his cheek had blocked my truck in so that I could not leave. There was a very large ditch on both sides and there was no room to move my truck. I asked him to move his truck and he said no, that I wasn't going anywhere and that I should just try to get out. The man came up to me continuously yelling and get within inches of me. His face was less than a foot away from mine as he continued to scream at me. I asked him to back up and he refused. The two continued to verbally assault me and I had to get in my truck to get away from them. The guy continued to repeat that I wasn't going anywhere except to jail. That he was going to have a warrant signed against me for trespassing by the end of the day and that he had two witnesses that I was on his property. Before getting in my truck I tried to explain that I had permission to be on Dr Stokes property and he insisted that I was on his property. I tried to tell the female that I called the day prior but was refused entry and she called me a liar. But the male confirmed that he did talk with someone but it was not me. The Richland County Police arrived about 30 minutes later and spoke with the two first. They came up to about ten minutes later and I provided them with my call sheet, previous days notice and the phone number for Dr Stokes. The officers returned to the other two and spoke with them for another 15-20 minutes. The officers came back and asked if I wanted a case number (#1144) and I said yes. They gave me a verbal warning not to trespass on their property and advised if I had to return that I bring a deputy.

2/18/08 Dr Stokes called and stated that she spoke with the property owner confirming that the property is being leased. She gave me his name and phone number. She stated that she counted approx 26 horses this morning and she stated that about 3/4 are in bad condition. She stated that several are high 1's or low 2's. She said that she took some pictures with her camera phone but was going to go out and try to get some better ones.

-- [FEB-23-08 9:26 AM Michele Hines] ----------
2/19/08 Dr Stokes e-mailed pictures taken. Search Warrant signed by Judge Valerie Stroman-Boyd.

-- [MAR-02-08 10:50 AM Michele Hines] ----------
2/25/08 Execution of Search Warrant
Accompanied by
Richland Co Sheriff's Dept
Inv Wagner
Inv Spears
Inv Thompson
Dep Tena Goff
Dep Newman
Dep Wamsley
HSPCA
Josh Gowans
Inv Elisabeth Perry
Kelly Graham
Veterinarian
Dr Michael Privett
Other Volunteers
Mary Ellen Tobias
Jackie Sisson
Alicia Morgan
Lauren Kinard
Leon Jackson

At approximately 0930hrs the property was approached. The front gate was locked with a chain and padlock so bolt cutters were used to gain entry. No one was located on the premises. Twenty-three (23) horses were found contained in a fenced-in field behind the paddock containing the barn. The fencing was poorly constructed with posts and two strands of barbed wire. Many of the posts had exposed nails on the inside which is hazardous and could easily cause injure to a horse.

It was immediately noted that many of the horses were underweight with spine, ribs and hip bones visible. Many also had tight halters. Dr Privett drove into the paddock looking for a food and water source. No food was found in the paddock and the grass was eaten down to the roots. The paddock had no trees or structures that would provide shelter for any of the horses. A small container, approx 15 gallons, was found but it was only half full. The surrounding grounds and structures (barn, shed and house) were searched but no food was found. Dr Privett stated that the horses were not in imminent danger of death but that they were underweight and/or in poor condition. Based on our findings the decision was made to seize the horses. The horses were then herded into the smaller paddock containing the barn. The horses gave little resistance entering the paddock and immediately started grazing the grass. The horses were then loaded into the trailers for transport.

While loading the horses Hazelene Trexler drove up in a dark blue pick-up truck. She began yelling and started making phone calls. At one point she spotted me, Inv Hart, and pointed her finger at me twice stating I'm going to get you. Inv Perry and Inv Wagner both witnessed this action. Inv Wagner advised Ms Trexler that she needed to stop making threats or she would be arrested. Ms Trexler was then escorted to another area of the property by two uniformed officers where she spoke with them and the media. A copy of the search warrant was given to Hazelene Trexler by the uniformed officers.

Once the horses were loaded they were transported to Dr Privett's farm for evaluation. Blood was drawn from each horse for a coggins and CBC testing. Each horse was paint-branded and photographed. See files for horse description and BSC.

Horses were boarded at Dr Privett's farm pending Show Cause hearing scheduled for 3/3/08 @ 1000 hrs.

-- [MAR-02-08 11:50 AM Michele Hines] ----------
2/28/08 During further investigation it was found that Terry and Hazelene Trexler were wanted in Jefferson County Georgia for a combined 61 counts of animal cruelty. The Gerogia Department of Agriculture and Jefferson Co Police were contacted to confirm the charges.
Spoke with Judy Whetsell at the GA Dept of Agriculture. She stated that they originally recieved a call for a dead horse on the Trexler's Ga property. Once they arrived they found approxiamately 72 horses. She stated that they had two seizures and impounded a total of 29 horses and the remaining were placed under quarantine. She stated that 10 were sold without permission and the rest were removed from the property. She stated that Ms Trexler said that she inherited the horses after her uncle died in Waycross GA.
I asked for a copy of their case and she stated that a written request would be needed for an open case record. She said to send the request to the the GA Dept of Agriculture, 19 MLK Jr Dr, Agriculture Bldg Rm 133, Atlanta GA 30334. Case #FY08-0550
2/26/08 Arrest Warrants signed for Terry and Hazelene Trexler. 23 counts each for ill-treatment of animals.
2/28/08 Sumter Co Police called reporting that several graves sites have been found on the property that the Trexler's recently owned on Brewington Rd. I responded to 920 Brewington Rd and met with Sgt Randy Wright. It was dark but he showed me a couple of grave sites with exposed bones. Arrangements were made to meet the next morning at 9am.
2/29/08 Called Randy Lockwood with the ASPCA in NY City about using their CSI team. He relayed the information to Dr Merck in Ga and she quickly contacted me. Due to the long drive, arrangements were made for her and her asst to deploy on 3/1/08.
3/1/08 Dr Merck arrived at appox 1000hrs and evaluated the scene. With Sgt Wright's assistance they mapped out the scene and excavation was started. Nine (9) grave site were located and excavated removing the deepest leg bone for bone marrow testing. One grave contained the remains of 3 horses. Insect and plant samples were also taken from some of the sites for testing. During the excavation, Connie Dickman from Indiana arrived stating that she had sold James Trexler a horse approx 2.5 years ago. She stated that he bought the horse for $10,000 but only paid her $5,000. She stated that she has been trying to contact him for years without success. She stated that Terry Trexler is the one who accepted delivery of the horse. She described the horse to be a 20 yo grey stallion approx 14.3 hands high. She stated that when he was last seen he was starting to show flea-bitten markings and that he has a growth/lump/callous on his left hock. Ms Dickman provided paperwork including contract, registration papers and attempted coorespondence with the Trexler's. Ms Dickman stated that she can identify her horse and would like to take custody of him. Inv Perry made arrangements with Ms Dickman for indentification.
3/1/08 With Dr Merck we arrived at 1248 Zeigler Rd at approx 1630 hrs, meeting with Dr Privett and Inv Perry. With the landlords permission we entered the property and found three grave sites. The horses buried still had intact flesh, skin and fur. From two of the sites, one leg was removed for testing and insect samples were taken. The doctors decided not to take samples from the third site because the foal was too young for testing.

-- [MAR-12-08 4:02 PM Michele Hines] ----------
Dr Merck just called with 3 test results. She explained that the marrow test should be 60% or higher.
The test results are as followed.
Site 1 grave 1
.8%
Site 1 grave 6
31.4%
Site 1 grave 9

63.1%
So two out of the three were starved, the first one severely. She is still waiting for other reports and the plant and insect results
to come in and will keep me posted.
Josh, Liz & Holly notified via e-mail. Mary Ellen Tobias, Dr Privett and Jill Andrews notifed by phone.
[MAR-16-08 6:02 PM Michele Hines] 3/13/08 Recieved e-mail from Dr Merck with prelim report. Only change in report is that grave 1 was from site 2 (Zeigler Rd). Report was e-mailed to Josh, Holly, Liz, Mary Ellen and Dr Privett. Jill was called with the results.
[MAR-19-08 4:24 PM Michele Hines] Spoke with Dr Mitch Lowrey who owns Equine Medical Services in Bluffton SC, 843-442-3584. He stated that on 11/17/07 and 11/18/07 he traveled to Jefferson Co Ga to pull coggins tests on approx 42 horses belonging to the Trexler. He stated that he is licensed in both states and the Trexler told him that Hazelene Trexler was very ill and wasn't expected to live much longer and they were in a hurry to get the tests so they could sell the horses before she passed away. He stated that Hazelene wrote 2 checks on a closed account for just under $1,500.00. She asked him to hold the checks for a week and he did. He attempted numerous times to contact them without success. He stated that on the first day it was just Hazelene, Terry and himself rounding up the horses. On the second day it was Hazelene, Terry, James and 2 hispanic males helping with the horses. He stated that the Hispanic males were very rough with the horses. He stated that one horse tried jumping the fencing and injured himself which he treated free of charge. He stated that he provided all the coggins tests to the GADA and that he would mail me a copy as well.

Spoke with Barbara Person at Markel Ins Co, 4600 Cox Rd, Glen Allen VA, 23058, 800-416-4364. She stated that the Trexler's did have insurance with their company about 6 years ago but a subpoena would be needed. Jill Anderson was given the information.

Spoke with Jarvis Ins Co in Ohio, 440-248-5330. He stated that they did have a policy on "Amore" back in 2001 but the records have been purged.

Spoke with Johnny (803-799-6001(w) or 803-353-0589(h) and Jesse Harmon (803-600-2016). Johnny stated that on 10/7/07 him and Jesse saw a large stock trailer at Bunky's that was overcrowded with horses. He stated that 3 of the horses were on the floor being stomped by the others and one was gasping for air. He told the Trexlers but they didn't seem to care so he called the Sheriff's Dept. He stated that James did move a couple of horses to the smaller trailer that they had with them. Before the police could arrive the Trexler's left so they followed them and called the police back. He stated that they followed them into Hunting Creek Subdivision. He stated that James got out of his truck and started beating on the Harmon's truck and Hazelene was calling 9-1-1 claiming that she was being raped. James claimed to be an attorney and a Richland Co officer and Hazelene claimed that she was Sheriff Lotts secretary. Once the police arrived Hazelene filed charges that they had fondled her. Both Harmon's said that they taped the incident and gave Officer Woods with the RCSD a copy. Johnny Harmon also stated that the next day he saw all three Trexler's on Misty Meadows with some horses. Jesse Harmon stated that he would meet with me next week with a copy of the tape and pictures that he has of the incident. He works at Blanchard's, 711 Buckner Rd. in Columbia. Jesse also stated that an ACO with Richland Co issued the Trexler's a ticket.

[MAR-20-08 2:51 PM Michele Hines] Spoke with Capt McKenzie with SLED. He reported working a case where a horse named Autumn Blaze was purchased by Terry Trexler from CA in the fall of 2001. In May 2002 a $70K mortality claim was filed with Markel. He is trying to obtain a copy of their case for Inv Wagner.

Spoke with John Robinson with National Equine Claims. He stated that James Trexler was paid for 4 claims filed bx 2003-2005. Subpeona is being sent for those records.
[MAR-20-08 3:43 PM Michele Hines] Spoke with RCACO Thompson who stated that he issued James Trexler a notice on Oct 7, 2007 during the horse trailer incident involving the Harmon's. He

will be dropping off the report at the HSPCA.
[MAR-21-08 4:53 PM Michele Hines] Called Walterboro Auction and left a message to call.
[MAR-21-08 4:55 PM Michele Hines] E-mailed Charlotte (VA State Vet) asking that she search her database for the Trexler family.

Case Details

Case rating:	*	Result:	File charges
Verbal Warning:		Refer to:	
Written Warning:		Follow up:	

* Level 0: Undocumented cruelty, no action. Level 1: Requires compliance, action: educate. Level 2: Requires intervention, action prosecute. Level 3: Results in death, action prosecute

Resources

Type	Contact Name	Contact Phone
Witness	Connie Dickman	
Witness	Jesse Harmon	
Witness	Johnny Harmon	(803) 353-0589
Witness	Barbara Person	(800) 416-4364
Witness	John Robinson	(800) 783-9418
Veterinarian	Michael Privett, DVM	(803) 783-6999
Veterinarian	Mitch Lowrey, DVM	(843) 442-3584
Suspect	James Trexler	
Suspect	Hazelene Trexler	
Suspect	Terry Trexler	
Law Enforcement	Holly Wagner	(803) 576-3456
Law Enforcement	Capt McKenzie	(843) 662-6245
Landlord	Jim Quinn	(803) 606-0260
Landlord	John McDaniel	
Control Officer	ACO Thompson	
Complainant	Molly Hutchinson	(803) 269-2955

Seized Animals

Type	Name	Action
Horse	13	Foster
Horse	12 Bonaparte's Fancy	Foster
Horse	49 BA Passionette	Foster
Horse	51	
Horse	50	
Horse	47 Jabask Gdancer	Euthanize
Horse	46 Safanadd	
Horse	45	Foster
Horse	43 April's Royal Isis	
Horse	42 RF Fancy Free	Foster
Horse	35	
Horse	34	
Horse	33 Camelo V	
Horse	32	Foster
Horse	31 Amoree	
Horse	23	

Horse	22 Hucks Jubalee	
Horse	21	Foster
Horse	20 Amoree Promotion	
Horse	17 Khandi Berry Bey	
Horse	16 Ju Beylee	Foster
Horse	15 Summer's Charm	
Horse	14	
Horse	11	
Horse	08 April Delight	
Horse	06	
Horse	05	
Horse	04	Foster
Horse	03	
Horse	02 Elita MSC	
Horse	01 SH Mhadiya	
Horse	53 Zabaska	Foster
Horse	44 Mics Fantasia	Foster
Horse	41 Fiery Nova	Foster
Horse	18 OA Sweet Promise	Foster
Horse	10 Blazing Passion V	Foster
Horse	09 DA Reflectinns	Foster
Horse	07 RF Glory Bey	Foster
Dog	Dog_01 (Riggins)	Foster
Horse	57	Foster
Horse	19	Foster
Horse	52	Foster
Horse	48	Foster
Dog	Dog_03	Foster
Horse	54	Foster
Horse	56	Foster
Horse	55	Foster
Dog	Dog_02	
Dog	Dog_04	
Dog	Dog_05	
Type	**Name**	**Action**
Dog	Dog_07 (Jazzy)	
Dog	Dog_06 (Lola)	

Supervisor's Notes

Exhibit
"F"

1-955851

STATE OF SOUTH CAROLINA

[X] County/ [ ] Municipality of

Richland / Hopkins Magistrate

THE STATE 0802114413

against

Terry Alfred Trexler

Address: 920 E Brewington Rd

Sumter, SC 29153-

Phone: SSN:

Sex: M Race: Height: Weight:

DL State: SC DL #

DOB Agency ORI #: 04000

Prosecuting Agency: Richland County Sheriff Department

Prosecuting Officer: Holly Wagner - 1209

Offense: Kidnapping / Kidnapping

Offense Code: 0095

Code/Ordinance Sec: 16-03-0910

This warrant is CERTIFIED FOR SERVICE in the

[ ] County/ [ ] Municipality of

Richland / Hopkins Magistrate

The accused is to be arrested and brought before me to be dealt with according to the law.

(L.S.)

Signature of Judge

Date

RETURN

A copy of this arrest warrant was delivered to defendant on

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

Hopkins Magistrate
6108 Cabin Creek Road
Hopkins, SC 29061

ORIGINAL

PLAINTIFF'S EXHIBIT 5

Richland / Hopkins Magistrate)

Personally appeared before me the affiant Holly Wagner who being duly sworn deposes and says that defendant Terry Alfred Trexler did within this county and state on or about 02/13/2008 violate the criminal laws of the State of South Carolina (or ordinance of [X] County/ [ ] Municipality of Richland / Hopkins Magistrate in the following particulars:

DESCRIPTION OF OFFENSE Kidnapping / Kidnapping

I further state that there is probable cause to believe that the defendant named above did commit the crime set forth and that probable cause is based on the following facts:

That on February 13, 2008 while at 1134 Zeigler Rd South in the Hopkins Magisterial District of Richland County, it is believed that the defendant did commit the crime of Kidnapping because he willfully and unlawfully confined the victim, Michele Hart against her will by driving a 2002 dark blue Ford Truck (SC tag 323TMP) up behind her vehicle to block her in, and refused to let her leave. The victim asked the defendant, Terry Alfred Trexler to move his truck so she could leave and he told her there was no way he was going to let her leave. Defendant was so upset because Michele Hart is an investigator with the HSPCA and she was taking pictures of his horses from the adjoining property. The defendant has provided a written statement describing the incident. The R/O deputy confirmed the vehicle being blocked in by the defendant's truck. Affiant and others are witness to prove same. RCSD Case #08024114413

Signature of Affiant

STATE OF SOUTH CAROLINA)
[X] County/ [ ] Municipality of)
Richland / Hopkins Magistrate)

Affiant's Address: 5623 Two Notch Road
Columbia, SC 29223-
Affiant's Telephone: (803)576-3000

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that on or about 2/13/2008 defendant Terry Alfred Trexler did violate the criminal laws of the State of South Carolina (or ordinance of [X] County/ [ ] Municipality of Richland / Hopkins Magistrate) as set forth below.

DESCRIPTION OF OFFENSE: Kidnapping / Kidnapping

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him or her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as soon thereafter as is practicable.

Sworn to and subscribed before me on 02/26/2008

(L.S.)

Signature of Issuing Judge

V R Stroman-Boyd

Judge Code: 5021

Judge's Address: 6108 Cabin Creek Road
Hopkins, SC 29061-

Judge's Telephone: (803)576-2530

Issuing Court: [X] Magistrate [ ] Municipal [ ] Circuit

ORIGINAL ORIGINAL ORIGINAL ORIGINAL ORIGINAL ORIGINAL

8441-A-0177

732

APP. 827

Exhibit "G"

COPY

State of South Carolina) Court of Common Pleas
) Fifth Judicial Circuit
County of Richland) No.: 2010-CP-40-1343

James W. Trexler,

Plaintiff,

vs.

McClatchy Newspapers, Inc., Richland County, and the Richland County Sheriff's Department,

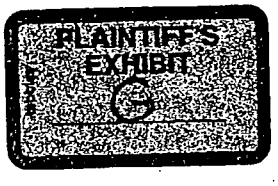
Defendants.

Deposition of
ELISABETH E. PERRY

January 17, 2012

Deposition on oral examination of Elisabeth E. Perry, reported by Jeffrey M. Thomas, Registered Professional Reporter and Notary Public in and for the State of South Carolina; said deposition taken pursuant to agreement and in accordance with the South Carolina Rules of Civil Procedure, at the Offices of Sweeny, Wingate & Barrow, P.A., 1515 Lady Street, Columbia, South Carolina, on January 17, 2012, at the hour of 4:06 p.m.

GARBER REPORTING SERVICE, INC.
POST OFFICE BOX 12348
COLUMBIA, SOUTH CAROLINA 29211
(803) 256-4500



Appearances

Representing the Plaintiff:

W. WESTBROOK WILLS, III, ESQUIRE
Austin, Fowler & Wills, LLP
38 Broad Street, Suite 200
Charleston, South Carolina 29401

Representing Richland County Sheriff's Department:

ROBERT GARFIELD, ESQUIRE
SCOTT HAYES, ESQUIRE
Davidson & Lindemann, P.A.
1611 Devonshire Drive, Second Floor
P.O. Box 8568
Columbia, South Carolina 29202

Representing McClatchy Newspapers, Inc., Associated Press, Pacific & Southern Company, Barrington Broadcasting, and Raycom:

JAY BENDER, ESQUIRE
Baker, Ravenel & Bender, LLP
3710 Landmark Drive, Suite 400
P.O. Box 8057
Columbia, South Carolina 29202

Representing Human Society:

JOHN E. TYLER, ESQUIRE
Sweeny, Wingate & Barrow, P.A.
1515 Lady Street
P.O. Box 12129
Columbia, South Carolina 29211

Q. Okay. Did you ever accompany them on -- during the execution of warrants?

A. No.

Q. Prior to starting your work at the H.S.P.C.A. here in Columbia had you ever -- had you ever executed search warrants?

A. No.

Q. Had you ever executed any arrest warrants?

A. No.

Q. Had you ever taken out any search warrants or arrest warrants prior to working --

A. No.

Q. -- at the H.S.P.C.A. in Columbia?

A. Not me personally.

Q. Okay. Did the H.S.P.C.A. provide the cruelty investigators with any type of law enforcement training after hiring them?

A. Law enforcement training? No.

Q. Okay. Did the H.S.P.C.A. provide cruelty investigators any training in criminal law or procedure after being hired?

MR. TYLER: Object to the form of the question.

THE WITNESS: Rephrase that?

BY MR. WILLS:

understand what I'm saying?

Q. I understand, but I understand there was a complaint for the Zeigler Road property. And then now we are talking about an entirely different property in a different county. So do you recall if there were two separate complaints or whether there was one complaint for Zeigler Road and that led into the second?

MR. BENDER: I object to the form of the question. I think Zeigler Road and Derby Lane are in the same county.

MR. WILLS: Oh, okay. My apology if they are in the same county, but they are in different --

BY MR. WILLS:

Q. I don't know this area, but it seems they are in different towns.

A. Right.

Q. Do you have any knowledge of whether or not all of the investigation of the Zeigler Road property and the Derby Lane property stemmed from the same complaint?

A. It involved the same people, yes. I mean, there were more horses on -- it was the second property with horses on it that allegedly belonged

to the Trexlers.

Q. And do you have any knowledge about how it is that anybody at the H.S.P.C.A. discovered that there was any relation with the two properties?

A. I don't remember.

Q. Okay. Let me show you this. I'm going to hand you what is Exhibit -- Plaintiff's Exhibit Number 5.

MR. TYLER: Is this the last one, Brook?

MR. WILLS: Yes. I mean, this is all I can -- this is the last I'm going to do today if this is all I can get in today. You know, we may have some more later.

BY MR. WILLS:

Q. Do you recognize those documents?

A. Yes, I do.

Q. Okay. What are -- I'll represent to you that Plaintiff's Exhibit Number 5 is comprised of five different arrest warrants, but they are all arrest warrants. Do you recognize all five of those arrest warrants?

A. This is an affidavit. Is that the same thing as an arrest warrant? Yes, I do. I recognize them.

Q. Okay. Those -- are those arrest warrants that you took out?

A. I don't have the power to arrest anybody.

Q. Okay. Are those arrest warrants to which you swore an affidavit?

A. Yes.

Q. Okay. Do you recall going to the Magistrate to give that affidavit?

A. I do.

Q. Okay. Did you give that affidavit to the Magistrate?

A. Yes.

Q. Personally?

A. Yes.

Q. Okay. Did you go alone to the Magistrate?

A. I believe so, yes.

Q. Okay. If you look at the affidavit section, okay, and that is your name -- excuse me. Before I get to that, that is your signature on that?

A. Yes.

Q. Okay. If we look at the affidavit section, I'll read the first line. It says, I further state that there is probable cause to believe that the Defendant named above did commit

the crimes set forth and that probable cause is based on following facts, correct?

A. Correct.

Q. Okay. Now, the next section where you gave the facts, correct?

A. Correct.

Q. Okay. That on 2/26/2008 while at Derby -- 412 Derby Lane in the Olympia Magisterial District of Richland County one James Trexler did commit the crime of ill treatment of animals in that he is the owner of a two-year-old bay female with a body score of 1.5. Did I read that correctly?

A. Correct.

Q. Okay. So my question to you is what information did you have when you made this affidavit that James Trexler was the owner of the horse that is indicated in this affidavit?

A. From what I remember it was on his property.

Q. Okay. Did you have any specific knowledge that he was the owner of that horse --

A. I don't remember.

Q. -- when you made this affidavit?

A. I don't remember.

Q. Okay. Did you do any investigation before

making this affidavit into whether Mr. Trexler owned the horse?

A. They were on his property so -- I mean --

Q. Did you base that fact that -- did you base saying that fact representing him as the owner only on the fact that it was on property that allegedly belonged to him?

A. No. Not only on that fact, no.

Q. What else then?

A. I couldn't tell you. I don't remember.

Q. Okay. What makes you think -- what made you think at this point even that James Trexler or that the horses were on James Trexler's property?

A. I witnessed the horses on his property.

Q. Okay.

A. I touched them.

Q. What information did you have?

MR. GARFIELD: Hold on. I'm sorry, Brook. Were you through with your answer?

THE WITNESS: Yes.

MR. GARFIELD: Okay. I'm sorry.

BY MR. WILLS:

Q. Okay. What information did you have that that property belonged to James Trexler?

A. I can't tell you the information I had

BY MR. WILLS:

Q. Did you know he owned them or did you not know?

A. If that is what I put, then that is the truth.

Q. Okay. And my question then is how did you know that he owned the horses?

MR. TYLER: Object to the form.

MR. GARFIELD: Same objection.

THE WITNESS: I can't tell you specifically how I knew back in 2008 how I knew. I don't --

BY MR. WILLS:

Q. Okay. But you don't recall doing any investigation into who owned the horses yourself?

A. I don't remember.

Q. Okay. And you don't recall -- did you do any record search on the property?

A. I don't have the -- we didn't have the ability to do that.

Q. Okay. Did you do any record search on the horses?

A. No.

Q. Okay. Did you talk to anybody about whether -- who owned those horses?

A. I don't remember.

Q. Okay. Did you talk to James Trexler about whether he owned those horses before making this affidavit?

A. Before? No.

Q. Okay. Did you talk to him after?

A. I spoke to him a few days later.

Q. And what did he tell you?

A. I spoke to him about his dogs that were on the property.

Q. Did he tell you anything about not owning any horses?

A. I don't remember anything like that.

Q. All right. And you don't recall -- and you don't recall anything about who gave any tip about these horses being out there?

A. No.

Q. So I'm to understand that somebody gave you a tip that there were horses out here. And one day after you all got the tip you all go out there and search and find horses. And that very day you make this affidavit that James Trexler owns the horses?

MR. TYLER: Objection to the form.

MR. GARFIELD: Object to the form.

THE WITNESS: If that is what happened, that's what -- I mean.

BY MR. WILLS:

Q. When you all went out there for that search warrant did you all look in the garage of the house for any food?

A. Go inside the garage or look inside the garage?

Q. Either.

A. I looked in the glass, yes.

Q. Okay. Did you see anything in the garage?

A. Yes.

Q. What did you see?

A. Horse food.

Q. You saw horse food in the garage?

A. A bag of horse food, yes.

MR. TYLER: Brook, we are 15 minutes over.

BY MR. WILLS:

Q. Prior to the arrest --

MR. WILLS: And I've only got just a few more questions. Prior to -- Mr. Bender's favorite saying; I've only got two more questions.

MR. BENDER: That is not my favorite saying. I dispute that it's ever been true.

Exhibit "H"

STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
) OF THE FIFTH JUDICIAL CIRCUIT
COUNTY OF RICHLAND) Case Number 2010-CP-40-1249

James W. Trexler,

Plaintiff,

vs.

The Associated Press, Barrington Broadcasting, a South Carolina Corp., Pacific & Southern Company, Inc., and Raycom TV Broadcasting, Inc.,

Defendants.

DEPOSITION OF HOLLY S. WAGNER

November 4, 2011

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

Case Number: 2010-CP-40-1343

James W. Trexler,

Plaintiff,

vs.

McClatchy Newspapers, Inc., Richland County, and the Richland County Sheriff's Department,

Defendants.

Doris Tompkins Brown
Certified Verbatim Reporter
Post Office Box 853
Sumter, South Carolina 29151
(803) 409-2434

COPY COPY



Q. And when is the last time you spoke with her?
A. Last week.
Q. Last week. So, do you know where she is?
A. I don't know where she is right now. I mean, do I -- do I know where she lives?
Q. Are you in contact with her?
A. I know, yes.
Q. Okay. Where is she now? I mean, not where is she living, but where is -- what is she doing now?
A. Oh, I don't know what she does now.
Q. Is she still with the Humane Society?
A. Not to my knowledge, no.
Q. Did you talk to her about this case a week ago?
A. Oh, no. No.
Q. Okay. Now, the next name on here is Mary Ellen Tobias. Why was she at this meeting?
A. I don't know.
Q. And do you -- do you know who Mary -- do you know Mary Ellen Tobias?
A. That was the first time I had met her.
Q. Okay.
A. I think I have may have met her two or three times.
Q. Did you come to know who she was at the meeting?
A. Yes.
Q. Okay. Did you come to know why she was at the

meeting?

A. No.

Q. She never mentioned -- nobody ever mentioned what her involvement -- well, let me ask first. Was she involved as opposed to just being present?

A. She was.

Q. Okay. How was she involved?

A. Well, I don't know how it was that she came in contact with the Humane Society or whether the Humane Society contacted her. I don't know how any of that happened, but she was at that meeting because these were supposedly Arabian horses, and Mary Ellen Tobias has something to do with the -- from what I can understand, has something to do with Arabian horses and also has something to do with promoting horses in the state of South Carolina through the Department of Agriculture.

Q. Okay. Do you know, and you may not, do you know if the promotion of horses through the South Carolina Department of Agriculture incorporated whatever involvement she had with Arabian horses or whether that was something that was separate?

A. I have no idea.

Q. Okay.

MR. GARFIELD: Not to mess up your

MR. GARFIELD: Brook, I'm sorry. I forgot to wear my diaper today. We're going to have to take a break or we're going to be in trouble.

MR. WILLS: All right.

MR. GARFIELD: Thank you.

(OFF THE RECORD).

EXAMINATION BY MR. WILLS CONTINUED:

Q. I just want to -- I just want to back up. We may have gone over this. I just wanted to ask you just in case we didn't before the break. Did -- when you all were meeting with Mary Ellen Tobias on February 19th, 2008 at the Humane Society, did Mary Ellen Tobias ask whether you all believed James Trexler was involved with the mistreatment of horses?

A. Not that I recall.

Q. Okay. Did she say -- do you recall her saying anything about Terry Trexler?

A. I want -- I think she did speak of him. I think she had some knowledge of the family. I think she said something about he had been an attorney before, but he's not attorney any more. I got the impression she didn't care for him very much. But, you know, I can't tell you exactly what was said because I don't -- I don't recall that, but I know -- I do remember that

she had said something about that he used to be attorney, he's not any more, something along that line.

Q. Do you recall if she mentioned anything about Terry Trexler with regards to -- to the care-taking of horses?

A. I don't recall that, no. You know, I would back up and say I don't -- on the -- the DMV photo thing, I don't recall for certain, but I may have because I knew she knew James. I may have shown her the picture and said, you know, -- is this James or is this Terry -- because I wanted to get absolute clarification from someone other than Michelle to make sure that, when I got the Warrant for kidnapping, it was going to be the right person. So, I probably did show her a DMV photo of the two of them to see if she could ---

Q. Okay. Now, ---

A. -- tell me who was who.

Q. -- the DMV photo has the name under the photo, doesn't it?

A. Yeah, but you don't show them that part.

Q. Okay.

A. You know, you kind of, like, that sort of thing, the picture. (Witness indicates)

Q. Well, why would -- why would you have had any question

at that point that you needed verification from Mary Ellen Tobias if you had the DMV photos?

A. I think just because she had mentioned she knew James; so, I said, "That's the James we're talking about"?

Q. Okay.

A. It was probably something like that.

Q. Did she wonder why you were showing her the picture?

MR. GARFIELD: Object to the form.

A. I don't think so.

Q. I mean, did you tell her why you were showing her the picture?

A. To -- I don't remember if I told her specifically, no. I don't know that.

Q. I mean, when you showed her the picture, did you -- did you tell her that you were looking -- you were going to file an Arrest Warrant or get an Arrest Warrant for kidnapping and you wanted ---

A. No.

Q. -- to be sure you were going to get the right brother?

A. No.

Q. Okay. At that point in time at that meeting, after everybody looked at the pictures and made the identification, is it your opinion that there was no more mistakes as to the identity of who it was that allegedly kidnapped Michelle Hart?

A. Yes.
Q. Okay. Okay. Why did you not -- once you had made the positive identification of who the perpetrator was, why did you not seek an Arrest Warrant for kidnapping immediately?
A. I think I did.
Q. Well, let's look down here. That was on February 19th. Your next entry is from February 22nd.
A. Oh, okay. Okay. Why did I not get one immediately -- because I wanted to make sure, I mean, like -- like many people, you know, there's an awful lot of law out there, and she -- they came around and parked a truck behind her and he told her, you know, she wasn't going anywhere, he was on the phone with the police. I wanted to make sure I had done a thorough investigation and, also, because most of think of kidnapping as somebody's got a knife or a gun or something and they're holding someone and won't let you go. I mean, she's sitting in her pickup truck, you know, in a driveway. So, I wanted to make sure that this met the statutory requirement for a kidnapping charge and, also, you know, he had said that they -- the reporter he said or something about the police told him not to let her go or something. Yeah, yeah. He told her he had called the police, and

the police had told him to keep him there. So, I wanted to get, you know, hear whether that was true or not, you know, do a thorough investigation, and I think it also says in here -- actually, I called the Solicitor's Office to make sure that kidnapping would be an appropriate charge for the circumstances we were dealing with.

Q. So, on February 22nd, 2008, you didn't know yet whether there was a kidnapping had occurred?

A. I felt like there had, but I wanted to be thorough and make sure that the Solicitor's Office was going to support my line of thinking.

Q. I see. What is your understanding of what the Statute says with regard to kidnapping?

A. The Statute of South Carolina kidnapping is holding someone against their will.

Q. Okay. In any respect?

A. In any respect.

Q. Okay. From the circumstances that occurred, did you get the impression that -- that whoever the perpetrator was, and now we know it's Terry, that he held Investigator Hart against her will?

A. Yeah, he wouldn't let her leave.

Q. Okay. Now, did he do anything to constrain her physically?

A. He parked his truck and she couldn't drive away; he blocked her in the driveway.
Q. Could she have walked away?
A. She could have walked away.
Q. Okay.
A. She said she felt -- I mean, like I said, she -- he -- they were so much up in her face yelling at her that she got in her truck and locked the doors and rolled up the windows and sat there. So, I think she -- I think that's the reason she didn't walk away.
Q. Okay. But she did have the choice to walk away?
MR. GARFIELD: Object to the form.
A. She may not have felt she had that choice. I can't -- I can't answer that. I'm assuming, I mean, it just depends on what -- people are all different, you know; I may have walked away and you may have walked away, and somebody else of a different disposition might sit in their truck and not go anywhere they are afraid to move. So, that's how I would answer that.
Q. Would Deputy Simpson upon responding to this situation have considered that an act of kidnapping?
MR. GARFIELD: Object to the form.
A. I don't know.
Q. Did she consider it an act of kidnapping, to your knowledge?

A. I would guess not or she would have arrested him on site.

Q. Back to the narrative form under -- under your heading for February 22nd, 2008. Second paragraph. You say, "I called the ELA number and spoke to Andrew Rogers. We discussed the incident and possible charges. He told me the incident met the statutory requirements of Probable Cause for kidnapping." First, who is Andrew Rogers?

A. He's an Assistant Solicitor.

Q. Okay. Is he still an Assistant Solicitor?

A. I don't know.

Q. Do you know Andrew Rogers? I mean, what led you to call him?

A. He was the one that had their 24 -- the ELA is something -- something on call. I don't know what ELA stands for. I just know that that's what they call it. The ELA is the solicitor on call. Why it's not the SOC, I don't know, but ELA is the solicitor on call and they have a phone. He had the phone that week, So, when I called the solicitor on call, that's who I got.

Q. And -- and what did he tell you with regard to the Statute for kidnapping?

A. What we just discussed, that if she were held against

her will, then that would meet the statutory requirement and that I believe this was where I learned that kidnapping does not have a minimum required penalty. There's just a maximum, which means that when it goes to trial and it gets, -- you know, how the Judge determines the sentencing, everything's taken, -- the circumstances are taken into account. So, you know, it would be different for somebody in this kind of a situation as it would be to somebody that actually had a gun and had somebody tied up and bound in their house for a week, which is what most of us think, you know, that kidnapping is they grab a kid out of the bedroom and drag them off somewhere and hold them or, you know, they have somebody tied up in their house; that's the first thing that comes to mind when you hear kidnapping. But it can also be just holding somebody against their will for a very small amount of time, and then that would be taken into consideration in sentencing. That's kind of how that conversation went.

Q. Is there a misdemeanor kidnapping?

A. There is not.

Q. So, Terry was eventually charged with felony kidnapping?

A. Yes.

who were supposed to be on the property who were living there? Was anyone there when you all arrived?

A. No.

Q. Okay. Did anyone who lived at the property ever arrive during the course of the execution of the Search Warrant?

A. No, I don't believe so.

Q. If we look in the narrative section of this -- of this Incident Report, about three-quarters of the way down on the front page, it's marked, "The HSPCA had information that Terry and Hazel Trexler owned the horses." What knowledge do you have of that information that the HSPCA had about the ownership of the horses?

A. None.

Q. Okay. Did it appear to you that the HSPCA thought that the HSPCA had information to suggest that Terry and Hazel Trexler owned those horses?

A. Say that again.

Q. Was there any question about who owned the horses and the land at Zeigler Road property?

A. I don't believe so.

Q. Okay. You've also marked down here in the last sentence, "That Hazel Trexler spoke to the media and Hazel Trexler claimed ownership of all horses while

being interviewed by media".

A. Correct.

Q. Did you hear her claim ownership of the horses?

A. I heard her say it on TV. I don't recall if I was standing right there when -- she was yelling quite a bit, "These are my horses; y'all get out of here".

Q. Right.

A. I do, yeah, but her specifically when she was yelling at the media or when they took her over and they were talking to her, I was busy.

Q. Okay.

A. So, ---

Q. At this point on February 25th, 2008, there's no -- there was no question about whose horses these were in your mind?

A. No.

Q. And the owners were Terry and Hazel?

A. Correct.

Q. All right. Was there any sign whatsoever at that Zeigler property or during the Search -- execution of the Search Warrant at the Zeigler property to indicate that James Trexler was in any way involved with those horses?

A. Not to my knowledge.

Q. Okay. I'd like -- I'd like you to flip to the second

page of this report if you would. The second page of this is -- is marked -- it's titled "Supplemental Incident Report." How does a Supplemental Incident Report work? Is that something you add later to ---

A. Actually, it's marked "Original Report".

Q. Have you got the same one I got?

A. Uh-huh (affirmative response). It's marked right here, "Original Report." Right there. "Original Report."

Q. Oh, I see. I was looking right over here. (Counsel indicates).

A. Yeah. That's -- that's the title on that second page, but it's -- the second page can be many things.

Q. Okay.

A. It can be part of an investigative follow-up or supplemental report, whatever. This second page is actually part of the original report where it was a continuation of it.

Q. Okay.

A. And also a continuation of the narrative.

Q. The first -- the first line of the narrative says, "That they also received information that there were horses in a barn at the home of James Trexler, 412 Derby Lane." Do you know who they refers to?

A. Yeah, the Humane Society.

Q. Okay. What do you know about the information that the Humane Society had that there were horses in a barn at 412 Derby Lane?

A. I'm not sure how they got that information.

Q. You don't know if it was -- you have no -- no idea where they came about that information?

A. No.

Q. Did you ask why they have that information or where they got it?

A. I probably did, but I don't recall right now exactly where or how they got the information.

Q. Okay. So, I'm trying -- help me understand. The first that anybody ever hears of horses is when Michelle Hart goes out on February 13th and she doesn't get any conclusive evidence. You all get a Search Warrant and execute it on -- on February 25th.

MR. GARFIELD: Object to the form.

Q. That's correct? You executed the Search Warrant on February 25th?

A. Correct.

MR. GARFIELD: Same objection.

A. Right.

Q. Is that the first time that you had an opportunity to even evaluate the horses at Zeigler?

A. Yes.

Road?
A. I spoke to that neighbor, but I didn't -- I mean, this was not my investigation. This was an investigation of the Humane Society. I was there assisting them. So, I spoke to people and I knew things, but it wasn't my investigation. So ---
Q. What investigation did anyone do to determine whether James Trexler lived at 412 Derby Lane at that point in time?
A. I don't know.
Q. What investigation did anyone -- did you do to determine who owned the horses that you confiscated at 412 Derby or that the HSPCA confiscated?
A. I didn't do any investigation on those horses.
Q. Okay. What investigation did anyone do with regards to the ownership of the horses that were confiscated at 412 Derby Lane?
A. I don't know.
Q. Would anybody else at the Richland County Sheriff's Department have done any work on this case without your knowledge?
A. I don't know. I wouldn't think so, but I don't know.
Q. If someone else had done any investigative work in this case with regard to the ownership of these horses or the residence of Jim Trexler, would that have shown

A. Okay.

MR. GARFIELD: Well, object to the characterization and the foundation. Go ahead. Sorry.

Q. Between -- to your knowledge, between February 26th during the execution of the Search Warrant and the time period that James Trexler -- at the time that James Trexler was arrested on the next day, no investigation to your knowledge was done into whether James Trexler owned the horses or James Trexler lived at the property; is that fair to say?

A. I don't know what investigation was done by the Humane Society, no.

Q. Okay. But to your knowledge, you don't know of any that was done?

A. No.

Q. Okay. To your knowledge, during the February 26th Search Warrant execution, did anyone try to contact James Trexler?

A. I don't know. I don't recall.

Q. You didn't try to contact James Trexler on the 26th of February?

A. No, I -- no, I did not.

Q. Nobody told you, did they that they had tried to contact him?

Affidavit was provided by Elizabeth Perry; is that correct?

A. Yes.

Q. Okay. And Elizabeth Perry is -- is an investigator with the HSPCA; is that correct?

A. She was.

Q. Was. Yeah. Okay. Were you with Elizabeth Perry when she swore these Affidavits out?

A. I was not.

Q. Okay. Did Elizabeth Perry talk to you about getting Arrest Warrants for James Trexler prior to obtaining them on -- on February 27th, 2008?

A. I'm sure she did.

Q. Okay. Did Elizabeth Perry talk to James Trexler before obtaining -- to your knowledge, did she talk to James Trexler?

A. I don't know.

Q. Prior to these Arrest Warrants. Okay. Tell me if you will, when a -- when a law enforcement agency or other agency goes before a Judge and makes an Affidavit to the Judge in order to obtain an Arrest Warrant or a Search Warrant, does the -- how does the Judge in your experience decide whether or not to issue the Warrant that's sought?

A. I don't know how they make that determination.

Q. Okay. Have you ever known a Judge to do any kind of independent investigation into the facts that are being told to him before issuing a Warrant?

A. Not to my knowledge.

Q. Okay. So, in other words, the Affiant or the Affiant could say pretty much whatever they want under oath in order to get a Warrant and a Judge will either believe it or they don't; is that -- is that correct?

MR. GARFIELD: Object to the form.

A. I would guess that's true.

Q. Okay. If an Affiant goes before a Judge and swears to facts that they know are false in order to obtain an Arrest Warrant, would that be improper?

A. Yes.

Q. Okay. Would it be improper in your experience for an Affiant to go before a Judge and swear as true facts that they do not know are true? Would that be improper?

A. Sure.

Q. Okay. If you could look at these Arrest Warrants then made by Elizabeth Perry and just read what the Affidavit portion that she -- that she has provided in order to obtain these Search Warrants. "That on February 26th, 2008, while at 412 Derby Lane in Olympia Magisterial District of Richland County, one

James Trexler did commit the crime of ill treatment of animals in that he is the owner of a two year old Bay female with a body score of 1.5." Now, the question is, at this point in time, did you know that James Trexler was the owner of any of these horses?

A. No.

Q. Okay. To your knowledge, did Elizabeth Perry know for sure that James Trexler was the owner of these horses?

MR. GARFIELD: Object to the form.

A. I don't know. No.

Q. Did Elizabeth Perry ever call you or communicate to you in any way that she had evidence that James Trexler owned the horses that were confiscated at 412 Derby Lane?

A. No.

Q. So, if James Trexler did not own these horses and this was not true, that this Affidavit says that he was the owner, and Elizabeth Perry did not know he was the owner but represented that he was the owner, would that be improper in order to obtain a Search Warrant?

A. Well, I mean, if she absolutely knew it was improper, but it says that they have Probable Cause to believe. You don't have to know a hundred percent, you just believe that he is the owner of those animals.

Q. Okay.

well as other grounds. Go ahead and answer it.

MR. WILLS: Object to ---

MR. GARFIELD: Well, you can object to my objection. Go ahead and answer the question. And I'd really prefer you not raising your voice to me again.

MR. WILLS: Well, look, we'll be cool if you just don't interrupt me every five seconds and put your head down and make all kinds of sighing noises and exasperation noises.

MR. GARFIELD: Go ahead, answer the question. Let's go.

A. I don't remember the question now.

Q. The question is, if this had not said that James Trexler was the owner but may have said that he might or might not have anything to do with these horses, you don't know yet, but you found a horse on a property that he might or might not live on, would that have given enough Probable Cause to arrest him?

A. No.

Q. No?

MR. GARFIELD: Object to the form. And she answered before I was able to enter an objection. I object to the form of that last question. Thank you.

Q. -- in the investigation or do they have access? Okay. I'll take the two part. Yes.

MR. GARFIELD: And wait until he's through with his question before you answer.

A. I know.

MR. GARFIELD: I know it's getting late. Go ahead.

Q. Would Chris Cowan or anybody in the public information office have access to these ACISS reports or any other -- the other Incident Reports that are in a database, would they have access and be able to look at those?

A. They do.

Q. Do they ever look at those reports in order to get the information for the press release?

MR. MOKEBA: Object to the form.

A. I don't know.

Q. Okay. This press release -- oh, why don't I ask this. Did you ever read this press release before it being sent out to press on February 27th, 2008?

A. No.

Q. Okay. Do you recall anybody ever calling you to ask about the facts that were in this press release prior to the day it was sent out?

A. Yes.

Q. They were tied?
A. No.
Q. How were the dogs -- how did you find the dogs when you got there?
A. They were in crates in the barn.
Q. Okay. Were they in a crate together or separately?
A. Together.
Q. Okay. Now, subsequent to the arrest of James Trexler on February 27th, 2007, and subsequent to his release, did you have some communication with him regarding those dogs?
A. I think I did.
Q. Okay. Do you know Jill Andrews?
A. I do.
Q. Okay. How well do you know Jill Andrews?
A. She is a -- she was a Solici -- an Assistant Solicitor at the Solicitor's Office. That's how I met her, and I worked -- worked with her on this case and on the dogfighting case.
Q. Okay. Is she -- is she known for handling cases involving animals?
A. She was.
Q. Okay. Do you know if she is involved with any organizations such as PETA or the HSPCA?
A. I don't know. I know she used to be on the Board of

the HSPCA.

Q. Okay. At that time, at the time of the arrest, was she on the Board of the HSPCA?

A. I don't know if she was or not.

Q. Did Jill Andrews decide to continue with the prosection of James Trexler after he was released on Bond subsequent to his arrest?

MR. GARFIELD: Hold on a second. I want to take one moment before she answers that question. First, I'd like to talk to my client for a moment. That question is still on the table.

(OFF THE RECORD).

MR. GARFIELD: Yeah, I had a -- just for the record, a conference with counsel. The Deponent walked out accidentally. I didn't intend to talk to her. I was going to talk to counsel about the question on the table. I can put the grounds on the record or not, Brook, it's your choice because I don't want to suggest anything to the Deponent. However, we would instruct the Deponent not to answer the question that you have. There has been -- it has taken, quite frankly, two hours and forty-five minutes to get to ask questions of

MR. GARFIELD: I thought you were through.

MR. WILLS: No, you can ---

MR. GARFIELD: I thought it was a yes or no question. Go ahead.

Q. Did you provide evidence to a Grand Jury pertaining to Jim Trexler's ownership of horses?

MR. GARFIELD: Subsequent to my earlier grounds, Brook, I'm going to instruct Investigator Wagner not to answer the question.

Q. Okay. And then, the next question is, did you provide evidence or testimony to a Grand Jury that -- that James Trexler had physical control of the horses that were confiscated at 412 Derby Lane?

A. I don't recall.

Q. You don't recall that?

A. I don't.

Q. Do you recall testifying to a Grand Jury?

A. I testify to the Grand Jury about once a month.

Q. Okay.

A. On about sixty or seventy cases a year, and I don't specifically recall that.

Q. Okay. Subsequent to James Trexler's arrest and release, did you do any further investigation to determine whether James Trexler lived at 412 Derby

Lane?
A. I don't recall.
Q. Subsequent to James Trexler's arrest and release, did you do any further investigation with regard to the ownership of the horses that you confiscated at 412 Derby Lane?
A. I don't believe so.
Q. Okay. Are you aware that James Trexler was -- that the charges ultimately against James Trexler were -- for these counts -- for the counts for which he was arrested, are you aware that those charges were ultimately dismissed?
A. I am.
Q. Do you have any knowledge as to why there were two Grand Jury Indictments involved with James Trexler -- for James Trexler on these charges?
A. I don't.
Q. Okay.

MR. WILLS: That's all the questions I have. Thank you for your time that you've given me. I appreciate your answers.

MS. WAGNER: Thank you. You're welcome.

EXAMINATION BY MR. MOKEBA:

Q. I do have just maybe two questions. I want to ask you a question related to knowledge of Trexler -- how Jim

Exhibit "I"

Statement

State of South Caroiina) Date: 02/19/2008
) S. S.
County of Richland) Time: 1015

Personally appeared before me this 19 day of February, 2008, at 1015 hours, an officer duly and legally authorized to administer oaths in the above named county and state aforesaid, comes one Michele Hart Day time telephone number 803-783-1267
Who makes the following statement under oath to wit:

Q: Inv. H. S. Wagner
A: Michele Hart
Q: Where are you currently employed?
A: The Humane Society for the Prevention of Cruelty of Animals. I work for the office in Columbia SC.
Q: Tell me what happened on February 13, 2008 at 1134 Zeigler Rd South in Eastover SC.
A: I was responding to a complaint about some horses in bad condition on Zeigler Rd. I was on the adjoining property with the permission of the owner Lori Stokes. While I was attempting to take pictures a man and woman started moving the horses out of range. The woman came over to the fence and started yelling at me. She was cursing and calling me all kinds of names. She demanded I give her my camera and insisted I was on her property. I realized I could not get any more pictures so I went back over to my truck to leave. It took me a few minutes to walk back over there. When I got over to my truck they had parked their truck behind mine so I could not leave. The man is against the gate writing something down. The woman is with him. He comes over and gets up less than a foot from my face yelling at me. Telling me I was trespassing on his property. When he would stop yelling she would start. I attempted to explain to them that I was on the Stokes property not theirs. I told them I was with the Humane Society and gave the woman my card. They continued to yell at me. The man got so close and was so upset that I got nervous and went to get into my truck. I asked him to move his truck. He yelled at me, "You ain't going anywhere." He told me the police had told him to keep me there and that I needed to call my family because I was going to jail. It seemed like 20 minutes before the sheriff's department showed up. The deputy talked to them for a while. The deputy then came up and talked to me. I showed her my call log and my badge from the Humane Society. I also gave her my card. Then she talked with them again and they left.
Q: Was there anyway you could have driven your truck around theirs to get away?
A: No, I was in a driveway and there were two ditches to each side. I could not have driven away.
Q: Is there anything else you want to add to this statement?
A: No
**********end of statement**********

This statement was made in the presence of Inv. H. S. Wagner of the Richland County Sheriff's Department.

I make this statement of my own free will and accord, without reward or intimidation. All of the above is the truth, the whole truth and nothing but the truth.

Sworn to and subscribed before me
this ____ day of _____2008

Signed: Michele Hart

Witness: _____

Witness: _____

_____
Notary Public for South Carolina
My commission expires _____.

PLAINTIFF'S EXHIBIT 1

8441-A-03

Exhibit
"J"

STATE OF SOUTH CAROLINA)
)
COUNTY OF RICHLAND)

SEARCH WARRANT

TO ANY BONDED LAW ENFORCEMENT OFFICER OF THIS STATE OR COUNTY OR OF THE MUNICIPALITY OF RICHLAND COUNTY, SOUTH CAROLINA.

It is appearing from the attached affidavit that there are reasonable grounds to believe that certain property subject to seizure under provisions of Section 17-13-140, 1976 Code of Laws of South Carolina, as amended, is located on the following premises.

DESCRIPTION OF PREMISES
(PERSON, PLACE OR THING TO BE SEARCHED)

The residence and surround curtilage to be searched is located at 1248 Zeigler Road, in the County of Richland, South Carolina. The residence is further described as a single family home, white in color, and is in close proximity to the intersection of Old Eastover Road and Zeigler Road. The search also includes any and all buildings, offices, outbuildings, vehicles, shelters, barns, shanties or stables where animal life and/or records and/or items used in the care and keeping of such animals may be housed or kept.

NOW, THEREFORE, you are hereby authorized to search the subject premises for the property described below, and to seize such property if found.

DESCRIPTION OF PROPERTY

Any and all living vertebrate creatures (except homo sapiens), including but not limited to, equines, and any other domestic animals, any animal carcasses, unborn young, or remains of any type or species, located on said premises; and, any and all foodstuff, medications, any and all documentation, including but not limited to bills of sale, registration documents, veterinary medical records, and any other documents or items related to the care, treatment, and keeping of said animals.

This Search Warrant shall not be valid for more than ten days from the date of issuance.

A written inventory of all property seized pursuant to this Search Warrant shall be made to Judge V.R. Shuman-Boyd within ten (10) from the date of this warrant, such inventory to be signed by the officer executing this warrant, and a copy of such inventory shall be furnished to the person whose premises are searched if demand for such copy is made.

A copy of this Search Warrant shall be delivered to the person in charge of the premises searched at the time of such search if practicable, and, if not, to such person as soon thereafter as is practicable; in the event the identity of the person in charge is not known, or if such person cannot be found after reasonable diligence in attempting to locate the person, a copy shall be attached to a prominent place on such premises.

Columbia, SC
February 19, 2008
1:16 p.m.

V.R. Shuman-Boyd
Signature of Judge

PLAINTIFF'S EXHIBIT 1

8441-A-0130

STATE OF SOUTH CAROLINA)
)
COUNTY OF RICHLAND)

AFFIDAVIT

Personally appeared before me, _____, who, being duly sworn, says that there is probable cause to believe that certain property subject to seizure under provisions of Section 17-13-140, 1976, Code of Laws of South Carolina, as amended, is located on the following premises in this County:

DESCRIPTION OF PROPERTY SOUGHT

Any and all living vertebrate creatures (except homo sapiens), including but not limited to, equines, and any other domesticated animals, any animal carcasses, unborn young, or remains of any type or species, located on said premises; and, any and all foodstuff, medications, any and all documentation, including but not limited to bills of sale, registration documents, veterinary medical records, and any other documents or items related to the care, treatment, and keeping of said animals.

DESCRIPTION OF PREMISES
(PERSON, PLACE OR THINGTO BE SEARCHED)

The residence and surround curtilage to be searched is located at 1248 Zeigler Road, in the County of Richland, South Carolina. The residence is further described as a single family home, white in color, and is in close proximity to the intersection of Old Eastover Road and Zeigler Road. The search also includes any and all buildings, offices, outbuildings, vehicles, shelters, barns, shanties or stables where animal life and/or records and/or items used in the care and keeping of such animals may be housed or kept.

REASON FOR AFFIANT'S BELIEF THAT THE
PROPERTY SOUGHT IS ON THE SUBJECT PREMISES

See attachment labeled "Exhibit A" attached hereto and made a part hereof by reference.

Sworn to and Subscribed before me)
this 4th day of Feb, 2008)
)

Michele Hart
Affiant
Address:

Signature of Judge

1:16 p.m.

8441-A-0131

EXHIBIT "A"

Your affiant states that she is an agent for the Humane Society for the Prevention of Cruelty to Animals, (hereinafter HSPCA), and in that capacity is acting on complaints, as well as additional documentation of neglect and ill-treatment in reference to the animals, owned, leased, managed, boarded, or otherwise maintained at a residence located at 1248 Zeigler Road in the County of Richland, and State of South Carolina.

On or about February 8 2008, a complaint of horses in bad condition was received by the HSPCA. On or about February 12 2008, affiant went to the address, but the gate was locked. A notice to call was posted. On or about February 12 2008, the affiant spoke with the owner of the horses by phone and was refused access to the property to view the horses. On or about February 13 2008, the affiant traveled to 1134 Zeigler Rd and entered the property with prior permission from Dr Stokes. A confrontation with the horse owners occurred and only 3 pictures were taken at that time. There was no food or water seen. On February 18 2008, Dr Stokes was able to take pictures of the horses and e-mailed them to the affiant. The pictures show that many of the horses are in substandard condition. Dr Stokes reports approximately 26 horses were seen and that approximately ¾ of the herd are in substandard condition.

Based on this information and photographic evidence, it is believed that the horse owners are in violation of South Carolina State Code Title 47.

Dated: _____

Michele Hart
Michele Hart

V. R. Strunsa - Sgt
2/19/08
1:16 pm

8441-A-0132

RETURN

I have received the attached Search Warrant on Feb 19, 2008, and have executed it as follows:

On Feb 25, 2008, at 0930 o'clock A.M. I searched (the person) described in the warrant and (the premises).

I left a copy of the Warrant with Hazelene Treder, name of person searched or "at the place of search" with, together with a receipt for the items seized.

The following is an inventory of property taken pursuant to the Warrant:

R Bay juvenile
2 adult grey
2 adult Bay
1 juv. Bay
2 juv. grey
3 ad. grey
1 juv. Bay
3 juv. Bay
3 ad Bay
1 ad. chestnut
2 ad. female dogs
5 puppies

This inventory was made in the presence of Inv. Wagner, Inv. Spears, Inv. Thompson and Tena Goff Deputy Newman, Dep. Wamsley. I swear that this inventory is a true and detailed account of all the property taken by me on the warrant. Elizabeth Perry, Josh Gowdus, Mary Ellen Tobias Dr. Michael Privett, Kelly Graham, Jackie Sisson, Trixy Sullivan, Alicia Morgan, ~~Laurel~~ Laurel Elward, Leon Jackson

SWORN to before me this 26th day of February 2008.

Michele Hart
Signature of Officer Executing Warrant

V.K. Newman - Dep
Signature of Judge
Phone:

(12:07 p.m.)

8441-A-0133

Exhibit "K"

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

SEARCH WARRANT

Date: 02/26/2008

412 Derby Lane
Hopkins, SC 29061

OLYMPIA MAGISTRATE
2008 FEB 26 PM 2:12

OLYMPIA MAGISTRATE
2008 FEB 27 PM 4:09

PLAINTIFF'S EXHIBIT

8441-A-0134

STATE OF SOUTH CAROLINA)
)
COUNTY OF RICHLAND)

SEARCH WARRANT

2008 FEB 26 PM 12:12
CLERK OF COURT MAGISTRATE

TO ANY BONDED LAW ENFORCEMENT OFFICER OF THIS STATE OR COUNTY OR OF THE MUNICIPALITY OF RICHLAND COUNTY, SOUTH CAROLINA.

It is appearing from the attached affidavit that there are reasonable grounds to believe that certain property subject to seizure under provisions of Section 17-13-140, 1976 Code of Laws of South Carolina, as amended, located on the following premises.

DESCRIPTION OF PREMISES
(PERSON, PLACE OR THING TO BE SEARCHED)

The residence and surround curtilage to be searched is located at 412 Derby Lane in the County of Richland, South Carolina. The residence is further described as a single family home, dark in color, and is in close proximity to the intersection of Saddlebrook Lane and Derby Lane. The search also includes any and all buildings, offices, outbuildings, vehicles, shelters, barns, shanties or stables where animal life and/or records and/or items used in the care and keeping of such animals may be housed or kept.

NOW, THEREFORE, you are hereby authorized to search the subject premises for the property described below, and to seize such property if found.

DESCRIPTION OF PROPERTY

Any and all living vertebrate creatures (except homo sapiens), including but not limited to, equines, and any other domestic animals, any animal carcasses, unborn young, or remains of any type or species, located on said premises; and, any and all foodstuff, medications, any and all documentation, including but not limited to bills of sale, registration documents, veterinary medical records, and any other documents or items related to the care, treatment, and keeping of said animals.

This Search Warrant shall not be valid for more than ten days from the date of issuance.

A written inventory of all property seized pursuant to this Search Warrant shall be made to _____ within ten (10) from the date of this warrant, such inventory to be signed by the officer executing this warrant, and a copy of such inventory shall be furnished to the person whose premises are searched if demand for such copy is made.

A copy of this Search Warrant shall be delivered to the person in charge of the premises searched at the time of such search if practicable, and, if not, to such person as soon thereafter as is practicable; in the event the identity of the person in charge is not known, or if such person cannot be found after reasonable diligence in attempting to locate the person, a copy shall be attached to a prominent place on such premises.

SC

26 February, 2008

Signature of Judge

8441-A-0135

STATE OF SOUTH CAROLINA)
)
COUNTY OF RICHLAND)

AFFIDAVIT

Personally appeared before me, _____, who, being duly sworn, says that there is probable cause to believe that certain property subject to seizure under provisions of Section 17-13-140, 1976, Code of Laws of South Carolina, as amended, is located on the following premises in this County:

DESCRIPTION OF PROPERTY SOUGHT

Any and all living vertebrate creatures (except homo sapiens), including but not limited to, equines, and any other domesticated animals, any animal carcasses, unborn young, or remains of any type or species, located on said premises; and, any and all foodstuff, medications, any and all documentation, including but not limited to bills of sale, registration documents, veterinary medical records, and any other documents or items related to the care, treatment, and keeping of said animals.

DESCRIPTION OF PREMISES
(PERSON, PLACE OR THINGTO BE SEARCHED)

The residence and surround curtilage to be searched is located at 412 Derby Lane, in the County of Richland, South Carolina. The residence is further described as a single family home, dark in color, and is in close proximity to the intersection of Saddlebrook Lane and Derby Lane. The search also includes any and all buildings, offices, outbuildings, vehicles, shelters, barns, shanties or stables where animal life and/or records and/or items used in the care and keeping of such animals may be housed or kept.

RICHLAND MAGISTRATE
2008 FEB 26 PM 2:12

REASON FOR AFFIANT'S BELIEF THAT THE
PROPERTY SOUGHT IS ON THE SUBJECT PREMISES

See attachment labeled "Exhibit A" attached hereto and made a part hereof by reference.

Sworn to and Subscribed before me)
this 26 day of February, 2008)
)

Signature of Judge

Michelle Hunt
Affiant
Address:

8441-A-0136

EXHIBIT "A"

Your affiant states that she is an agent for the Humane Society for the Prevention of Cruelty to Animals, (hereinafter HSPCA), and in that capacity is acting on complaints, as well as additional documentation of neglect and ill-treatment in reference to the animals, owned, leased, managed, boarded, or otherwise maintained at a residence located at 412 Derby Lane in the County of Richland, and State of South Carolina.

On or about February 8 2008, a complaint of horses in bad condition was received by the HSPCA. On or about February 12 2008, affiant went to 1248 Zeigler Road, but the gate was locked. A notice to call was posted. On or about February 12 2008, the affiant spoke with the owner of the horses by phone and was refused access to the property to view the horses. On or about February 13 2008, the affiant traveled to 1134 Zeigler Rd and entered the property with prior permission from Dr. Stokes. A confrontation with the horse owners, Terry and Hazelene Trexler, occurred and only 3 pictures were taken at that time. There was no food or water seen. On February 18 2008, Dr Stokes was able to take pictures of the horses and e-mailed them to the affiant. The pictures show that many of the horses are in substandard condition. Dr Stokes reports approximately 26 horses were seen and that approximately ¾ of the herd are in substandard condition.

On February 26, 2008, the HSPCA seized 23 horses and 7 dogs from 1248 Zeigler Rd. Eastover, SC. After finding some additional information, the HSPCA has learned that Hazelene and Terry Trexler are wanted for 61 counts of animal cruelty in Jefferson County, Georgia. We believe that there are additional horses, possibly in poor condition, on the property listed that belong to the Trexler family. James Trexler, is the brother of Terry Trexler and the son of Hazelene Trexler and the person said to be living at 412 Derby Lane.

Based on this information and photographic evidence, it is believed that the horse owners are in violation of South Carolina State Code Title 47.

Dated: 2/26/08

Michele Hart

Michele Hart

OLYMPIA MAGISTRATE
2008 FEB 26 PM 2:12

8441-A-0137

Exhibit
"L.1 – L.5"

I-891847

STATE OF SOUTH CAROLINA

[X] County/ [ ] Municipality of

Richland / Olympia Magistrate

THE STATE

against

James W Trexler

Address: 412 Derby Lane

Hopkins, SC 29061-

Phone: SS#:

Sex: M Race: W Height: 5 11 Weight: 130

DL State: SC DL #

DOB:

Prosecuting Agency: Upstate The Humane Society

Prosecuting Officer: Elisabeth Perry - 122

Offense: Animals / Ill treatment of animals, in general, overworking - 1st offense (Tried

Offense Code: 0610

Code/Ordinance Sec: 47-01-0040(A)

This warrant is CERTIFIED FOR SERVICE in the:

[ ] County/ [ ] Municipality of

. The accused is to be arrested and brought before me to be dealt with according to the law.

(L.S.)

Signature of Judge

Date:

RETURN

A copy of this arrest warrant was delivered to defendant James Trexler on 2-27-08

Signature of Constable or Law Enforcement Officer

RETURN WARRANT TO:

Olympia Magistrate
1601 Shop Road
Columbia, SC 29201

ORIGINAL ORIGINAL ORIGINAL ORIG. L

[X] County/ [ ] Municipality of)

Richland / Olympia Magistrate)

AFFIDAVIT

Personally appeared before me the affiant Elisabeth Perry who being duly sworn deposes and says that defendant James W Trexler did within this county and state on or about 02/26/2008 violate the criminal laws of the State of South Carolina (or ordinance of [X] County/ [ ] Municipality of Richland / Olympia Magistrate) in the following particulars:

DESCRIPTION OF OFFENSE Animals / Ill treatment of animals, in general, overworking - 1st offense (Tried

I further state that there is probable cause to believe that the defendant named above did commit the crime set forth and that probable cause is based on the following facts:

That on 02/26/2008 while at 412 Derby Lane in the Olympia Magisterial District of Richland County, one James Trexler did commit the crime of Ill Treatment of Animals in that he is the owner of a 2 year old Bay Female with a body score of 1.5 (+35). He knowingly and intentionally deprived the animal of necessary quantities of wholesome foodstuff suitable for the species and age, at suitable intervals and sufficient to maintain a reasonable level of nutrition to allow for proper growth and weight. There was no feed or hay found on the property. The animal was separately confined in a barn with 3 other horses, standing in 4 or more inches of feces, urine, and mud. The water bucket was filled with feces and other organic debris. One horse was also found wandering the muddy, wet property. Affiant and others are witness to prove same.

Signature of Affiant Elisabeth Perry

STATE OF SOUTH CAROLINA)

[X] County/ [ ] Municipality of)

Richland / Olympia Magistrate)

Affiant's Address 121 Humane Ln
Columbia, SC 29209

Affiant's Telephone (783)126-7 x

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that on or about 2/26/2008 defendant James W Trexler did violate the criminal laws of the State of South Carolina (or ordinance of [X] County/ [ ] Municipality of Richland / Olympia Magistrate) as set forth below

DESCRIPTION OF OFFENSE: Animals / Ill treatment of animals, in general, overworking - 1st offense (Tried

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him or her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of his arrest or as soon thereafter as is practicable

Sworn to and subscribed before me)

on 02/27/2008)

(L.S.))

Signature of Magistrate)

Harold A. Cuff)

Judge Code: 5906)

Judge's Address 1601 - B Shop Road
Columbia, SC 29201-4847

Judge's Telephone (803)576-2550

Issuing Court: [X] Magistrate [ ] Municipal [ ] Circuit

ORIGINAL ORIGINAL ORIGINAL

PLAINTIFF'S EXHIBIT

APP. 880

785

8441-A-0200

I-891848

STATE OF SOUTH CAROLINA

[X] County/ [ ] Municipality of

Richland / Olympia Magistrate

THE STATE

against

James W Trexler

Address: 412 Derby Lane

Hopkins, SC 29061-

Phone: SSN:

Sex: M Race: W Height: 5 11 Weight: 130

DL State: SC DL #:

DOB:

Prosecuting Agency: Hspca/ The Humane Society

Prosecuting Officer: Elisabeth Perry - 172

Offense: Animals / Ill treatment of animals, in general, overworking - 1st offense (Tried

Offense Code: 0610

Code/Ordinance Sec: 47-01-0040(A)

This warrant is CERTIFIED FOR SERVICE in the

[ ] County/ [ ] Municipality of

The accused is to be arrested and brought before me to be dealt with according to the law.

(L.S.)

Signature of Judge

Date:

RETURN

A copy of this arrest warrant was delivered to defendant James Trexler on 2-27-08

Executing Law Enforcement Officer

RETURN WARRANT TO:

Olympia Magistrate
1601 Shop Road
Columbia, SC 29201

ORIGINAL

[X] County/ [ ] Municipality of

Richland / Olympia Magistrate

AFFIDAVIT

ORIGINAL

Personally appeared before me the affiant Elisabeth Perry who being duly sworn deposes and says that defendant James W Trexler did within this county and state on or about 02/26/2008 violate the criminal laws of State of South Carolina (or ordinance of [X] County/ [ ] Municipality of Richland / Olympia Magistrate) in the following particulars:

DESCRIPTION OF OFFENSE Animals / Ill treatment of animals, in general, overworking - 1st offense (Tried

I further state that there is probable cause to believe that the defendant named above did commit the crime set forth and that probable cause is based on the following facts:

That on 02/26/2008 while at 412 Derby Lane in the Olympia Magisterial District of Richland County, one James Trexler did commit the crime of Ill /Treatment of Animals in that he is the owner of a 6 year old Bay Stallion with a body score of 4 (#341). He knowingly and intentionally deprived the animal of necessary quantities of wholesome foodstuff suitable for the species and age, at suitable intervals and sufficient to maintain a reasonable level of nutrition to allow for proper growth and weight. There was no feed or hay found on the property. The animal was separately confined in a barn with 3 other horses, standing in 4 or more inches of feces, urine, and mud. The water bucket was filled with feces and other organic debris. One horse was also found wandering the muddy, wet property. Affiant and others are witness to prove same.

Signature of Affiant Elisabeth Perry

STATE OF SOUTH CAROLINA

[X] County/ [ ] Municipality of

Richland / Olympia Magistrate

Affiant's Address 121 Humane Ln
Columbia, SC 29209

Affiant's Telephone (783)126-7 x

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that on or about 2/26/2008 defendant James W Trexler did violate the criminal laws of the State of South Carolina (or ordinance of [X] County/ [ ] Municipality of Richland / Olympia Magistrate) as set forth below:

DESCRIPTION OF OFFENSE: Animals / Ill treatment of animals, in general, overworking - 1st offense (Tried

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him or her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as soon thereafter as is practicable.

Sworn to and subscribed before me on 02/27/2008

(L.S.)

Magistrate/Judge presiding

Harold A. Cuff

Judge Code: 5906

Judge's Address 1601 - B Shop Road
Columbia, SC 29201-4847

Judge's Telephone (803)576-2550

Issuing Court: [X] Magistrate [ ] Municipal [ ] Circuit

ORIGINAL ORIGINAL ORIGINAL ORIG. L ORIGINAL ORIGINAL

PLAINTIFF'S EXHIBIT 1 2

APP. 881

786

8441-A-0201

I-891849

STATE OF SOUTH CAROLINA

[X] County/ [ ] Municipality of

Richland / Olympia Magistrate

THE STATE

against

James W Trexler

Address: 412 Derby Lane

Hopkins, SC 29061-

Phone SSN

Sex: M Race: W Height: 5 11 Weight 130

DL State: SC DL #

DOB:

Prosecuting Agency: Hspca/ The Humane Society

Prosecuting Officer Elisabeth Perry 122

Offense: Animals / Ill treatment of animals, in general, overworking - 1st offense (Tried

Offense Code: 0610

Code/Ordinance Sec: 47-01-0040(A)

This warrant is CERTIFIED FOR SERVICE in the

[ ] County/ [ ] Municipality of

. The accused is to be arrested and brought before me to be dealt with according to the law.

(L.S.)

Signature of Issuing Official

Date:

RETURN

A copy of this arrest warrant was delivered to defendant James Trexler on 2-27-08

Signature of Law Enforcement Officer

RETURN WARRANT TO:

Olympia Magistrate
1601 Shop Road
Columbia, SC 29201

ORIGINAL ORIGINAL ORIGINAL ORIG L

[X] County/ [ ] Municipality of)
Richland / Olympia Magistrate)

AFFIDAVIT

Personally appeared before me the affiant Elisabeth Perry who being duly sworn deposes and says that defendant James W Trexler did within this county and state on or about 02/26/2008 violate the criminal laws of the State of South Carolina (or ordinance of [X] County/ [ ] Municipality of Richland / Olympia Magistrate) in the following particulars:

DESCRIPTION OF OFFENSE Animals / Ill treatment of animals, in general, overworking - 1st offense (Tried

I further state that there is probable cause to believe that the defendant named above did commit the crime set forth and that probable cause is based on the following facts:

That on 02/26/2008 while at 412 Derby Lane in the Olympia Magisterial District of Richland County, one James Trexler did commit the crime of Ill /Treatment of Animals in that he is the owner of a 15-20 year old Bay Stallion with a body score of 3 (1-9). He knowingly and intentionally deprived the animal of necessary quantities of wholesome foodstuff suitable for the species and age, at suitable intervals and sufficient to maintain a reasonable level of nutrition to allow for proper growth and weight. There was no feed or hay found on the property. The animal was separately confined in a barn with 3 other horses, standing in 4 or more inches of feces, urine, and mud. The water bucket was filled with feces and other organic debris. One horse was also found wandering the muddy, wet property. Affiant and others are witness to prove same.

Signature of Affiant Elisabeth Perry

STATE OF SOUTH CAROLINA)
[X] County/ [ ] Municipality of)
Richland / Olympia Magistrate)

Affiant's Address 121 Humane Ln
Columbia, SC 29209

Affiant's Telephone (783)126-7 x

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe the on or about 2/26/2008 defendant James W Trexler did violate the criminal laws of the State of South Carolina (or ordinance of [X] County/ [ ] Municipality of Richland / Olympia Magistrate) as set forth below.

DESCRIPTION OF OFFENSE: Animals / Ill treatment of animals, in general, overworking - 1st offense (Tried

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him or her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as soon thereafter as is practicable.

Sworn to and subscribed before me)
on 02/27/2008)
(L.S.))
Signature of Issuing Official)
Harold A. Cuff)
Judge Code: 5900)

Judge's Address 1601 - B Shop Road
Columbia, SC 29201-4847

Judge's Telephone (803)576-2550

Issuing Court: [X] Magistrate [ ] Municipal [ ] Circuit

ORIGINAL ORIGINAL

PLAINTIFF'S EXHIBIT L 3

APP. 882

787

8441-A-0202

I-891850

STATE OF SOUTH CAROLINA

[X] County/ [ ] Municipality of

Richland / Olympia Magistrate

THE STATE

against

James W Trexler

Address: 412 Derby Lane

Hopkins, SC 29061-

Phone: SSN:

Sex: M Race: W Height: 5 11 Weight: 130

DL State: SC DL #:

DOB:

Prosecuting Agency: Hspca/ The Humane Society

Prosecuting Officer: Elisabeth Perry - 122

Offense: Animals / Ill treatment of animals, in general, overworking - 1st offense (Tried

Offense Code: 0610

Code/Ordinance Sec: 47-01-0040(A)

This warrant is CERTIFIED FOR SERVICE in the

[ ] County/ [ ] Municipality of

The accused is to be arrested and brought before me to be dealt with according to the law.

(L.S.)

Signature of Judge

Date:

RETURN

A copy of this arrest warrant was delivered to defendant James S Trexler on 2-27-08

RETURN WARRANT TO:

Olympia Magistrate
1601 Shop Road
Columbia, SC 29201

ORIGINAL ORIGINAL ORIGINAL ORIG. L

[X] County/ [ ] Municipality of

Richland / Olympia Magistrate

AFFIDAVIT

ORIGINAL

Personally appeared before me the affiant Elisabeth Perry who being duly sworn deposes and says that defendant James W Trexler did within this county and state on or about 02/26/2008 violate the criminal laws of the State of South Carolina (or ordinance of [X] County/ [ ] Municipality of Richland / Olympia Magistrate in the following particulars:

DESCRIPTION OF OFFENSE: Animals / Ill treatment of animals, in general, overworking - 1st offense (Tried

I further state that there is probable cause to believe that the defendant named above did commit the crime set forth and that probable cause is based on the following facts:

That on 02/26/2008 while at 412 Derby Lane in the Olympia Magisterial District of Richland County, one James Trexler did commit the crime of Ill /Treatment of Animals in that he is the owner of a 7 year old Black Stallion with a body score of 4 (832). He knowingly and intentionally deprived the animal of necessary quantitites of wholesome foodstuff suitable for the species and age, at suitable intervals and sufficient to maintain a reasonable level of nutrition to allow for proper growth and weight. There was no feed or hay found on the property. The animal was found wandering around on the muddy, wet property. Four other horses were confined separately inside a barn standing in 4 or more inches of feces, urine and mud. Their water buckets were filled with feces and other organic debris. Affiant and others are witness to prove same.

Signature of Affiant Elisabeth Perry

STATE OF SOUTH CAROLINA

[X] County/ [ ] Municipality of

Richland / Olympia Magistrate

Affiant's Address: 121 Humane Ln
Columbia, SC 29209

Affiant's Telephone: (783)126-7 x

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that on or about 2/26/2008 defendant James W Trexler did violate the criminal laws of the State of South Carolina (or ordinance of [X] County/ [ ] Municipality of Richland / Olympia Magistrate) as set forth below:

DESCRIPTION OF OFFENSE: Animals / Ill treatment of animals, in general, overworking - 1st offense (Tried

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him or her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as soon thereafter as is practicable.

Sworn to and subscribed before me on 02/27/2008

(L.S.)

Signature of Magistrate

Harold A. Cuff

Judge Code: 5900

Judge's Address: 1601 - B Shop Road
Columbia, SC 29201-4847

Judge's Telephone: (803)576-2550

Issuing Court: [X] Magistrate [ ] Municipal [ ] Circuit

ORIGINAL ORIGINAL

PLAINTIFF'S EXHIBIT 4

APP. 883

788

8441-A-0203

I-891851

STATE OF SOUTH CAROLINA

[X] County/ [ ] Municipality of

Richland / Olympia Magistrate

THE STATE

against

James W Trexler

Address: 412 Derby Lane

Hopkins, SC 29061-

Phone: SSN:

Sex: M Race: W Height: 5 11 Weight 130

DL State: SC DL #

DOB: Agency ORI #:

Prosecuting Agency: Hspca/ The Humane Society

Prosecuting Officer: Elisabeth Perry - 122

Offense: Animals / Ill treatment of animals, in general, overworking - 1st offense (Tried

Offense Code: 0610

Code/Ordinance Sec: 47-01-0040(A)

This warrant is CERTIFIED FOR SERVICE in the

[X] County/ [ ] Municipality of

Richland / Olympia Magistrate

The accused is to be arrested and brought before me to be dealt with according to the law.

(L.S.)

Signature of Judge

Date:

RETURN

A copy of this arrest warrant was delivered to defendant James W Trexler on 02/27/08

Signature of Law Enforcement Officer

RETURN WARRANT TO:

Olympia Magistrate
1601 Shop Road
Columbia, SC 29201

ORIGINAL ORIGINAL ORIGINAL ORIG. L

[X] County/ [ ] Municipality of)
Richland / Olympia Magistrate)

AFFIDAVIT

ORIGINAL

Personally appeared before me the affiant Elisabeth Perry who being duly sworn deposes and says that defendant James W Trexler did within this county and state on or about 02/26/2008 violate the criminal laws of the State of South Carolina (or ordinance of [X] County/ [ ] Municipality of Richland / Olympia Magistrate) in the following particulars:

DESCRIPTION OF OFFENSE Animals / Ill treatment of animals, in general, overworking - 1st offense (Tried

I further state that there is probable cause to believe that the defendant named above did commit the crime set forth and that probable cause is based on the following facts:

That on 02/26/2008 while at 412 Derby Lane in the Olympia Magisterial District of Richland County, one James Trexler did commit the crime of Ill /Treatment of Animals in that he is the owner of a 20 year old Gray Stallion with a body score of 3.5 (#31). He knowingly and intentionally deprived the animal of necessary quantities of wholesome foodstuff suitable for the species and age, at suitable intervals and sufficient to maintain a reasonable level of nutrition to allow for proper growth and weight. There was no feed or hay on the property. The animal was separately confined in a barn with 3 other horses, standing in 4 or more inches of feces, urine, and mud. The water bucket was filled with feces and other organic debris. One horse was also found wandering the muddy, wet property. Affiant and others are witness to prove same.

Signature of Affiant Elisabeth Perry

STATE OF SOUTH CAROLINA)
[X] County/ [ ] Municipality of)
Richland / Olympia Magistrate)

Affiant's Address 121 Humane Ln
Columbia, SC 29209

Affiant's Telephone (783)126-7 x

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that on or about 2/26/2008 defendant James W Trexler did violate the criminal laws of the State of South Carolina (or ordinance of [X] County/ [ ] Municipality of Richland / Olympia Magistrate) as set forth below:

DESCRIPTION OF OFFENSE: Animals / Ill treatment of animals, in general, overworking - 1st offense (Tried

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him or her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution or as soon thereafter as is practicable

Sworn to and subscribed before me)
on 02/27/2008)
(L.S.))
Signature of Judge/Magistrate)
Harold A. Cuff)
Judge Code: 5906)

Judge's Address 1601 - B Shop Road
Columbia, SC 29201-4847

Judge's Telephone (803)576-2550

Issuing Court: [X] Magistrate [ ] Municipal [ ] Circuit

ORIGINAL ORIGINAL

PLAINTIFF'S EXHIBIT 5

APP. 884

789

8441-A-0204

Exhibit "M"

Cowen, Chris

From: Davis, Kelly [KDAVIS@thestate.com]
Sent: Thursday, February 28, 2008 5:19 AM
To: Cowen, Chris
Subject: RE: those responsible for severe neglect/injury to horses, in custody

Kelly Gilchrist with the Humane Society is emailing saying Terry Trexler, not James Trexler, is charged with kidnapping. She says Terry claimed to be James when their investigator was on the property. Can you confirm?

-----Original Message-----
From: Cowen, Chris [mailto:CCowen@RICHLAND.COM]
Sent: Wednesday, February 27, 2008 5:47 PM
To: Jessie Sapolsky; SJ; Beverly Wise; Brittany Lockhart; WIS; Christie Vaughan (Christie.Vaughan); cm42; D LANE; Erik.Gunn (E-mail); Kelly Woodard (Kelly.Woodard); Pedz, Joyce; Ramey Johnston; Randy Johnson; Robin WCAC (Robin.WCAC); Samantha, Tony; Sarah Gregory (sarah.gregory@wistv.com); Stephanie YULTV; Stephanie; Watch SJ News (Watch SJ News); WIS-TV Randy Johnston; Randy Johnson; Robin WCAC (Robin.WCAC); Samantha, Tony; Sarah Gregory (sarah.gregory@wistv.com); Stephanie YULTV; Stephanie; Watch SJ News (Watch SJ News); WIS-TV (courses.WIS Public.com); WLTX-TV (news19@lin.gannett.com); WOLO; WOLO chronicle; WOLO-TV (gyne.knezevic@wolo.com); Beam, Adam; AP Columbia (AP Columbia); Kilgore, Dawn; Kersey Young, Chris; Dan; CS Safety; Hopkins, Lee; Tate, Johnnie; Dawn, Kelly; Hecht, Tonya; LITMAN; BRIAN; Doug Gilfanes/WLOC; Doug Williams/WLOC; Dr. Georgiana; Jerry Grimes; Gates 102 (News 103); Sergei Perez (Sperez@newspecemunications.com); TJ Mabry (tj.mabry@clearcom.com); WCOS; WCOS; wmbk; WNOK; WSCO; WTCB; WTCB; wtcb; WTLR; WTCB; WTCB; WVOC; WYCN (E-mail 2); Bob Keenan (E-mail); Carolina News; Don Cone (E-mail); Details Newsletter; eddie chronicle; fort jackson leader; Free Times Julie; Greenville News; Gretchen Gwinn; Heidi Thomas (Heidi Thomas); Hispanic News (E-mail); Isaac Washington (E-mail); Jackie Sumter (E-mail); Jennifer Dowden (jennifer.dowden@richlandonline.com); john adams; Joseph Kay; kirk kusher; Kirk Lusher (E-mail); Knight (E-mail); lee sligh editor; Lisa Whitten (lisa.whitten@); Mail media; Lois Fraser (lfraser56@yahoo.com); Marie Vic (E-mail); michelle jackson; Mimi Macnock (E-mail); Misty Bonds (E-mail); Rachel (E-mail); Rebecca, Gustavo; RC PIO (RC PIO); Richard Kinsey (E-mail); Rick Peterson (E-mail); Rob Latvis (Rob Latvis); Ruralville/Dutch Fork; Martha Bruce; Sandra Ilem; Times and mail); WLHK; Rebecca, Gustavo; RC PIO (RC PIO); Richard Kinsey (E-mail); Rick Peterson (E-mail); Rob Latvis (Rob Latvis); Ruralville/Dutch Fork; Martha Bruce; Sandra Ilem; Times and Centennial Orangeburg; ABC - Augusta (bgrowe@wrdw.com); Atlanta Convention (dgoodlow@yahoo.com); CBS Augusta (newsroom@wrdw.com); Greg Chennell (greg.cuchinelli@cbs.com); NBC - Atlanta (jeffrow@nbcgarnett.com); NBC - Atlanta (news13atl@sbcglobal.net); NBC - Savannah Morning News (mcarson@wsav.com)
Subject: RE: those responsible for severe neglect/injury to horses, in custody

Richland County Sheriff's Department

LEON LOTT
Sheriff

Richland County Sheriff Leon Lott announced that at approximately 8:00 PM tonight the Richland County Sheriff's Departments Fugitive Task Force apprehended Hazelene E. Trexler [redacted], Terry A. Trexler [redacted] and James Trexler [redacted] at 412 Derby Lane in Hopkins.

Richland County Sheriff Leon Lott stated the Sheriff's Department and HSPCA continue to investigate the severe and barbaric treatment of 28 horses that were in the custody of and suppose to have been cared for by the Trexlers; even as the trio were being arrested in Hopkins tonight, investigators and veterinarians care for the horses that sustained injuries ranging from malnutrition to infiltrations that being left untreated cause lameness to halters growing into the faces of the horses.

Sheriff Leon Lott added that this case is disturbing because these horses are helpless to the hands of their owners and the Trexlers have proven time and again that they have no business owning any animals. Sheriff Leon Lott stated that investigators from the Sheriff's Department and the HSPCA will continue to work with the Solicitors Office here and authorities in Georgia to make sure the Trexlers receive the punishment they deserve and are prosecuted to the fullest extent of the law. Sheriff Leon Lott stated that the Trexlers have been transported to Alvin S. Glen Detention Center where they await a bond hearing.

Charges:

- Hazelene E. Trexler
  28 counts of ill treatment of animals

- Terry A. Trexler
  28 counts of ill treatment of animals

- James Trexler
  5 counts of ill treatment of animals
  1 count of kidnapping (taken from an incident where J. Trexler took a HSPCA investigator against her will/refused to allow the investigator to leave a farm on 2/13 during an evaluation of the horses)

[redacted]

PLAINTIFF'S EXHIBIT 91

2/29/2008

DISCN 26/07/10

8441-A-010

Exhibit "N"

WITNESSES

L(S) Investigator Holly Wagner, RCSD

ARREST WARRANT NUMBER

DP08059

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury
Date: MAR 13 2008

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. 2008-GS-40-02282

The State of South Carolina

County of Richland

COURT OF GENERAL SESSIONS

MARCH TERM 2008

101

THE STATE
vs.

James W. Trexler

Indictment for

ILL TREATMENT OF ANIMALS

SC Code: 47-01-40(B)
CDR Code: 2804
Class F/F

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

I _____
hereby appear in my own proper person and plead guilty to the within indictment or to

Defendant

Witness:
C.C.C. PLS. AND G.S.

PLAINTIFF'S EXHIBIT N

8441-A-0258

STATE OF SOUTH CAROLINA)
)
COUNTY OF RICHLAND)

INDICTMENT

At a Court of General Sessions, convened on March 12, 2008, the Grand Jurors of Richland County present upon their oath:

ILL TREATMENT OF ANIMALS

That James W. Trexler did in Richland County, on or about February 26, 2008, inflict excessive or repeated unnecessary pain or suffering upon a 2 year old Bay filly, or by omission or commission caused this to be done, all in violation of SC Code of Laws § 47-1-40.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

WARREN B. GIESE, SOLICITOR

8441-A-0259

WITNESSES

(S) Investigator Holly Wagner, RCSD

ARREST WARRANT NUMBER

DP08060

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury
Date: MAR 2 3 2008

VERDICT

Foreperson of Petit Jury
Date

DOCKET NO. 2008-GS-40-02283

The State of South Carolina

County of Richland

COURT OF GENERAL SESSIONS

MARCH TERM 2008

101

THE STATE
vs.

James W. Trexler

Indictment for

ILL TREATMENT OF ANIMALS

SC Code: 47-01-40(B)
CDR Code: 2804
Class F/F

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

I _____ hereby appear in my own proper person and plead guilty to the within indictment or to

Defendant

Witness

C.C.C. PLS. AND G.S.

8441-A-0260

STATE OF SOUTH CAROLINA)
)
COUNTY OF RICHLAND)

INDICTMENT

At a Court of General Sessions, convened on March 12, 2008, the Grand Jurors of Richland County present upon their oath:

ILL TREATMENT OF ANIMALS

That James W. Trexler did in Richland County, on or about February 26, 2008, inflict excessive or repeated unnecessary pain or suffering upon a 20 year old Gray Stallion, or by omission or commission caused this to be done, all in violation of SC Code of Laws § 47-1-40.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

WARREN B. GIESE, SOLICITOR

8441-A-0261

WITNESSES

(S) Investigator Holly Wagner, RCSD

ARREST WARRANT NUMBER

DP08061

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury
Date: MAR 13 2008

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. 2008-GS-40-02284

The State of South Carolina

County of Richland

COURT OF GENERAL SESSIONS

MARCH TERM 2008

101

THE STATE
vs.

James W. Trexler

Indictment for

ILL TREATMENT OF ANIMALS

SC Code: 47-01-40(B)
CDR Code: 2804
Class F/F

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

I _____
hereby appear in my own proper person and plead guilty to the within indictment or to

Defendant

Witness:
C.C.C. PLS. AND G.S.

8441-A-0262

797

APP. 892

STATE OF SOUTH CAROLINA)
)
COUNTY OF RICHLAND)

INDICTMENT

At a Court of General Sessions, convened on March 12, 2008, the Grand Jurors of Richland County present upon their oath:

ILL TREATMENT OF ANIMALS

That James W. Trexler did in Richland County, on or about February 26, 2008, inflict excessive or repeated unnecessary pain or suffering upon a 6 year old Bay Stallion, or by omission or commission caused this to be done, all in violation of SC Code of Laws § 47-1-40.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

Wm B. Giese

WARREN B. GIESE, SOLICITOR

8441-A-0263

WITNESSES

(S) Investigator Holly Wagner, RCSD

ARREST WARRANT NUMBER

DP08062

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury
Date: MAR 13 2008

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. 2008-GS-40-02285

The State of South Carolina

County of Richland

COURT OF GENERAL SESSIONS

MARCH TERM 2008

101

THE STATE
vs.

James W. Trexler

Indictment for

ILL TREATMENT OF ANIMALS

SC Code: 47-01-40(B)
CDR Code: 2804
Class F/F

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

I _____ hereby appear in my own proper person and plead guilty to the within indictment or to

Defendant

Witness:

C.C.C PLS. AND G.S.

8441-A-0264

Exhibit "O"

WITNESSES

Holly Wagner RCSO

ARREST WARRANT NUMBER

Direct Presentment

DP09296

ACTION OF GRAND JURY

TRUE BILL

OCT 15 2009

Foreperson of Grand Jury

Date:

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2009-GS-40- 9627

The State of South Carolina

County of Richland

COURT OF GENERAL SESSIONS

October_____ 2009 TERM

THE STATE

v.

James W. Trexler
DOB: 1/14/1960

Indictment for

III Treatment of Animals

SC Code: 47-01-040(B)
CDR Code: 2804

PLAINTIFF'S EXHIBIT 3

CERTIFIED TRUE COPY
OF ORIGINAL FILED
Jeanette W. McBride C.C.C.G.S.
RICHLAND COUNTY
SOUTH CAROLINA

STATE OF SOUTH CAROLINA)
)
COUNTY OF RICHLAND)

INDICTMENT FOR
ILL-TREATMENT OF ANIMALS

At a Court of General Sessions, convened on October the Grand Jurors of Richland County present upon their oath: 14, 2009

ILL-TREATMENT OF ANIMALS

That between the dates of August 1, 2007 and March 3, 2008, James W. Trexler, did at 207 Misty Meadows Road, in Richland County, inflict excessive or repeated unnecessary pain or suffering upon animals. To wit, by omission or commission, James W. Trexler did cause repeated unnecessary suffering upon: a 6 (six) year old Chestnut Gelding (Horse #41), and/or a 10 (ten) year old Brown Filly (Horse #42) and/or an 10 (ten) year old Black Filly (Horse #43) and/or 10 (ten) year old Black Filly (Horse #44) and/or 20 (twenty) year old Gray Filly (Horse #45) and/or a 10 (ten) year old Gray Filly (Horse #46) and/or a 20 (twenty) year old Gray Filly (Horse #47) and/or 5 (five) year old Bay Filly (Horse #48) and/or a 15-20 (fifteen-twenty) year old Chestnut Filly (Horse #49) and/or a 5 (five) year old Chestnut Filly (Horse #50) and/or a 4 (four) year old Chestnut Filly (Horse #51) and/or a 4 (four) year old Chestnut Filly (Horse #52) and/or 15-20 (fifteen-twenty) year old Chestnut Filly (Horse #53) and/or a 7 (seven) year old Bay Filly (Horse #54) and/or a 4 (four) year old Bay Filly (Horse #55) and/or a 4 (four) year old Bay Filly (Horse #56) and/or a 4.5 (four and half) year old Bay Filly (Horse #57). This in violation of § 47-1-40 (B) of the S.C. Code of Laws, 1976, as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

HENRY McMASTER (cds)
ATTORNEY GENERAL

WITNESSES

Holly Wagner RCSO

ARREST WARRANT NUMBER

Direct Presentment

DP09297

ACTION OF GRAND JURY

TRUE BILL

OCT 15 2009

Foreperson of Grand Jury

Date:

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2009-GS-40- 9628

The State of South Carolina

County of Richland

COURT OF GENERAL SESSIONS

October_____ 2009 TERM

THE STATE

v.

James W. Trexler

DOB: 1/14/1960

Indictment for

III Treatment of Animals

SC Code: 47-01-040(B)

CDR Code: 2804

CERTIFIED TRUE COPY
OF ORIGINAL FILED
C.C.C.P. & G.S.
RICHLAND COUNTY
SOUTH CAROLINA

STATE OF SOUTH CAROLINA)
)
COUNTY OF RICHLAND)

INDICTMENT FOR
ILL-TREATMENT OF ANIMALS

At a Court of General Sessions, convened on October 14, 2009 the Grand Jurors of Richland County present upon their oath:

ILL-TREATMENT OF ANIMALS

That between the dates of August 1, 2007 and February 25, 2008, James W. Trexler, did at 1248 Zeigler Road, in Richland County, inflict excessive or repeated unnecessary pain or suffering upon animals. To wit, by omission or commission, James W. Trexler did cause repeated unnecessary suffering upon: a 15-20 (fifteen-twenty) year old Gray Filly (Horse #1), and/or a 10-15 (ten-fifteen) year old Gray Filly (Horse #2) and /or an 8 (eight) month old Bay Stallion (Horse #3), and/or an 8 (eight) month old Bay Stallion (Horse #4), and/or a 2-3 (two-three) year old Gray Filly (Horse #5), and/or a 3.5 (three and a half) year old Bay Stallion (Horse #6) and/or a 10 (ten) year old Bay Filly (Horse #7) and/or a 5 (five) year old Bay Stallion (Horse #8) and/or a 10-15 (ten-fifteen) year old Bay Filly (Horse #9) and/or a 10-15 (ten-fifteen) year old Bay Filly (Horse #10) and/or a 4 (four) year old Bay Stallion (Horse #11) and/or a 4 (four) year old Gray Stallion (Horse #12) and/or a 4 (four) year old Gray Stallion (Horse # 13) and/or a 1-2 (one-two) year old Gray Filly (Horse #14) and/or a 2 (two) year old Gray Filly (Horse #15) and/or a 10-15 (ten-fifteen) year old Bay Filly (Horse #16) and/or a 20 (twenty) year old Bay Filly (Horse #17) and/or a 20 (twenty) year old Chestnut Filly (Horse #18) and/or a 9 (nine) month old Gray Filly (Horse #19) and/or a 2 (two) year old Brown Stallion (Horse #20) and/or a 2 (two) year old Bay Filly (Horse #21) and/or a 7 (seven) year old Bay Filly (Horse #22). This in violation of § 47-1-40 (B) of the S.C. Code of Laws, 1976, as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

HENRY MCMASTER (cds)
ATTORNEY GENERAL

WITNESSES

Billy Wagner RCSO

ARREST WARRANT NUMBER

Direct Presentment

DP09 298

ACTION OF GRAND JURY

TRUE BILL

OCT 15 2009

Foreperson of Grand Jury

Date:

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2009-GS-40- 9629

The State of South Carolina

County of Richland

COURT OF GENERAL SESSIONS

October_____ 2009 TERM

THE STATE

v.

James W. Trexler

DOB: 1/14/1960

Indictment for

III Treatment of Animals

SC Code: 47-01-040(B)

CDR Code: 2804

CERTIFIED TRUE COPY
OF ORIGINAL FILED

OCT 15 2009

RICHLAND COUNTY
SOUTH CAROLINA

STATE OF SOUTH CAROLINA	)	INDICTMENT FOR
	)	ILL-TREATMENT OF ANIMALS
COUNTY OF RICHLAND	)	

At a Court of General Sessions, convened on October 14, 2009 the Grand Jurors of Richland County present upon their oath:

ILL-TREATMENT OF ANIMALS

That between the dates of August 1, 2007 and February 25, 2008, James W. Trexler, did at 1248 Zeigler Road, in Richland County, inflict excessive or repeated unnecessary pain or suffering upon animals. To wit, by omission or commission, James W. Trexler did cause repeated unnecessary suffering upon an adult horse aged 8 (eight) months to 2 (two) years found dead and buried at 1248 Zeigler Rd. This in violation of § 47-1-40 (B) of the S.C. Code of Laws, 1976, as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

HENRY MCMASTER (cds)
ATTORNEY GENERAL

WITNESSES

Holly Wagner RCSO

ARREST WARRANT NUMBER

DP09303

ACTION OF GRAND JURY

TRUE BILL

OCT. 15 2009

Foreperson of Grand Jury
Date:

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. 2009-GS-40- 9635

The State of South Carolina

County of Richland

COURT OF GENERAL SESSIONS

October_____ 2009 TERM

THE STATE
v.

James W. Trexler
DOB: 1/14/1960

Indictment for

Ill Treatment of Animals

SC Code: 47-01-040(B)
CDR Code: 2804

CERTIFIED TRUE COPY
OF ORIGINAL FILED
C.C.G.P. & G.S.
RICHLAND COUNTY
SOUTH CAROLINA

STATE OF SOUTH CAROLINA)
)
COUNTY OF RICHLAND)

INDICTMENT FOR
ILL-TREATMENT OF ANIMALS

At a Court of General Sessions, convened on October 14, 2009 the Grand Jurors of Richland County present upon their oath:

ILL-TREATMENT OF ANIMALS

That between the dates of August 1, 2007 and February 25, 2008, James W. Trexler, did at 412 Derby Lane, In Richland County, inflict excessive or repeated unnecessary pain or suffering upon animals. To wit, by omission or commission, James W. Trexler did cause repeated unnecessary suffering upon: a 20 (twenty) year old Gray Stallion (Horse #31), and/or a 7 (seven) year old Black Stallion (Horse #32) and/or a 15-20 (fifteen-twenty) year old Bay Stallion (Horse #33), and/or a 6 (six) year old Bay Stallion (Horse #34) and/or a 2 (two) year old Bay Filly (Horse #35). This in violation of § 47-1-40 (B) of the S.C. Code of Laws, 1976, as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

HENRY MCMASTER (cds)
ATTORNEY GENERAL

Exhibit
"P"

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND

IN THE COURT OF GENERAL SESSIONS
ORDER FOR DESTRUCTION OF ARREST RECORDS

THE STATE OF SOUTH CAROLINA

Race Cau Sex M Age 50
DOB SSN

vs.

SID #

James William Trexler

Defendant

Charges were disposed of in the court indicated below:

☐ Magistrate ☐ Municipal ☑ General Sessions

AKA

IT APPEARS that the defendant is entitled to have all records relating to this offense expunged and destroyed according to the applicable section of the South Carolina Code of Laws indicated below:

Warrant/GS No. I891847-851 Date of Arrest Place of Arrest RICHLAND County, S.C.

Arrest Charge ILL TreaTMENTMENT TO ANIMALS

☑ § 17-1-40. The charge was dismissed, *nol prossed* or the defendant was found not guilty on 07-15-2010

RICHLAND COUNTY FILED 2010 AUG 23 PM 4:49 JEANETTE W. McBRIDE C.C.P. & G.S.

☐ § 17-22-150(a). The charge was *nol prossed* on by the Solicitor because the defendant successfully completed the Pre-Trial Intervention Program (PTI Director must attest to eligibility for expungement).

☐ § 17-22-530(A). The charge was *nol prossed* on by the Solicitor because the defendant successfully completed the Alcohol Education Program Program. (AEP Director must attest to eligibility for expungement).

☐ § 34-11-90(e). The defendant was convicted of a first offense misdemeanor under the Fraudulent Check Law on and no additional criminal conviction as defined by § 34-11-90(e) has taken place in one year from date of conviction.

☐ § 44-53-450(b). The defendant was charged with first offense simple possession of marijuana or hashish on , received a conditional discharge and has successfully complied with the terms as set forth by the court.

☐ § 22-5-910. The defendant was convicted of a first offense for a crime carrying a penalty of not more than 30 days on , that offense did not involve the exceptions enumerated in § 22-5-910, and no additional criminal conviction as defined by § 22-5-910 has taken place within three years from date of conviction or five years from the date of conviction for criminal domestic violence. (*Summary Court Judge must attest to eligibility*).

☐ § 22-5-920. The defendant was convicted of a first offense as a youthful offender on , that offense did not involve the exceptions enumerated in § 22-5-920, and no additional criminal conviction as defined by § 22-5-920 has taken place during a five-year period following completion of his sentence, including probation and parole as a youthful offender.

☐ § 56-5-750(F). The defendant was convicted of a misdemeanor first offense failure to stop motor vehicle on and no additional criminal conviction has taken place for three years after completion of the sentence.

SLED verifies the offense listed above is eligible for expungement: ☐ Yes ☐ No SLED Date

IT IS ORDERED that all records relating to such arrest and subsequent discharge pursuant to the above-referenced section be dismissed, expunged and immediately destroyed and that no evidence of such records pertaining to such charge shall be retained by any municipal, county or state agency except nonpublic information retained on each person accepted for Pre-Trial Intervention pursuant to § 17-22-130, nonpublic information retained by SC Law Enforcement Division (SLED) pursuant to § 34-11-90(e), nonpublic information retained by the Department of Narcotic and Dangerous Drugs Under SLED pursuant to § 44-53-450, nonpublic information retained by SLED pursuant to § 22-5-910 and § 22-5-920, and nonpublic information retained by SLED and Department of Public Safety pursuant to § 56-5-750 (F).

Signed this 23 day of August 2010

Solicitor: ☒ Consents
☐ Declines to Consent
☐ Determined ineligible for expungement

W. Barry Lee
Circuit Solicitor

I attest that the defendant is eligible for expungement pursuant to S.C. Code §17-22-150(a) (successful completion of PTI), §17-22-530(A) (successful completion of AEP), § 22-5-910 (summary court conviction) or § 44-53-450(b) (conditional discharge).

P. Mason Cooper, J.
Circuit Court Judge

Director PTI / Di Court Judge (circle one)

Defendant / Attorney for Defendant (Circle One)

PLAINTIFF'S EXHIBIT

Exhibit "Q"

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas

Joseph M. Strickland, Special Circuit Court Judge

Case No. 2010-CP-40-1249

James W. Trexler,

Appellant,

v.

The Associated Press; Barrington Broadcasting South Carolina Corp.; Raycom TV Broadcasting, Inc.; The Spartanburg Herald Journal, Inc.; and The Pacific & Southern Co., Inc.,

Respondents.

NOTICE OF APPEAL

James W. Trexler appeals the orders of the Honorable Joseph M. Strickland dated October 25, 2012 and April 29, 2013, respectively. The April 29, 2013 order was a denial of Appellant's motion to reconsider, alter or amend the October 25, 2012 order, pursuant to Rule 59(e), SCRCP. Appellant received written notice of entry of the April 29, 2013 order denying Appellant's Rule 59(e) motion on June 19, 2013.

William H. Johnson
Law Offices of William H. Johnson, LLC
411 North Brooks Street
Post Office Box 137
Manning, South Carolina 29102
(803) 435-0909 (telephone)
(803) 435-2858 (facsimile)
-and-
W. Westbrook Wills III
Attorney at Law



38 Broad Street
Suite 200
Charleston, SC 29401
(843) 805-6300 (telephone)
(843) 278- 9333 (facsimile)
-and-
Matthew D. Hamrick
Attorney at Law
Tidewater Executive Center
222 W. Coleman Blvd.
Mt. Pleasant, SC 29464
(843) 693-4700 (telephone)
(877) 524-5023 (facsimile)

ATTORNEYS FOR APPELLANT

Other counsel of record:

Jay Bender
Baker, Ravenel & Bender LLP
Post Office Box 8057
Columbia, South Carolina 29202
(803) 799-9091 (telephone)
(803) 779-3423
ATTORNEYS FOR RESPONDENTS

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas

Joseph M. Strickland, Special Circuit Court Judge

Case No. 2010-CP-40-1249

James W. Trexler,

Appellant,

v.

The Associated Press; Barrington Broadcasting South Carolina Corp.; Raycom TV Broadcasting, Inc.; The Spartanburg Herald Journal, Inc.; and The Pacific & Southern Co., Inc.,

Respondents.

PROOF OF SERVICE

I certify that I have served the Notice of Appeal on The Associated Press; Barrington Broadcasting South Carolina Corp.; Raycom TV Broadcasting, Inc.; The Spartanburg Herald Journal, Inc.; and The Pacific & Southern Co., Inc., by depositing a copy of it in the United States Mail, postage prepaid, on July 18, 2013, addressed to their attorneys of record, Jay Bender, Baker, Ravenel & Bender LLP, Post Office Box 8057, Columbia, South Carolina 29202.

William H. Johnson
Law Offices of William H. Johnson, LLC
411 North Brooks Street
Post Office Box 137
Manning, South Carolina 29102
(803) 435-0909 (telephone)
(803) 435-2858 (facsimile)
-and-
W. Westbrook Wills III
Attorney at Law

38 Broad Street
Suite 200
Charleston, SC 29401
(843) 805-6300 (telephone)
(843) 278- 9333 (facsimile)
-and-
Matthew D. Hamrick
Attorney at Law
Tidewater Executive Center
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Mt. Pleasant, SC 29464
(843) 693-4700 (telephone)
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ATTORNEYS FOR APPELLANT

Other counsel of record:

Jay Bender
Baker, Ravenel & Bender LLP
Post Office Box 8057
Columbia, South Carolina 29202
(803) 799-9091 (telephone)
(803) 779-3423
ATTORNEYS FOR RESPONDENTS

Exhibit
"R"

STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
) OF THE FIFTH JUDICIAL CIRCUIT
COUNTY OF RICHLAND) CASE NO.: 2010-CP-40-1343

James W. Trexler,

Plaintiff,

vs.

McClatchy Newspapers, Inc., Richland County, and the Richland County Sheriff's Department,

Defendants.

Deposition of CHRIS COWAN, taken by Doris Tompkins Brown, Certified Verbatim Reporter and Notary Public in and for the State of South Carolina, commencing at 10:13 A.M. on September 8, 2011, and taken at the Davidson and Lindemann Law Firm, 1611 Devonshire, Columbia, South Carolina.

APPEARANCES

FOR THE PLAINTIFF:

W. Westbrook Wills, III
Austin, Fowler & Wills, LLP
38 Broad Street
Suite 200
Charleston, South Carolina
and
William H. Johnson
2 North Brooks Street
Manning, South Carolina



Doris Tompkins Brown
COPY
Certified Verbatim Reporter
Post Office Box 853
Sumter, South Carolina 29151
(803) 499-2434
COPY

football for three hours.

(OFF THE RECORD)

(BACK ON THE RECORD)

EXAMINATION BY MR. WILLS CONTINUED:

Q. I'm just going to briefly give us a reintroduction by way of asking just before the break, we talked about whether or not anybody at the Department signs off on the press releases before they go out, and I believe, correct me if I'm wrong, that you indicated that nobody has the responsibility of signing off on a press release apart from the person who wrote it before they go out to the media. Is that correct?

A. We get the information and we release the information.

Q. Okay. And you -- and you were beginning to speak on the policies that are in place for the verification of the facts in the press releases before they're released to the media. And could you describe basically the -- the -- any policies that are in place for verifying the actual facts of the press releases before they go out to the media?

A. We receive the information from the sources, whether it's investigators, whether it's an outside agency, whatever the case may be. We gain that information from -- from them, and we submit the release.

Q. Okay. There's no -- no -- no specific internal policy

for double-checking the facts that come in from another agency, for example?

A. We -- as a matter of practice, we would -- we would speak to the investigators or whoever we're getting the information from and get that information and put it in a release and send it out.

Q. Okay. Apart from speaking to the investigators just to make sure that the facts are straight, does the Department do any independent verification of the facts outside of just asking the investigator or other agency? Does the Department undertake to do any independent verification of the facts in press releases before they are released to the media?

A. Our sources are the source of that information. They're the ones that give us that information; so, they would be the ones that we would get that information from and are believed to be factual.

Q. Okay. So, you guys do not do any independent verification of the facts apart from relying on the sources?

A. Independent how?

Q. For example, if -- if information came in from an agency that had facts involved, would you all undertake to check the facts that the -- that the independent agency -- that the agency has given you

before releases a press release or would you solely rely on the representations of the -- of that agency giving the information?

MR. GARFIELD: Object to the form.

Go ahead.

A. They would assume to be -- we would assume that they were factual because of the source that we were getting them from.

Q. And you all do no other independent verification?

A. No.

Q. Once the press release -- once you've received the information and created the press release, does the Department send the press release back to that assisting agency for any type of verification before sending it out to the media?

A. It depends on the story.

Q. Do you ever send press releases back for verification to the sources from which the information came?

A. Do I ever do that?

Q. Yes.

A. I have done that, yes.

Q. Okay. Is that a standard practice or ---

A. Again, we would assume that the information that we're getting is factual. So, once we get that factual information, we would put that out.

PLAINTIFF'S EXHIBIT NUMBER THIRTEEN

Q. I'm going to hand you Plaintiff's Exhibit Number Thirteen in which contains unsequential Bates numbers, but I'll mark it as one exhibit and I'll ask if ---

(DEPOSITION WAS STOPPED AT 11:23 A.M. FOR INVESTIGATOR WAGNER'S DEPOSITION TO BE TAKEN AND THEN RECOVENING OF CAPTAIN COWAN'S DEPOSITION)

EXAMINATION BY MR. WILLS CONTINUED:

Q. I've broken up my order now for these and I'll circulate these.

MR. GARFIELD: Brook, don't worry about a copy for me. If you just want to put your exhibit together and ask him there, I can look over it.

MR. WILLS: There it is. All right. Here's the second half of this one here.

Q. Okay. Plaintiff's Exhibit Number Thirteen is -- if -- I'll ask if you can identify those -- those documents if you know what they are.

A. This would have been part of what is actually Exhibit Eleven. They would have been my notes from a press file; I keep copious notes or I try to of what I've -- who I've talked to and what I've done.

Q. Okay.

A. So, Eleven and Thirteen are actually one document.
Q. Is -- does Plaintiff's Exhibit Number Thirteen -- is that your writing on these things?
A. Yes.
Q. And on both pages?
A. Yes.
Q. Okay. And is all of the writing on these two pages your writing?
A. Yes.
Q. Okay.
A. Yeah, I don't know what that is. I don't recognize -- yes, that's my writing.
Q. Okay. Would you be able to describe what was happening when you were -- yeah, how -- how were you taking these notes? Did this happen because of a meeting with somebody or a telephone call?
A. It would have been a telephone call with Kelly Graham and Holly Wagner. And, again, I don't know if -- you know, it's -- I had some very brief conversation with -- with each about what was going on.
Q. Okay.
A. And, so, I can't tell you, you know, if one piece of the information was put out at -- you know, at 4:00 P.M. and one was at 5:00 P.M. I can't tell, you know, because, again, it's not sequential that I'm even

aware of.
Q. Would these notes have been taken all on the same day?
A. I can't answer that.
Q. Did you have more than one conversation with Kelli Graham about the circumstances that were going to make up the content of your press release?
A. I believe I did.
Q. Okay. And were they all by telephone or were they some in person?
A. Oh, I never -- I never met her in person.
Q. Okay. How would -- if you could just tell me how that process might work. Did -- would she call you and tell you if you'd like to have a press release written up or would -- how would that process have worked?
A. Based on the fact that her phone number is written down here, I think that appears that I would have called her and talked with her.
Q. Okay. And, now, is that something that you would have done at the request of Holly Wagner or is it possible that that is -- did she call you and leave a message for you to call her back?
A. No, I don't believe Holly requested that -- Holly conveyed to me what she had, and I believe I called -- I got Kelli's number and I called Kelli to -- to discuss with her what was going to be put out.

Q. Okay. You didn't -- did you have any conversation with Holly Wagner about what was going to be in the press release?
A. Yes.
Q. Okay. What conversation did you have with her about what was going to be in the press release?
A. I can't -- it's three years ago. I can't answer. All I can tell you is that we had a conversation, and I made notes and this is what was produced.
Q. Okay. If we take a look at -- this would make more sense to you than it does to me because -- because I wasn't in this circumstance. But it we look at this -- this first page here that's Plaintiff's Exhibit Number Twelve.
A. Number Thirteen?
Q. Yeah, correct. Thirteen. This is a document that has listed on here 207 Misty Meadows Road in Hopkins. Is that correct there?
A. There is an address there. 207 Misty Meadows. My writing.
Q. Okay. And -- and so, 207 Misty -- do -- do you have any understanding that 207 Misty Meadows Road was -- was not even on the radar before the arrest?
MR. GARFIELD: Object to the form.
A. I have no idea what that's referencing.

Q. Okay. How about this not up here at the top, it says, "HSPCA invited WOLO and called State Paper without letting RS -- RCS be known"?
A. Any time you have a press release which you do when there are multiple agencies involved, you want to try to have one voice ---
Q. Okay.
A. -- so everybody's on the same page. And I made a note to myself that they were contacting the media as part of this when we had agreed over the telephone that we were -- we were going to be the one doing -- doing the information release.
Q. Is that agreement in place to insure that -- that there's no mix-up of facts?
A. Normally, it's in place so that there's one voice and so that people are getting one voice, one -- one -- one face with the story.
Q. And you're saying you made this note because they went outside of that agreement and -- and involved the media on their own?
A. Yes.
MR. GARFIELD: Object to the form.
Q. Okay. We've got below here -- below that -- that in bold writing there, we've got some hash marks with what look like to be, and you can tell me if this is

what they are, are they -- are they questions that -- that you've written there? They -- they read, "Who owns? Who charged? Why owner of property not charged? What charges?" Are those questions that you've marked down, or what do those represent?

A. I've written that. I don't know why I would have written it.

Q. Okay. Does that appear that there is some question at that point about those particular items?

A. You're asking me to speculate. I don't know what I did three years ago. I -- I can just tell you I wrote that.

Q. Okay. If you could flip to the second -- the second page in this exhibit. This is the one that's Bates labeled 8441-A-012. At the top -- and I'm wondering if this came from the same -- if -- from the same phone conversation because at the top you have "Kelly Graham, James Trexler blocked in HSPCA investigation -- investigated." Then -- then we skip over to Hazelene Trexler section and -- and then down here you've got, "Terry A. Trexler, one count kidnapping, blocking in Humane Society investigator." Can you shed some light on why those -- why there's the discrepancy on this note, on this note page?

A. Shed some light how?

Q. I mean, if this all came out the same telephone conversation, at which I -- I'm not suggesting that it did, but if this -- if these are notes that you've taken, up here it says, "James Trexler blocked in the HSPCA," and down here, it says, "Terry Trexler blocked in the HSPCA investigator". So, if this is notes of communication that you're having with somebody from the HSPCA, Kelli Graham, there's an obvious discrepancy there, and do you have any explanation for why the discrepancy is there?

MR. GARFIELD: Object to the form.

Go ahead.

A. I can't explain it.

Q. Okay. If -- if we look in this -- this middle section right here, right below 412 Derby Lane on the second page of Plaintiff's Exhibit Thirteen, it's listed Hazelene E. Trexler, and it's got some -- some identifying data there and then it's got some language there. Would you -- could you read that -- those notes starting with "Ill treatment"?

A. "22WW, ill treatment of animals, injuries, halters growing into their face to malnutrition to injuries that were left untreated will cause lameness."

Q. Okay. Is that note something that you would have written down that somebody else told you?

charges were filed. And the only criminal charge that was moved from one to the other was the kidnapping, yes.

Q. And for all other purposes, did the press release -- I mean, there were no other corrections made?

A. I don't believe there were.

Q. Okay.

A. I don't believe so.

Q. Now, the -- the language of the press release and then the Charges section, they -- they seem to be -- they appear to be in two different types of fonts and -- and style. Did you -- do y'all have a -- how do you get the -- are the charges all put on there at the same time from -- in the same press release? Let me rephrase. Does somebody create the text portion or the narrative portion and then a separate person or a separate time create the Charges section?

A. No.

Q. It's all done at the same time?

A. Yes.

Q. Okay. Is there -- is there any reason that the Charges section has a different font and a different style?

A. Yes.

Q. And what -- what is that reason?

A. It's -- it's more of a PIO thing because -- because the media is only going to -- is normally going to read or they are only going to be concerned with the -- the top, the first few sentences when they get a release, and that's -- and that's what you're trying for; so, it's going to be a larger font to try to draw their attention to the Release.

Q. Okay. Okay. How much of the text of this press release did you write?

A. All of it.

Q. Okay. And you wrote it all based on conversations that you had with Kelly Graham and Holly -- Holly Wagner and these notes here?

A. Yes.

Q. The notes that are reflected in Plaintiff's Exhibit Thirteen?

A. Yes.

Q. Okay. If we -- and the language that's -- that's applied, and what I'll do is ask if you can read into the record -- read the original press release that went out.

MR. GARFIELD: Just -- if you would just designate what you're reading from because these are not stapled. Go ahead.

A. The release that I'm reading from is 8441 A as in

Alpha, 010, the original Release that went out. "Richland County Sheriff Leon Lott announced that approximately 8:00 P.M. tonight, Richland County Sheriff's Department Fugitive Task Force apprehended Hazelene Trexler," date of birth, "Terry Trexler," date of birth, "and James Trexler," date of birth, "at 4112 Derby Lane in Hopkins. Richland County Sheriff Leon Lott stated that Sheriff's Department and HSPCA continue to investigate the severe and barbaric treatment of twenty-eight horses that were in custody of and supposed to have been cared for by the Trexler's. Even as the trio were being arrested in Hopkins tonight, investigators and veterinarians care for the horses that sustained injuries ranging from malnutrition to inflictions that being left untreated cause lameness -- lameness to -- to halters growing into the faces of horses."

Q. Okay. Now, this language-- you've written this, but did -- where did the language for this come from?

A. Well, it would have come from my conversations as far as, you know, with -- again, we -- when we're doing a press release, we're relying on the investigators or whoever to give us information and then we capsulate it and we try to draw the media's attention and the public's attention to -- by how we phrase the --

phrase the words together.
Q. Okay. And who would have come up with the construction, "Severe and barbaric treatment"?
A. I would have.
Q. Okay. Who would have come up with the -- with the -- the designation "the trio"?
A. Because any time you're doing -- I did -- because any time you're doing a press release, you're not going to re-list out everybody's names and you're not going to -- you're not going to say the -- you know, it just -- it makes it too long. You've got to condense things and you've got -- and then again, you asked me earlier about the font. You want to try -- the only way you're going to get the media to read something is if it's -- it it's short. And so, all I would have been doing there would have been saying -- because you've got three people. It's just a reference to three people.
Q. Right. And trio is -- suggests acting together, doesn't it?
MR. GARFIELD: Object to the form.
A. That's not -- I don't believe that's what I would have been doing. I would have just been saying trio, that there's three people.
Q. Okay.

document. That's -- I mean, that's PIO 101 is that you take the facts that you're given and you produce a document, and that's what I've done.

Q. Okay. And this -- and you've produced this without -- without necessarily knowing the facts personally?

MR. GARFIELD: Object to the form.

A. I can only go based on what's told -- told to me.

Q. Okay. So, severe and barbaric, is that something that was told to you?

MR. GARFIELD: Object to the form. Go ahead.

A. I can't answer that. All I can tell you is, you know, I can only based on what I'm seeing here and what's written in my notes, and I don't know if somebody else said that word or whether it was just something that I -- I paraphrased. I -- I don't know. I can't tell you what I was thinking three years ago.

Q. Okay.

A. I do twelve or thirteen, fourteen Releases a day on different things. I can't speculate.

Q. Did somebody suggest to you that -- that James Trexler was also accused of treating horses severely and barbarically?

A. I can only tell you of what I've got, and that is that I was told that there were twenty some odd counts of

ill treatment for the three individuals that were arrested. That's all I can tell you.

Q. So -- so, we don't necessarily know if James Trexler was grouped in with other individuals that did treat animals severely and barbarically?

A. According to what I'm told, each one of them was charged with twenty-three counts of ill treatment.

Q. Okay.

A. I don't know what counts it is.

Q. Does ill treatment include barbarity and severe treatment?

A. Are you asking me for my personal opinion or are you asking me based on what I was thinking then?

Q. Based on what you were thinking then.

A. I can't answer that because it was three years ago.

Q. How about what you think now?

A. Any time you ill-treat an animal, it's pretty barbaric, in my opinion.

Q. Okay. I'm interested in -- and if you can tell me why it is that these -- these press releases are -- and I say press releases. I've seen other ones, but specifically this one, but it seems to be -- seems to be the case for all the press releases. You all refer to -- to Sheriff Lott as stating -- "Sheriff Lott stated that". Can you help me understand why it is

that Sheriff Lott is stating these facts? Did he state them personally?

A. You're talking about a Release that's speaking on behalf of the Agency as a whole or on behalf of the Department as a whole. So, a press release is a representation of the Agency, and the Sheriff is the head of that Agency.

Q. And that's pretty -- pretty standard way of just releasing ---

A. Yes.

Q. Yes. Do y'all do that regularly instead of saying the Department -- the Richland County Sheriff's Department?

A. Every press release is written -- is written to that effect. Yeah.

Q. Okay. So, because it says that Sheriff Lott stated that, that doesn't mean that he necessarily has that knowledge?

A. No.

Q. If -- if you look at the -- the lower section of that -- of the text, it tells us that the Sheriff -- that "the HSPCA will continue to work with the Solicitor's Office here and in Georgia to make sure the Trexler's receive the punishment that they deserve and are prosecuted to the fullest extent of the law." That's

Humane Society was giving us that information; that it was -- the information was inaccurately reported. And we -- and I'm in the business of making sure that the correction goes out correctly, and that was that the Humane Society gave that information and they did not do that. They did not indicate where that erroneous information came from.

Q. Okay. Would you mind reading that e-mail?

A. "Since we have a great relationship, I feel it okay to say thanks for putting the hit in the eye squarely on me in this morning's paper. I realize I'm responsible for the news releases that go out from RCSD, and you guys are worried about backlash from a possible attorney. The Humane Society told you guys yesterday that it was there bad information that caused the error. I even got an e-mail from Kelly Davis stating the same. That was what a boxer would call a low blow. Easily could have been written to reflect our making the corrections and the HSPCA being involved in the error."

Q. Okay. Did -- to whom do you say you sent this?

A. To the paper?

Q. Was it "The State" paper?

A. "The State" paper.

Q. Okay. Did "The State" paper have the corrected

version before they wrote the story?
A. No. What this is -- this is only referencing the fact that I wanted the paper to say where the erroneous information came from; once we found out that there was an error that -- that the convolution and the issue for everything that -- that -- where we got wrong information. Not that it was anything malicious, but it was that -- that it happened, and I wanted them to say -- instead of saying that the Sheriff's Department put out the wrong information, that there was actually the Humane Society that gave the wrong information.
Q. I see. So, -- so, in other words, the Humane Society gave you the wrong information, and you published the article ---
A. Correct.
Q. -- with the wrong information?
A. Yes.
Q. What was the reaction to that e-mail?
A. I don't believe I got a reaction that I'm aware of.
QQ. Okay.
A. I don't -- I don't -- I can't answer that. I don't know.
Q. But it indicates in there that -- that they could have printed the story to reflect the correction.

Exhibit "S"

Kelly Graham
Jane Trexler Blocked
in HSCA Investigation

576
3456

412 Derby Ln, Hopkins

Hazelene E. Trexler
WF (70)
28 WWs { ill treatment of Animals
Injuries hatter group into their face
to Malnutrician to injuries
were
That left untreated will
cause lameness

HSPCA Loc:
Kelly Graham
237-4577

1 1/2
Body comp
↓
4.0
Most = 3
acceptable is 4
most are 5

Terry A. Trexler
W/M -63
23 WW ill treatment
1 Count Kidnapping
Blocking in Humane Society
2/13 DW
Evaluation
Was Blocked in By Terry

Holly Hughes

James Trexler
W/M 60
5 Counts ill
↑ only owned
Responsible - physical
control

Lance 10"-765#

DLSCN 26/07/10

PLAINTIFF'S EXHIBIT S

8441-A-012

HSCA
invited WCLO
& call State Rep
w/out telling
RCSO knows

Still discovery who will
be charged including owner of property

207 Misty Meadow Rd
Hopkins

Tip that Trexlers
had more horses
S/W & seized 17
neglect/ABUSE

- who owns
- who charged
- why owner of
Property
not
Charged

- what
charge

- what tip
over the
weekend

DISCN 26/07/10

8441-A-04

Exhibit
"T"

Since we have a great relationship I feel it ok to say thanks for putting the hit in the eye squarely on me this morning's paper – I realize I'm responsible for the news releases that go out from RCSD and you guys are worried about backlash from a possible attorney but the Humane Society told you guys yesterday that it was their bad information that caused the error – I even got an email from Kelly Davis stating same. That was what a boxer would call a low blow – easily could have been written to reflect our making the corrections and HSPCA being involved in the error.

Lt. Chris Cowan
Richland County Sheriff's Department,
Senior Public Information Coordinator
5623 Two Notch Road
Columbia, South Carolina 29223
803-576-3036 (office) 803-576-3131 (fax)
PIO Pager 988-6018
ccowan@rcsd.net



DLSCN 26/07/10

8441-A-011

Exhibit
"U"

STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
) OF THE FIFTH JUDICIAL CIRCUIT
COUNTY OF RICHLAND) CASE NO.: 2010-CP-40-1343

James W. Trexler,

Plaintiff,

vs.

McClatchy Newspapers, Inc., Richland County, and the Richland County Sheriff's Department,

Defendants.

Deposition of LEON LOTT, taken by Doris Tompkins Brown, Certified Verbatim Reporter and Notary Public in and for the State of South Carolina, commencing at 2:02 P.M. on September 6, 2011, and taken at the Richland County Sheriff's Department, 5623 Two Notch Road, Columbia, South Carolina.

APPEARANCES

FOR THE PLAINTIFF:

W. Westbrook Wills, III
Austin, Fowler & Wills, LLP
38 Broad Street
Suit 200
Charleston, South Carolina
and
William H. Johnson
2 North Brooks Street
Manning, South Carolina



Doris Tompkins Brown

COPY

Certified Verbatim Reporter
Post Office Box 853
Sumter, South Carolina 29151
(803) 499-2434

COPY

this press release.
Q. Okay. Is it common for the Public -- the Public Information Officer to say that you have stated something?
A. That's correct. That is common.
Q. What is the purpose of -- of that -- of the Public Information Officer saying that you have stated?
A. That I am the Sheriff of the County, ---
Q. Okay.
A. -- and that this press release is coming from the Sheriff's Department which I am the Sheriff of.
Q. Okay. So -- so, it's possible that -- that there is information that says that it came from you, but it didn't really come from you?
A. It came from the Sheriff's Department, and I'm the head of the Sheriff's Department.
Q. Okay. So, in that -- in that respect, this just kind of personifies the Sheriff's Department?
A. That's correct.
Q. Okay. I understand. So, do -- within the -- within the -- if you -- if you've had a chance to read this press release, did -- did you have any knowledge of -- of any barbaric treatment of any horses with regard to this case?
A. Just what the Public Information Officer put it into

the press release and he based that on information he got, and I would have no reason to say it didn't happen.

Q. Okay. But you, personally, didn't have any information about that?

A. I didn't investigate this case.

Q. Okay. Now, the second paragraph of this, this press release says that, "Sheriff Leon Lott added, this case is disturbing because these horses are helpless to the hands of their owners and the Trexler's have proven time and again that they have no business of owning animals. Sheriff Leon Lott stated that investigators from the Sheriff's Department and the HSPCA will continue to work with the Solicitor's Officer here and authorities in Georgia to make sure the Trexler's receive the punishment they deserve." That, again, is coming from the Public Information Officer?

A. That's correct.

Q. All right. Is it common to -- in these press releases -- to put in editorialized comments about -- about an investigation?

A. Yes, sir. It happens.

Q. Okay. In the second paragraph of this -- in the -- excuse me. In the first paragraph of this press release, it says, "Sheriff's County -- Richland County

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas

Joseph M. Strickland, Special Circuit Court Judge

Circuit Court Case No. 2010-CP-40-1249
S.C. Court of Appeals Case No. 2013-001581

James W. Trexler,

Appellant,

v.

The Associated Press; Barrington Broadcasting South Carolina Corp.; Raycom TV Broadcasting, Inc.; The Spartanburg Herald Journal, Inc.; and The Pacific & Southern Co., Inc.,

Respondents.

RECORD ON APPEAL

Volume 3 of 3

William H. Johnson
Law Offices of William H. Johnson, LLC
411 North Brooks Street
Post Office Box 137
Manning, South Carolina 29102
(803) 435-0909 (telephone)
(803) 435-2858 (facsimile)
-and-

W. Westbrook Wills III
Attorney at Law
38 Broad Street
Suite 200
Charleston, SC 29401
(843) 805-6300 (telephone)
(843) 278- 9333 (facsimile)
-and-
Matthew D. Hamrick
Attorney at Law
Tidewater Executive Center
222 W. Coleman Blvd.
Mt. Pleasant, SC 29464
(843) 693-4700 (telephone)
(877) 524-5023 (facsimile)

ATTORNEYS FOR APPELLANT

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STATE OF SOUTH CAROLINA COUNTY OF RICHLAND James W. Trexler Plaintiff, -vs- The Associated Press, Barrington Broadcasting, Inc., a South Carolina Corp.; Pacific & Southern Company, Inc.; and Raycom TV Broadcasting, Inc. Defendants.	)	IN THE COURT OF COMMON PLEAS OF THE FIFTH JUDICIAL CIRCUIT Case No.: 2010-CP-40-1249 PLAINTIFF'S PROPOSED ORDER DENYING DEFENDANTS' MOTION FOR SUMMARY JUDGMENT

On January 19, 2012 the parties presented before the Court for a hearing on Defendants' second motion for summary judgment. Prior to the hearing each party submitted briefs in support of their respective positions. Having considered the parties' briefs, oral arguments, and the record before it, the Court finds as follows:

FACTS

Defendants are broadcast and cooperative media companies that deliver news through media channels including television and Internet. On February 27, 2008, and thereafter, each Defendant published or broadcast through its respective

media channels information concerning Plaintiff's alleged involvement with malnourished horses, including information Defendants obtained from a February 27, 2008 e-mail press release published by the Sheriff of Richland County ("SRC") (the "Press Release"). The Press Release, attached hereto as Exhibit "A," purportedly reported on the arrest of Plaintiff and his mother and brother following a collaborative investigation of animal cruelty by the SRC and the Humane Society for the Prevention of Cruelty to Animals ("HSPCA"). The Press Release also incorrectly reported that Plaintiff had been charged with kidnapping.

Plaintiff alleges that as a result of the publication of the Press Release by the SRC, and repeated publication by Defendants of false statements associating him with extreme animal cruelty both in South Carolina and Georgia, and accusing him of felony kidnapping (See publications by Defendants, Exhibits "G" through "J"), Plaintiff lost his employment with the State of South Carolina, salary, pension, retirement benefits, his ability to obtain like employment, and has suffered irreparable harm to his personal and professional reputation. Plaintiff submits he is a private figure for defamation purposes and therefore not required to demonstrate Defendants acted with constitutional malice in publishing allegedly defamatory material concerning him. Plaintiff also argues that even were he to be considered a public figure, which he disputes, Defendants nevertheless acted with actual malice in publishing defamatory statements about him.

Defendants admit they published articles and broadcasted statements concerning Plaintiff's arrest and alleged involvement with the mistreatment of horses. Defendants also admit they published statements that the Plaintiff was charged with kidnapping, and admit that information was false. However, Defendants claim the subject publications were substantially true or otherwise protected communications under the fair reporting privilege. Defendants claim Plaintiff is a public official for defamation purposes and is therefore required to show Defendants acted with constitutional malice in publishing any defamatory material concerning him.

Plaintiff filed his original Complaint on February 23, 2010. Plaintiff filed his Amended Complaint on June 23, 2010. On March 15, 2011, Defendants moved for summary judgment based, *inter alia,* on privilege under the Fair Reporting Act. The Court granted summary judgment as to Defendants McClatchy[1] based on the fair reporting privilege, but denied summary judgment as to the media Defendants in the present case with leave to renew if discovery revealed no publications not subject to the fair report privileged. (Judge Barber's March 28, 2011 Order, Exhibit "B").

On August 10, 2011, the above-named Defendants filed their second motion for summary judgment citing as grounds, *inter alia,* 1) Plaintiff's Amended

[1] Defendant McClatchy was named in an associated suit, civil action number 2010-CP-40-1343 which has been consolidated with the present action for discovery and trial.

Complaint is barred by the statute of limitations, 2) Plaintiff's cause of action for outrage fails to state a claim for relief, and 3) Plaintiff's defamation claim fails to state a claim because he cannot establish Defendants acted with constitutional malice in publishing false statements about him.[2]

CONCLUSIONS OF LAW

I. Summary Judgment

Summary Judgment is appropriate where the "pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law. Rule 56(c), SCRCP. In evaluating a motion for summary judgment, the Court "is to liberally construe the record in favor of the nonmoving party and give the non moving party the benefit of all favorable inferences that might reasonably be drawn therefrom." Estes v. Roper Temp. Servs., Inc., 304 S.C. 120, 121, 403 S.E.2d 157, 158 (Ct. App. 1991). Because summary judgment is a drastic remedy, the Court should invoke it cautiously "so that no person will be improperly deprived of a trial of the disputed factual issues." Baughman v. American Tel. & Tel. Co., 306 S.C. 101, 112, 410 S.E.2d 537, 543 (1991)(quoting Watson v. Southern Ry. Co. 470 F. Supp. 483, 486

[2] Since Defendants' Motion for Summary Judgment, Plaintiff has voluntarily dismissed his causes of action against Defendants for outrage, civil conspiracy and negligence. Defamation is the only cause of action remaining against these Defendants.

(D.S.C. 1975)). "When ruling on a motion for summary judgment . . . in a defamation action, the court must review the evidence using the same substantive evidentiary standard of proof the jury is required to use in a particular case. George v. Fabri, 345 S.C. 440, 451-54, 548 S.E.2d 868, 874-75 (2001). In determining whether any triable issue of fact exists, the Court must view the evidence and all reasonable inferences that may be drawn from the evidence in the light most favorable to the non-moving party. Rule 56(c), SCRCP. When considering a motion for summary judgment based on the pleadings, the Court should be mindful of Rule 8(f), SCRCP, which provides that all pleadings shall be so construed as to do substantial justice to all parties.

II. Statute of Limitations

As a first ground for summary judgment, Defendants submit Plaintiff's cause of action for defamation is barred by the statute of limitations.[3]

Defendants claim Plaintiff's defamation claim is barred by the statute of limitations because Defendants claim Plaintiff added them as parties more than two years after many of the publications which form the basis of Plaintiff's Complaint and Amended Complaint.

Plaintiff filed his original Complaint on February 23, 2010 naming as

[3] Because Plaintiff has voluntarily dismissed his causes of action for outrage, civil conspiracy, and negligence, the Court only addresses the issue of statute of limitations with regard to Plaintiff's defamation claim.

defendants "all media companies that produced or reported on any event relating to Plaintiff in 2008, 2009, and 2010." On June 23, 2010, prior to serving the Complaint, Plaintiff filed an Amended Complaint naming above-captioned Defendants. Plaintiff served the Amended Complaint on Defendants (See Affidavit of Personal Service for each Defendant, Exhibit "C.1 – C.4").

Plaintiff claims Defendants are proper parties to his original Complaint because each is a media company that produced or reported on any event relating to Plaintiff in 2008, 2009, and 2010. Plaintiff maintains his Amended Complaint more specifically identifies the defendants he named in his original Complaint. Alternatively, Plaintiff submits he properly substituted Defendants under Rule 15(c), SCRCP.

In South Carolina, a plaintiff must commence an action for defamation within two years of the publication by the defendant of the allegedly defamatory statement, or from the moment the party has a legal right to sue on that cause of action. S.C. Code Ann. §15-3-550 (1) (2005), see also Brown v. Finger, 240 S.C. 102, 113, 124 S.E.2d 781, 785 (1962) ("a cause of action accrues at the moment when the plaintiff has a legal right to sue on it."). "A civil action is commenced when the summons and complaint are filed with the clerk of court if actual service is accomplished within one hundred twenty days after filing." S.C. Code Ann. §15-3-20 (b) (2005).

Rule 15 (c), SCRCP provides:

> Whenever the claim or defense asserted in the amended pleading arose out of the conduct, transaction or occurrence set forth or attempted to be set forth in the original pleadings, the amendment relates back to the date of the original pleading.
>
> An amendment changing the party against whom a claim is asserted relates back if the foregoing provision is satisfied and, within the period provided by law for commencing the action against him, the party to be brought in by amendment (1) has received such notice of the institution of the action that he will not be prejudiced in maintaining his defense on the merits, and (2) knew or should have known that, but for a mistake concerning the identity of the proper party, that action would have been brought against him.

The South Carolina Supreme Court in Hughes v. Water World Water Slide, Inc., 314 S.C. 211, 442 S.E.2d 584 (1994) adopted a four-part test to aid in interpreting the requirements of Rule 15(c): 1) the basic claim must have arisen out of the conduct set forth in the original pleading; 2) the party to be brought in must have received such notice that it will not be prejudiced in maintaining its defenses; 3) that party must or should have known that, but for a mistake concerning identity, the action would have been brought against it; and 4) the second and third requirements must have been fulfilled within the prescribed limitations period. Id. at 214, 586.

"The language of Rule 15(c) clearly speaks to a *change* in party, not the *addition* of a defendant to an already existing defendant." Jackson v. John Doe, 342 S.C. 552, 558, 537 S.E.2d 567, 570 (Ct. App. 2000)(referencing Kraly v.

Vannewkirk, 69 Ohio St. 3d 627, 635 N.E. 2d 323 (Ohio 1994)(determining that Ohio's Rule 15(c), which is similar to our Rule 15(c), allows for relation back when a party is *substituted* but not when a party is added while retaining a party named in the original suit)).

In Jackson, the plaintiff filed her original complaint against an unknown driver pursuant to the statutory scheme established by state law. Nearly four and a half years later the court allowed Jackson to amend her complaint to add Milligan as a defendant. However, Jackson's amended complaint retained John Doe as a named party, and identified him as an unknown driver. The Jackson court recognized, "the addition of a party is not the same as a substitution or change of party." Id. That court, therefore, disallowed the relation back of Jackson's amended complaint with regard to the added party.

Here, Plaintiff timely filed his original Complaint on February 23, 2010 naming as defendants all media companies that produced or reported on any event relating to Plaintiff in 2008, 2009, and 2010. On June 23, 2010, pursuant to Rule 4, SCRCP, Plaintiff filed his Amended Complaint more specifically identifying those media defendants he anticipated in his original Complaint. Each party Plaintiff specifically named in his Amended Complaint was a media company that produced or reported on events relating to Plaintiff in 2008, 2009, and 2010. Plaintiff then served his Amended Summons and Amended Complaint on each of

those Defendants the same day they were filed, June 23, 2010, which was within the original 120 days provided under SCRCP, Rule 3(a)(2) for the service of his original Complaint.

The Court finds that because Plaintiff's Amended Complaint did not change parties to the lawsuit but more accurately defined them within the original commencement period, Plaintiff's Amended Complaint relates back to the filing of the original Complaint, and his causes of actions with regard to those Defendants are within the statute of limitations.

While the Court finds Defendants were proper parties to Plaintiff's original Complaint, under Rule 15 (c), SCRCP, Defendants would also be properly considered substituted parties to Plaintiff's Amended Complaint. In fact, in that alternative, Plaintiff's naming "all media defendants . . ." is analogous to naming a John Doe defendant in an action where a plaintiff knows a cause of action exists against one or more defendants the true identity of whom is yet unknown to the plaintiff. While this situation arises primarily in hit and run auto accident cases, the underlying legal tenets are the same for all civil actions.

Here, Plaintiff's Amended Complaint clearly substitutes, rather than adds, the specifically named media defendants for the broader description of "all media companies . . .". Unlike in Jackson, Plaintiff in this case did not add Defendants as new parties while also retaining as defendants "all media companies . . .". Rather,

Plaintiff has replaced "all media companies . . ." with those presently named in the action.

Plaintiff's Amended Complaint satisfies the four-part test announced in Hughes: 1) Plaintiff's basic claims against Defendants arose out of the conduct set forth in his original pleading; 2) each Defendant received notice of Plaintiff's claims and have answered them, have all engaged in discovery, and have, therefore, not been prejudiced in maintaining its defenses; 3) by virtue of the Plaintiff serving each Defendant the with the action, each naturally knew the action would have been brought against it but for the misnomer; and 4) each Defendant received notice of Plaintiff's action against them within the 120 days provided by Rule 3(a)(2), SCRCP for the service of Plaintiff's original Complaint. As such, under Jackson, Plaintiff properly substituted Defendants and his Amended Complaint legally relates back to the filing of his original Complaint.

The Court further notes that while Defendants did affirmatively plead a defense of statute of limitations in their Answer, they never raised the issue in their first motion for summary judgment.

The Court, therefore denies Defendants' motion for summary judgment on the basis of the statute of limitations.

III. Requirement of Falsity in an Action for Defamation

As a second ground for summary judgment, Defendants submit Plaintiff's

Amended Complaint fails to state a cause of action for defamation because the statements they published concerning Plaintiff were substantially true and therefore not actionable as defamatory.

To establish a claim for defamation Plaintiff must prove "1) a false and defamatory claim was made; 2) the unprivileged statement was published to a third party; 3) the publisher was at fault; and 4) either the statement was actionable regardless of harm or the publication of the statement caused special harm." Erickson, 368 S.C. 444, 465, 629 S.E.2d 653, 664 (2006). Truth is an affirmative defense to a libel claim. Ross v. Columbia Newspapers, Inc. 266 S.C. 75, 221 S.E.2d 770 (1976).

Defendants claim they are entitled to summary judgment because any statements they published concerning Plaintiff were substantially true in that they reported on Plaintiff's arrest and indictment on charged of felony animal abuse.

Plaintiff claims Defendants published statements which were either totally false, or which misrepresented and distorted the truth such as to convey a false message.

On February 27, 2008, Plaintiff was arrested and charged with five counts of misdemeanor ill-treatment of animals. (See 5 arrest warrants for James Trexler attached as Exhibits "D.1-D.5"). On March 13, 2008, Plaintiff was indicted on 4 counts of felony mistreatment of animals. (See 4 indictments for James Trexler

attached as Exhibits "E.1-E.4"). On July 15, 2010, all charges against Plaintiff were dismissed. (See Dismissal of James Trexler attached as Exhibit "F").

Between February 27, 2008 and March 13, 2008, Defendants published articles and broadcasted statements indicating that Plaintiff had been charged with felony class mistreatment (See S.C. Code Ann. § 47-1-40 (B)) of dozens of animals in South Carolina and Georgia, and that he had been charged with kidnapping. (See Publications by The Associated Press (AP), Exhibit "G," publications by Barrington Broadcasting, Inc. (WACH), Exhibit "H," publications by Pacific & Southern Company, Inc. (WLTX), Exhibit "I," and publications by Raycom TV Broadcasting, Inc. (WIS), Exhibit "J"). While it is true Plaintiff was eventually charged with felony ill-treatment of animals, the evidence demonstrates that prior to March 13, 2008 Plaintiff faced misdemeanor ill-treatment charges. Furthermore, it is undisputed that all charges against Plaintiff related to only five horses in South Carolina, not dozens of horses both in South Carolina and Georgia. It is also undisputed that Plaintiff was never charged with kidnapping.

The Court finds, given the timing of Defendants' publications concerning Plaintiff, when viewed in the light most favorable to the Plaintiff, a reasonable jury could find the subject publications concerning the level and severity of Plaintiff's involvement with ill-treated horses to be false, or at least not substantially true. Furthermore, the Court finds the question of whether statements published by

Defendants could be construed in a particular context as being substantially true is a question for the jury and not appropriately decided on summary judgment.

The Court denies Defendants' motion for summary judgment on the basis of the subject publications being substantially true.

IV. The Fair Report Privilege

As a third ground for summary judgment, Defendants submit the allegedly defamatory publications concerning Plaintiff were protected communications under the fair reporting privilege.

The fair reporting privilege "protects fair and accurate reports of 'judicial records and proceedings and other official acts, reports, and records." S.C. Jur. Libel and Slander §61 (1993), White v. Wilkerson, 328 S.C. 179, 186, 493 S.E.2d 345, 347 (1997). The privilege "extends only to reports of the content of the public record, and any matter added to the report by the publisher, which is defamatory of the person named in the public record, is not privileged." West v. Morehead, 2001 S.C. App. Lexis 263 (2001) (citing Jones v. Garner, 250 S.C. 479, 487, 158 S.E.2d 909, 913 (1968). Furthermore, under a defense of fair report privilege, "one who publishes defamatory matter concerning another is not liable for the publication if 1) the matter is published upon an occasion that makes it [qualifiedly or] conditionally privileged, **and** the privilege is not abused." Swinton Creek Nursery v. Edisto Farm Credit, 334 S.C. 469, 484, 514 S.E.2d 126, 134 (1999) (citing

Restatement (Second) of Torts §593 (1977)(emphasis added)). "Where there is conflicting evidence, the question whether [a qualified] privilege has been abused is one for the jury." Swinton Creek, 334 S.C. at 485, 514 S.E2d at 134.

Defendants submit any statements they published or broadcast concerning Plaintiff's level and degree of involvement with the ill-treatment of horses and charges of kidnapping were fair and accurate reports of the contents of the Press Release, which Defendants claim is a public record.

Plaintiff claims the Press Release is not a public record and therefore the fair reporting privilege does not apply to protect Defendants' publications.

A public record includes all books, papers, maps, photographs, cards, tapes, recordings, or other documentary materials regardless of physical form or characteristics, prepared, used, in the possession of, or retained by a public body. S.C. Code Ann. § 30-4-20. Editorialized, e-mail communications containing statements of opinion do not qualify as a public record under the foregoing definition.

However, Plaintiff asserts that even if the Press Release were to qualify as a public record for purposes of the fair report privilege, Defendants are not entitled to its protection because 1) their publications concerning Plaintiff were not fair and accurate reports of the contents of the Press Release; and 2) Defendants' liberties in misrepresenting the facts to aggrandize Plaintiff's alleged involvement with

horses here and in Georgia amounts to an abuse of the privilege. Plaintiff further argues, if any, only Defendants' initial publications or broadcasts purporting to be fair and accurate republication of contents of the Press Release are subject to the fair reporting privilege. Any and all subsequent publications are not reports of a public record and are afforded no protection.

Plaintiff claims even Defendants initial publications based on the Press Release were not fair and accurate reports of the contents of that document, and Defendants are therefore not entitled to protection under the fair reporting privilege. Even a cursory reading of Press Release and Defendants publications reveals Defendants' publications not only misstated facts but added information not contained in the Press Release. (See Press Release, Exhibit "A," publications by Defendants, Exhibits "G" through "J"). In addition to attributing the kidnapping charge to Plaintiff, the Press Release does seem to implicate Plaintiff in felony class abuse ("severe and barbaric treatment"), and implies Plaintiff was involved with 28 or more horses. Furthermore, Defendants' publications implicate Plaintiff in felony class abuse of "dozens of horses both here and in Georgia" (See Exhibit "K"), "James Trexler is accused of mistreating dozens of horses" (See Exhibit "L", see also Adcox depo. 53: 20-25, December 9, 2001, Exhibit "M"), "[t]hree people accused of starving horses to the point of near death" (See Exhibit " N", see also Jacoby depo. 68: 13 – 70: 9, December 9, 2011, Exhibit "O"). A

February 27, 2008 WXLT report immediately following the Press Release states "Weathers [commissioner of agriculture] says they will make more decisions regarding Trexler's future with the department after the investigation has complete. No charges have been filed, but 28 horses have been taken." (See Exhibit "P").

The Court find, with all inferences in favor of Plaintiff, there is sufficient evidence to create a question of fact with regard to whether Defendants publications were based on the Press Release and, if so, whether they were fair an accurate reports of the content of that document.

Plaintiff points out that these Defendants have been denied summary judgment once already on their claim of qualified privilege under the fair report privilege regarding their allegedly defamatory publications concerning Plaintiff. (See Judge Barber's March 28, 2011 Order attached as Exhibit "B"). While the Court did grant Defendants leave to renew on that ground should discovery reveal no unprivileged publications. Plaintiff argues that has not been the case, and presents evidence of articles or broadcasts containing allegedly defamatory material for months after the SRC disseminated the Press Release and which contained allegedly defamatory statements not contained in the Press Release. (See, publications by Defendants, Exhibits "G" through "J").

First, the Court finds that Defendants have failed to demonstrate that no new unprivileged publications have been identified since the entry of Judge Barber's

March 28, 2011 Order. Second, the Court finds that when viewed in the light most favorable to the Plaintiff, sufficient evidence exists as to whether Defendants abused the fair report privilege to allow a jury to decide the question. See Swinton Creek, 334 S.C. at 485, 514 S.E2d at 134 (citing 50 Am. Jur. 2d Libel and Slander § 276 (1995)) (question of whether privilege has been abused is one for jury). Therefore, the Court denies Defendants' motion for summary judgment based on the fair report privilege.

III. Public Official and Actual Malice

As a fourth ground for summary judgment, Defendants submit Plaintiff is a public official and he must demonstrate Defendants acted with actual malice in publishing allegedly defamatory statements about him. Plaintiff argues he is a private figure and is therefore not required to demonstrate Defendants acted with actual malice in publishing false statements about him.

A. Public Official

For the purposes of defamation, whether a person is a private figure or a public official is a question of law for the court. See Rosenblatt v. Baer, 383 U.S. 75, 87, 86 S.Ct. 669, 677, 15 L.E.d.2d 597, 606 (1966). This determination must be made on a case-by-case basis after careful examination of the facts and circumstances. Id. Of course, for purposes of summary judgment, the Court must view those facts and circumstances and all inferences that may be drawn therefrom

in the light most favorable to the nonmoving party. Rule 56, SCRCP, Estes, 304 S.C. 120 at 121, 403 S.E.2d 157 at 158 (Ct. App. 1991).

The Supreme Court, in Rosenblatt provides guidance on who qualifies as a "public official," and indicates that a "public official" for purposes of the New York Times rules is not to be determined by state law standards. That is not to say, however, that this Court is required to turn a blind eye on our state's own definitions of "public official" when determining whether an individual has substantial enough involvement in government to meet the New York Times definition of a "public official" for purposes of constitutional defamation law.

The definition of a public officer appears more than once in the South Carolina Code. S.C. Code Ann. § 8-1-10 provides "public officers" are "all officers of the State that have heretofore been commissioned [. . .], members of various State boards, and other persons whose duties are defined by law." Section 8-13-100 (27) defines a "public official" as being "an elected or appointed official of the State, a county, a municipality, or a political subdivision thereof, including candidates for office." Section 16-3-1040 defines a "public official" as "any elected or appointed official of the Unites States or of this State or of a county, municipality, or other political subdivision of this State."

Neither the U.S Supreme Court nor the Supreme Court of South Carolina has provided an all-encompassing definition of public official, "although it is clear

the category **does not** include all public employees." Erickson v. Jones Street Publishers, LLC, 368 S.C. 444, 469, 629 S.E.2d 653, 666 (2006), see also Hutchinson v. Proxmire, 443 U.S. 111, 133-34, 99 S.Ct. 2675, 2687 (1979)(emphasis added).

The U.S. Supreme Court and South Carolina case law instructs that a public official is a person who, among the hierarchy of government employees, has or appears to the public to have "substantial responsibility for or control over the conduct of governmental affairs." Erickson, 368 S.C. 444 at 469 (2006); Holtzscheiter v. Thompson Newspapers, Inc., 332, S.C. 502, 520 n.4, 506 S.E.2d, 497, 507 n.4 (Toal, J. concurring) (quoting Rosenblatt, 383 U.S. at 85, 86 S.Ct. at 676). Importantly, for defamation purposes, a governmental employee's status as a public official must not be determined by that person's place on the totem pole but rather because of the public interest in a government employee's activity in a particular context." Id. Moreover, "[i]n considering the question of whether one is a public official, the employee's position must be one which would invite public scrutiny and discussion of the person holding it, entirely apart from the scrutiny and discussion occasioned by the particular charge in controversy." Id.

The Supreme Court of South Carolina has held that a public officer is "one who is charged by law with duties involving an exercise of some part of the sovereign power, either small or great, in the performance of which the public is

concerned, and which are continuing, and not occasional or intermittent." Sanders v. Belue, 78 S.C. 171, 174, 58 S.E. 762, 763 (1907). Moreover, the criteria the South Carolina Supreme Court has considered when distinguishing between public officers and public employees include "whether the position was created by the Legislature; whether the qualifications for appointment are established; whether the duties, tenure, salary, bond and oath are prescribed or required [and] whether the one occupying the position is a representative of the sovereign." State v. Chrenshaw, 274 S.C. 475, 478, 266 S.E.2d 61, 62 (1980). South Carolina Code Ann. § 8-3-10 provides it "shall be unlawful for any person to assume the duties of any public office until he has taken the oath provided by the Constitution and been regularly commissioned by the Governor."

In South Carolina, police officers are deemed public officials in part because they are charged with the discretionary exercise of the sovereign power to enforce the laws of the South Carolina, their positions were created by the Legislature, and their duties established by statute. See State v. Thrift, 312 S.C. 282, 440 S.E.2d 341 (1994). Furthermore, police officers are required to file a bond conditioned on the faithful performance of their duties and they must swear an oath before assuming their positions, and their duties are of great public concern. See S.C. Code Ann § 23-3-20; see also State v. Wannamaker, 213 S.C. 1, 48 S.E.2d 601 (1948). Because police officers are elected or appointed, they are public officials

for the purpose of § 16-3-1040. State v. Carter, 324 S.C. 383, 478 S.E.2d 86 (Ct. App. 1996). "The greater the duty to the public at large, the more likely it is that the individual will be a public official." Thrift at 309, 356.

"Conversely, one who merely performs the duties required of him by persons employing him under an express contract or otherwise, though such persons be themselves public officers, and though the employment be in or about public work or business, is a mere employee." Sanders, 78 S.C. 171, 174, 58 S.E. 762, 763 (1907).

Here, Plaintiff was neither elected nor appointed to his position, obtaining his first job as a state employee 27 years ago by filling out an application for employment. (Nov. 15th 2011 Trexler Aff. ¶ 11-12, Exhibit "Q"). Plaintiff's employment at the Department was consistent with that of a state employee. (Id. at ¶ 12). Plaintiff's performance at the Department was regularly evaluated under the Employee Performance Management System ("EPMS") created by the Office of Human Resources of the Budget and Control Board (Id. at ¶ 9), while elected or appointed officials at the Department were not evaluated using that system. (Id. at ¶10). Plaintiff's job at the Department was neither created by the Legislature, nor were his duties defined by statute. In fact, in April and again in July of 2007, Commissioner Weathers, at his own discretion, unilaterally modified Plaintiff's job duties and responsibilities at the Department. (Hugh Weathers Aff. ¶ 6, Exhibit

"R"; Weathers depo. 7:6 - 8:23, 21: 10-17, August 25, 2011, Exhibit "S"). Plaintiff was not required to post any bond or swear an oath before taking his job at the Department. (Nov. 15th 2011 Trexler Aff. ¶12, Exhibit "Q"). Plaintiff had no relation to or contact with the public in his job at the Department. (Id. at ¶ 8).

Plaintiff was essentially a staff accountant and Information Technology coordinator at the Department of Agriculture. His job performance was neither the subject of public scrutiny, nor was he vested with the power to exercise any part of sovereign power. (Nov. 15th 2011 Trexler Aff. ¶8, Exhibit "Q"; Weathers depo. 11:25 – 12: 1-8, Exhibit "T") Also, in sharp contrast to public officials, Plaintiff had no independent decisions making authority to act on behalf of the Department in any way concerning the Department's overall functioning and purpose in state affairs. (Id.; Weathers depo. 11:25 – 12:8, August 25, 2011, Exhibit "T"). In fact, Commissioner Weathers often referred Plaintiff's responsibilities as "back office functions of the Agency." (Nov. 15th 2011 Trexler Aff. ¶ 6, Exhibit "Q"). Plaintiff merely performed duties assigned to him by Commissioner Weathers.

Assistant Commissioner of Agriculture was Plaintiff's internal, informal title created not by the Legislature, but by Commissioner Weathers. (Nov. 15th 2011 Trexler Aff. ¶ 13, Exhibit "N;" Nov. 9th 2010 Rivers Aff. ¶ 11, Exhibit "U"[4]). Prior to 2007, no Assistant Commissioner of Agriculture existed in the history of

[4] The Affidavit of Georgette Rivers, Exhibit "U" has been submitted by Defendants in support of both their motions for summary judgment. The Court notes the affidavit is not signed.

the South Carolina Department of Agriculture (Nov. 15th 2011 Trexler Aff. ¶ 13, Exhibit "Q"). Likewise, nowhere does the South Carolina Code make any mention whatsoever of any Assistant Commissioner of Agriculture, much less define the duties of any such position.

Despite contradictions contained in the Affidavit[5], Commissioner Weathers has sworn the statements therein to be correct, truthful, and his own. However, he admits to only having briefly looked over the affidavit before signing it, and did not write it himself. (Weathers depo. 29:10 – 30:1, August 25, 2011, Exhibit "V"). As such, words in the affidavit such as "appointed," "authority," "directed," and "management of the agency" are not likely those of the Commissioner, but those of lawyers familiar with the critical language needed to semantically transform Plaintiff from an employee of a state agency into a full blown public official.

Commissioner Weathers testified Plaintiff's role at the Department of Agriculture was to advise the Commissioner with regard to the Department budget (Weathers depo. 20:15-18), keep an accounting of Department funds (Weathers depo. 9:6-7), and help the Commissioner accomplish the goals the Commissioner set for the Department (Weathers depo. 13:14-18, Exhibit "T"). Commissioner Weathers further testified decision-making authority in the Department was his

[5] In paragraph 4 of Commissioner Weather's affidavit he claims to have appointed Plaintiff as Assistant Commissioner of Agriculture while in paragraph 6 Commissioner Weathers states Plaintiff was already Assistant Commissioner of Agriculture when he arrived at the Department.

(Weathers depo. 11:25-12:8, Exhibit "T"), and in making decisions he would take advice, as needed, from any staff member of the Department, and even his wife. (Id.). Commissioner Weathers also recognized Plaintiff's job required no real interaction with the Press. (Weathers depo. 21: 3-5, Exhibit "S"). Commissioner Weathers's deposition testimony characterizes Plaintiff's job functions at the Department as those of a staff member as opposed to the functions characteristic of a public official as defined by South Carolina law. Moreover, the Affidavit of Georgette Rivers, submitted in support of Defendants' motion for summary judgment actually supports Plaintiff's argument he was a mere employee of the Department of Agriculture.

The law designates whether a person is or is not a public official. That Defendants, or affidavits they submit in support of their motion, merely state Plaintiff is a public figure does not automatically make it so.

B. Actual Malice

"A communication is defamatory if it tends to harm the reputation of another as to lower him in the estimation of the community or deter third persons from associating or dealing with him" Holtzscheiter v. Thompson Newspapers, Inc., 332 S.C. 502, 510, 506 S.E.2d 497, 502 (1998) (Holtzscheiter II) (quoting Lesesne v. Willingham, 83 F. Supp. 918, 921 (E.D.S.C. 1949)).

If the defamatory meaning of a statement is obvious on the face of the

statement, the statement is defamatory *per se*. Id. Defamation is actionable *per se* if it involves "written or printed words which tend to degrade a person, that is, to reduce his character or reputation in the estimation of his friends or acquaintances, or the public, or to disgrace him, or to render him odious, contemptible, or ridiculous . . ." Id. "If a defamation is actionable *per se*, then under common law principles the law presumes the defendant acted with common law malice and that the plaintiff suffered general damages." Fleming v. Rose, 338 S.C. 524, 533 526 S.E.2d 732, 737 (Ct. App. 2000).

The United States Supreme Court, in New York Times Co. v. Sullivan, 376 U.S. 254, 11 L. Ed. 2d 686 (1964) established the rule that a public official must provide clear and convincing proof of "actual malice" to recover damages for defamatory falsehood relating to his or her official conduct. As discussed above, Plaintiff was not a public official, but even if he were the Defendants would still be liable in this case because "'[w]here the defendant finds internal consistencies or apparently reliable information that contradicts its libelous assertions, but nevertheless publishes those statements anyway, the New York Times actual malice test can be met.'" Tomblin v. WCHS-TV8, 434 Fed. Appx. 205 (4th Cir. 2011) (quoting Schiavone Constr. Co. v. Time, Inc., 847 F.2d 1069, 1090 (3d Cir. 1988) (citing Curtis Publ'g Co. v. Butts, 388 U.S. 130, 161 n.23 (1967))).

Plaintiff argues that even were the court to find he was a public official for

purposes of defamation, evidence exists to suggest Defendants in publishing or broadcasting statements alleging Plaintiff engaged in multiple acts of felony class cruelty to animals, and that he was a kidnapper. Those statements were false and or misleading, and constituted defamation which is actionable *per se.* Moreover, evidence exists Defendants were aware of information which contradicted information they received from officials when they published allegedly defamatory material concerning Plaintiff's involvement with the mistreatment of horses. Specifically, evidence exists Defendants were aware Plaintiff claimed he didn't own any horses or the land on which the horses were found. (See Exhibits "W", "X". Evidence also exists Defendants were aware Plaintiff's mother freely claimed ownership of all horses and the property on which the horses were found. Id. As such, sufficient evidence exists so as to create a genuine question of fact with regard to whether Defendants published the statements with conscious disregard for Plaintiff's rights and the truth of the statements they published or broadcasted.

For the foregoing reasons and in taking the facts and circumstances in the light most favorable to Plaintiff, this Court denies Defendants' motion for summary judgment on all grounds, and find that Plaintiff is a private figure for purposes of the defamation at issue in this lawsuit.

IT IS SO ORDERED.

Columbia, South Carolina

_____, 2012

_____

JOSEPH M. STRICKLAND
SPECIAL CIRCUIT COURT JUDGE
SITTING BY DESIGNATION OF THE
CHIEF JUSTICE

EXHIBITS

EXHIBIT

A

-----Original Message-----
From: Comer, Chris [mailto:CComer@RCSD.NET]
Sent: Wednesday, February 27, 2008 9:42 PM
To: Area Report 57; Branch WIS; Brittany Bagnall WIS; Charlie Vaughan (Charlie Vaughan); cn97; D LANE; Fabiques (Fabiques); Mike Woodall (Mike Woodall); newsdirectorwis; Peak, Joyce; Ranny Johnston; (Ranny Johnston); Robin WOLO (Robin WOLO); Sandstedt, Terry ; Sarah Gregory (sarah.gregory@wltx.com); Stephanie WLTX; Stephanie; Wcbd 57 News (Wcbd 57 News); WIS-TV (courtonWIS@wktv.com); WLTX-TV (news@wltx.gannett.com); WOLO; WOLO channel; WOLO-TV (sylvia.hutchinson@wolo.com); Beam, Adam; AP Columbia (AP Columbia); Augusta, Dawn; Ashley Young; Dreare, Dan; EE Safety; Higgins, Lisa; Tate, Jennifer; Davis, Kelly; Hester, Tonya; 1170AM; 940AM; Doug Williams/WLCC (Doug Williams/WLCC); Dr. Complaints; Jerry Grimes; Dawn Hill (dawn 193); Sergio Perez (sperez@perezcommunications.com); TJ Holley (tholley@clearcw.com); WCOS; WDOS; wkan; WIDK; WSCO; WTCB; WTCB; wtdy; WTCP; WTCB; WTCB; WVOC; WYGM (E-mail 2); bob keeler (E-mail); carolina news; Dan Cook (E-mail); Deputy Newsletter; eddie chandler; fort jackson leader; Free Times Jody; Galveston News; Gretchen Dawes; Heidi Thomas (Heidi Thomas); Hispanic news (E-mail); Isaac Washington (E-mail); Jackie Sumter ((e-mail); Jennifer Dundee (jennifer@richlandmine.com); John Odom; Joseph Kirk; Kirk Lowery; GA Lottery (E-mail); Kwon (E-mail); lee ship news; Lisa Wheeler/Chronicle; local media; Lugo Flores (lflores@yahoo.com); Marie Vic (E-mail); michele jackson; Mike Hardcock (E-mail); mary boone (E-mail); Murphy; Pensacola, Gustavo AT PIO (NC-PIO); Rebecca Carey (E-mail); Rick Peterson (E-mail); Vicc Latina (Vicki Latina); Zaccaglia/Dutch Fork; Marina Grace; Sumter Item; Times and Democrat Orangeburg; ATC - Augusta (bjones@wj-al.com); Atlanta Constitution (jfortune@ajc.com); CBS Atlanta (newsroom@wsbtv.com); Greg Durrett (greg.durrett@wsbtv.com); HDC - Atlanta (bj@hardyguerra.com); HDC - Atlanta (wood.talley@yahoo.com); HDC - Savannah Morning News (mgriffin@wsav.com)
Subject: Deer responsible for severe malnutrition to horses, is cruelty

Richland County Sheriff's Department

LEON LOTT
Sheriff

Richland County Sheriff Leon Lott announced that at approximately 8:00 PM tonight the Richland County Sheriff's Departments Fugitive Task Force apprehended Hazelene E. Trexler (DOB 7-12-37), Terry A. Trexler (DOB 7-16-63) and James Trexler (DOB 1-14-60) at 412 Derby Lane in Hopkins.

Richland County Sheriff Leon Lott stated the Sheriff's Department and HSPCA continue to investigate the severe and barbaric treatment of 28 horses that were in the custody of and suppose to have been cared for by the Trexlers; even as the trio were being arrested in Hopkins tonight, investigators and veterinarians care for the horses that sustained injuries ranging from malnutrition to inflictions that being left untreated cause lameness to halters growing into the faces of the horses.

Sheriff Leon Lott added that this case is disturbing because these horses are helpless to the hands of their owners and the Trexlers have proven time and again that they have no business owning any animals. Sheriff Leon Lott stated that investigators from the Sheriff's Department and the HSPCA will continue to work with the Solicitors Office here and authorities in Georgia to make sure the Trexlers receive the punishment they deserve and are prosecuted to the fullest extent of the law. Sheriff Leon Lott stated that the Trexlers have been transported to Alvin S. Glen Detention Center where they await a bond hearing.

Charges:

- Hazelene E. Trexler
28 counts of ill treatment of animals

- Terry A. Trexler
28 counts of ill treatment of animals

- James Trexler
3 counts of ill treatment of animals
1 count of kidnapping (arose from an incident where J.Trexler held a HSPCA investigator against her will/refused to allow the investigators to leave a farm on 2/13 during an evaluation of the horses)

2/29/2008

Exhibit A

EXHIBIT

B

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF RICHLAND	)	
James W. Trexler,	)	Civil Action No.: 2010-CP-40-1249
	)	
Plaintiff,	)	
	)	
v.	)	ORDER DENYING DEFENDANTS' MOTION FOR SUMMARY JUDGMENT
	)	
	)	
	)	
	)	
	)	
	)	
	)	
	)	
The Associated Press, Barrington Broadcasting South Carolina Corp., Raycom TV Broadcasting, Inc., and the Pacific & Southern Co., Inc.,	)	
	)	
	)	
	)	
Defendants.	)	

RICHLAND COUNTY
FILED
2011 MAR 30 AM 9:22
JEANETTE W. McBRIDE
C.C.P. & G.S.

Defendants moved for summary judgment as to plaintiff's amended complaint which asserts causes of action for libel, civil conspiracy, intentional infliction of emotional distress and negligence. Defendants supported their motion for summary judgment with the affidavit of Chris Cowan, a Captain in the Richland County Sheriff's Department whose affidavit states that on February 27, 2008 he disseminated a press release on behalf of the Richland County Sheriff's Department reporting that plaintiff had been arrested for kidnapping and five counts of ill treatment of animals. Defendants also provided plaintiff's responses to admissions wherein plaintiff admitted that the publications by defendants concerning were fair and accurate reports of the press release disseminated by the Sheriff's Department.

SCANNED

A hearing was held in open court on March 16, 2011 at which time the parties appeared through counsel. At the hearing, plaintiff asserted, the admission notwithstanding, that there were, or may be publications that are not protected by the "Fair Report" privilege.

The court finds that counsel's assertion demonstrates the existence of a genuine issue of material fact, and denies defendants' motions with leave to renew if discovery reveals no unprivileged publications.

Based on the foregoing, IT IS HEREBY ORDERED that defendants' motions for summary judgment be, and the same hereby are denied with leave to renew if justified by additional discovery.

AND IT IS SO ORDERED.

James R. Barber, III
Circuit Court Judge

Columbia, South Carolina

March 28, 2011

EXHIBITS

C.1 – C.4

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

IN THE COURT OF COMMON PLEAS
FIFTH JUDICIAL CIRCUIT
Case Number: 2010-CP-40-1249

James W. Trexler

Plaintiff,

V.

The Associated Press, Barrington Broadcasting South Carolina Corp., The Pacific and Southern Company, Inc., Raycom TV Broadcasting, Inc., and The Spartanburg Herald-Journal, Inc.

AFFIDAVIT OF PERSONAL SERVICE

FILED
2010 JUL 8 AM 9:14
JEANNETTE W. McBRIDE
C.C.P. & G.S.

I, Terry A. Trexler, being of sound mind, over the age of twenty-one (21), and duly qualified, does state and affirm that I personally delivered a copy of the Amended Summons and Complaint of the afore captioned case to The Spartanburg Herald-Journal, Inc., by delivering such to the registered agent of said entity in South Carolina, Corporation Service Co., at 1703 Laurel Street, Columbia, South Carolina on June 23, 2010.

SO STATES:

Process Server

SWORN TO BEFORE ME THIS 2nd day of July, 2010

Jennifer E. Harrington

Notary Public
State of South Carolina
My Commission Expires: 10/29/2018

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

IN THE COURT OF COMMON PLEAS
FIFTH JUDICIAL CIRCUIT
Case Number: 2010-CP-40-1249

James W. Trexler

Plaintiff,

V.

AFFIDAVIT OF PERSONAL SERVICE

The Associated Press, Barrington Broadcasting South Carolina Corp., The Pacific and Southern Company, Inc., Raycom TV Broadcasting, Inc., and The Spartanburg Herald-Journal, Inc.

FILED
2010 JUL -8 AM 9:14
JEANETTE W. McBRIDE
C.C.P. & G.S.

I, Terry A. Trexler, being of sound mind, over the age of twenty-one (21), and duly qualified, does state and affirm that I personally delivered a copy of the Amended Summons and Complaint of the afore captioned case to Raycom TV Broadcasting, Inc. by delivering such to the registered agent of said entity in South Carolina, CT Corporation System, at 2 Office Park Court, Suite 103, Columbia, South Carolina on June 23, 2010.

SO STATES:

Process Server

SWORN TO BEFORE ME THIS 2nd day of July, 2010

Jennifer E. Harrington
Notary Public
State of South Carolina
My Commission Expires: 10/29/2018

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

IN THE COURT OF COMMON PLEAS
FIFTH JUDICIAL CIRCUIT
Case Number: 2010-CP-40-1249

James W. Trexler

Plaintiff,

V.

The Associated Press, Barrington Broadcasting South Carolina Corp., The Pacific and Southern Company, Inc., Raycom TV Broadcasting, Inc., and The Spartanburg Herald-Journal, Inc.

AFFIDAVIT OF PERSONAL SERVICE

FILED
2010 JUL -8 AM 9:11
JEANETTE W. McBRIDE
C.C.P. & G.S.

I, Terry A. Trexler, being of sound mind, over the age of twenty-one (21), and duly qualified, does state and affirm that I personally delivered a copy of the Amended Summons and Complaint of the afore captioned case to Pacific and Southern Company, Inc. by delivering such to the registered agent of said entity in South Carolina, CT Corporation System, at 2 Office Park Court, Suite 103, Columbia, South Carolina on June 23, 2010.

SO STATES:

Process Server

SWORN TO BEFORE ME THIS 2nd day of July, 2010

Jennifer C. Harrington

Notary Public
State of South Carolina
My Commission Expires: 10/29/2018

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

IN THE COURT OF COMMON PLEAS
FIFTH JUDICIAL CIRCUIT
Case Number: 2010-CP-40-1249

James W. Trexler

Plaintiff,

V.

AFFIDAVIT OF PERSONAL SERVICE

The Associated Press, Barrington Broadcasting South Carolina Corp., The Pacific and Southern Company, Inc., Raycom TV Broadcasting, Inc., and The Spartanburg Herald-Journal, Inc.

FILED
2010 JUL -8 AM 9:14
JEANNETTE W. McBRIDE
C.C.P. & G.S.

I, Terry A. Trexler, being of sound mind, over the age of twenty-one (21), and duly qualified, does state and affirm that I personally delivered a copy of the Amended Summons and Complaint of the afore captioned case to Barrington Broadcasting South Carolina Corp. by delivering such to the registered agent of said entity in South Carolina, Corporation Service Co., at 1703 Laurel Street, Columbia, South Carolina on June 23, 2010.

SO STATES:

Process Server

SWORN TO BEFORE ME THIS 2nd day of July, 2010

Jennifer E. Harrington

Notary Public
State of South Carolina
My Commission Expires: 10/29/2018

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

IN THE COURT OF COMMON PLEAS
FIFTH JUDICIAL CIRCUIT
Case Number: 2010-CP-40-1249

James W. Trexler

Plaintiff,

V.

AFFIDAVIT OF PERSONAL SERVICE

The Associated Press, Barrington Broadcasting South Carolina Corp., The Pacific and Southern Company, Inc., Raycom TV Broadcasting, Inc., and The Spartanburg Herald-Journal, Inc.

FILED
2010 JUL -8 AM 9:14
JEANETTE W. GRIFFITH
C.C.P. & G.S.
RICHLAND

I, Terry A. Trexler, being of sound mind, over the age of twenty-one (21), and duly qualified, does state and affirm that I personally delivered a copy of the Amended Summons and Complaint of the afore captioned case to The Associated Press by delivering such to Michelle Williams, Bureau Chief of the AP Office, at 1311 Marion Street, Columbia, South Carolina on June 23, 2010.

SO STATES:

Process Server

SWORN TO BEFORE ME THIS 2nd day of July, 2010

Jennifer E. Harrington

Notary Public
State of South Carolina
My Commission Expires: 10/29/2018

EXHIBIT

D.1 – D.5

ARREST WARRANT

I-891847

STATE OF SOUTH CAROLINA

[X] County/ [ ] Municipality of

Richland / Olympia Magistrate

THE STATE

against

James W Trexler

Address: 412 Derby Lane

Hopkins, SC 29061-

Phone: SSN:

Sex: M Race: W Height: 5 11 Weight: 130

DL State: SC DL #:

DOB: Agency ORI #:

Prosecuting Agency: Hspca/ The Humane Society

Prosecuting Officer: Elisabeth Perry - 122

Offense: Animals / Ill treatment of animals, in general, overworking - 1st offense (Tried

Offense Code: 0610

Code/Ordinance Sec: 47-01-0040(A)

This warrant is CERTIFIED FOR SERVICE in the

[ ] County/ [ ] Municipality of

. The accused is to be arrested and brought before me to be dealt with according to the law.

(L.S.)

Signature of Judge

Date:

RETURN

A copy of this arrest warrant was delivered to defendant James Trexler on 2-27-08

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

Olympia Magistrate
1601 Shop Road
Columbia, SC 29201

ORIGINAL ORIGINAL ORIGINAL ORIGINAL

AFFIDAVIT

ORIGINAL

STATE OF SOUTH CAROLINA

[X] County/ [ ] Municipality of

Richland / Olympia Magistrate

Personally appeared before me the affiant Elisabeth Perry who being duly sworn deposes and says that defendant James W Trexler did within this county and state on or about 02/26/2008 violate the criminal laws of the State of South Carolina (or ordinance of [X] County/ [ ] Municipality of Richland / Olympia Magistrate) in the following particulars:

DESCRIPTION OF OFFENSE Animals / Ill treatment of animals, in general, overworking - 1st offense (Tried

CERTIFIED TRUE COPY OF ORIGINAL FILED C.C.C.P. & G.S. RICHLAND COUNTY SOUTH CAROLINA

I further state that there is probable cause to believe that the defendant named above did commit the crime set forth and that probable cause is based on the following facts:

That on 02/26/2008 while at 412 Derby Lane in the Olympia Magisterial District of Richland County, one James Trexler did commit the crime of III /Treatment of Animals in that he is the owner of a 2 year old Bay Female with a body score of 1.5 (#35). He knowingly and intentionally deprived the animal of necessary quantities of wholesome foodstuff suitable for the species and age, at suitable intervals and sufficient to maintain a reasonable level of nutrition to allow for proper growth and weight. There was no feed or hay found on the property. The animal was separately confined in a barn with 3 other horses, standing in 4 or more inches of feces, urine, and mud. The water bucket was filled with feces and other organic debris. One horse was also found wandering the muddy, wet property. Affiant and others are witness to prove same.

Signature of Affiant Elisabeth A Perry

STATE OF SOUTH CAROLINA

[X] County/ [ ] Municipality of

Richland / Olympia Magistrate

Affiant's Address 121 Humane Ln
Columbia, SC 29209

Affiant's Telephone (783)126-7 x

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that on or about 2/26/2008 defendant James W Trexler did violate the criminal laws of the State of South Carolina (or ordinance of [X] County/ [ ] Municipality of Richland / Olympia Magistrate) as set forth below.

08 MAR 5 PM 12:50 RICHLAND COUNTY S.C. C.C.P. & G.S.

DESCRIPTION OF OFFENSE: Animals / Ill treatment of animals, in general, overworking - 1st offense (Tried

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him or her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as soon thereafter as is practicable

Sworn to and subscribed before me on 02/27/2008 (L.S.)

Signature of Issuing Judge

Harold A. Cuff

Judge Code: 5906

Judge's Address 1601 - B Shop Road
Columbia, SC 29201-4847

Judge's Telephone (803)576-2550

Issuing Court: [X] Magistrate [ ] Municipal [ ] Circuit

ORIGINAL ORIGINAL ORIGINAL

APP. 986

ARREST WARRANT

I-891848

STATE OF SOUTH CAROLINA

[X] County/ [ ] Municipality of

Richland / Olympia Magistrate

THE STATE

against

James W Trexler

Address: 412 Derby Lane

Hopkins, SC 29061-

Phone: SSN:

Sex: M Race: W Height: 5 11 Weight: 130

DL State: SC DL #:

DOB: Agency ORI #:

Prosecuting Agency: rspca/ The Humane Society

Prosecuting Officer: Elisabeth Perry - 122

Offense: Animals / Ill treatment of animals, in general, overworking - 1st offense (Tried

Offense Code: 0610

Code/Ordinance Sec: 47-01-0040(A)

This warrant is CERTIFIED FOR SERVICE in the

[ ] County/ [ ] Municipality of

. The accused is to be arrested and brought before me to be dealt with according to the law.

(L.S.)

Signature of Judge

Date:

RETURN

A copy of this arrest warrant was delivered to defendant James Trexler on 2-27-08

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

Olympia Magistrate
1601 Shop Road
Columbia, SC 29201

ORIGINAL ORIGINAL ORIGINAL ORIGINAL

STATE OF SOUTH CAROLINA)
[X] County/ [ ] Municipality of)
Richland / Olympia Magistrate)

AFFIDAVIT

ORIGINAL

Form Approved by S.C. Attorney General April 21, 2003 SCCA 518

CERTIFIED TRUE COPY OF ORIGINAL FILED, C.C.C.R.&G.S. RICHLAND COUNTY SOUTH CAROLINA

Personally appeared before me the affiant Elisabeth Perry who being duly sworn deposes and says that defendant James W Trexler did within this county and state on or about 02/26/2008 violate the criminal laws of the State of South Carolina (or ordinance of [X] County/ [ ] Municipality of Richland / Olympia Magistrate) in the following particulars:

DESCRIPTION OF OFFENSE Animals / Ill treatment of animals, in general, overworking - 1st offense (Tried

I further state that there is probable cause to believe that the defendant named above did commit the crime set forth and that probable cause is based on the following facts:

That on 02/26/2008 while at 412 Derby Lane in the Olympia Magisterial District of Richland County, one James Trexler did commit the crime of III /Treatment of Animals in that he is the owner of a 6 year old Bay Stallion with a body score of 4 (#34). He knowingly and intentionally deprived the animal of necessary quantities of wholesome foodstuff suitable for the species and age, at suitable intervals and sufficient to maintain a reasonable level of nutrition to allow for proper growth and weight. There was no feed or hay found on the property. The animal was separately confined in a barn with 3 other horses, standing in 4 or more inches of feces, urine, and mud. The water bucket was filled with feces and other organic debris. One horse was also found wandering the muddy, wet property. Affiant and others are witness to prove same.

Signature of Affiant Elisabeth Perry

STATE OF SOUTH CAROLINA)
[X] County/ [ ] Municipality of)
Richland / Olympia Magistrate)

Affiant's Address 121 Humane Ln
Columbia, SC 29209

Affiant's Telephone (783)126-7 x

08 MAR -5 PM 12:50
BARBARA A. SCOTT C.C.C.R.&G.S.

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that on or about 2/26/2008 defendant James W Trexler did violate the criminal laws of the State of South Caroline (or ordinance of [X] County/ [ ] Municipality of Richland / Olympia Magistrate) as set forth below:

DESCRIPTION OF OFFENSE: Animals / Ill treatment of animals, in general, overworking - 1st offense (Tried

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him or her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as soon thereafter as is practicable

Sworn to and subscribed before me)
on 02/27/2008)
(L.S.))
Signature of Presiding Judge)
Harold A. Cuff)
Judge Code: 5906)

Judge's Address 1601 - B Shop Road
Columbia, SC 29201-4847

Judge's Telephone (803)576-2550

Issuing Court: [X] Magistrate [ ] Municipal [ ] Circuit

ORIGINAL ORIGINAL ORIGINAL ORIGINAL

APP. 987

APP. 988

ARREST WARRANT

I-891849

STATE OF SOUTH CAROLINA

[X] County/ [ ] Municipality of

Richland / Olympia Magistrate

THE STATE

against

James W Trexler

Address: 412 Derby Lane

Hopkins, SC 29061-

Phone: SSN:

Sex: M Race: W Height: 5 11 Weight: 130

DL State: SC DL #:

DOB: Agency ORI #:

Prosecuting Agency: Hspca/ The Humane Society

Prosecuting Officer: Elisabeth Perry - 122

Offense: Animals / Ill treatment of animals, in general, overworking - 1st offense (Tried

Offense Code: 0610

Code/Ordinance Sec: 47-01-0040(A)

This warrant is CERTIFIED FOR SERVICE in the [ ] County/ [ ] Municipality of . The accused is to be arrested and brought before me to be dealt with according to the law.

(L.S.)

Signature of Judge

Date:

RETURN

A copy of this arrest warrant was delivered to defendant James Trexler on 2-27-08

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

Olympia Magistrate
1601 Shop Road
Columbia, SC 29201

ORIGINAL ORIGINAL ORIGINAL ORIGINAL

STATE OF SOUTH CAROLINA)
[X] County/ [ ] Municipality of)
Richland / Olympia Magistrate)

ORIGINAL

Form approved by S.C. Attorney General April 21, 2003 SCCA 518

AFFIDAVIT

Personally appeared before me the affiant Elisabeth Perry who being duly sworn deposes and says that defendant James W Trexler did within this county and state on or about 02/26/2008 violate the criminal laws of the State of South Carolina (or ordinance of [X] County/ [ ] Municipality of Richland / Olympia Magistrate) in the following particulars:

DESCRIPTION OF OFFENSE Animals / Ill treatment of animals, in general, overworking - 1st offense (Tried

I further state that there is probable cause to believe that the defendant named above did commit the crime set forth and that probable cause is based on the following facts:

That on 02/26/2008 while at 412 Derby Lane in the Olympia Magisterial District of Richland County, one James Trexler did commit the crime of III /Treatment of Animals in that he is the owner of a 15-20 year old Bay Stallion with a body score of 3 (#33). He knowingly and intentionally deprived the animal of necessary quantities of wholesome foodstuff suitable for the species and age, at suitable intervals and sufficient to maintain a reasonable level of nutrition to allow for proper growth and weight. There was no feed or hay found on the property. The animal was separately confined in a barn with 3 other horses, standing in 4 or more inches of feces, urine, and mud. The water bucket was filled with feces and other organic debris. One horse was also found wandering the muddy, wet property. Affiant and others are witness to prove same.

CERTIFIED TRUE COPY OF ORIGINAL FILED C.C.C.P.&G.S. RICHLAND COUNTY SOUTH CAROLINA

Signature of Affiant Elisabeth Perry

STATE OF SOUTH CAROLINA)
[X] County/ [ ] Municipality of)
Richland / Olympia Magistrate)

Affiant's Address 121 Humane Ln
Columbia, SC 29209

Affiant's Telephone (783)126-7 x

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that on or about 2/26/2008 defendant James W Trexler did violate the criminal laws of the State of South Carolina (or ordinance of [X] County/ [ ] Municipality of Richland / Olympia Magistrate) as set forth below:

DESCRIPTION OF OFFENSE: Animals / Ill treatment of animals, in general, overworking - 1st offense (Tried

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him or her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of execution, or as soon thereafter as is practicable

Sworn to and subscribed before me on 02/27/2008 (L.S.)

Signature of Issuing Judge

Harold A. Cuff

Judge Code: 5906

Judge's Address 1601 - B Shop Road
Columbia, SC 29201-4847

Judge's Telephone (803)576-2550

Issuing Court: [X] Magistrate [ ] Municipal [ ] Circuit

08 MAR -5 PM 12:20 FILED RICHARD A. SCOTT C.C.C.P.&G.S.

ORIGINAL ORIGINAL ORIGINAL

ARREST WARRANT

I-891850

STATE OF SOUTH CAROLINA

[X] County/ [ ] Municipality of

Richland / Olympia Magistrate

THE STATE

against

James W Trexler

Address: 412 Derby Lane

Hopkins, SC 29061-

Phone: SSN:

Sex: M Race: W Height: 5 11 Weight: 130

DL State: SC DL #:

DOB: Agency ORI #:

Prosecuting Agency: Hspca/ The Humane Society

Prosecuting Officer: Elisabeth Perry - 122

Offense: Animals / Ill treatment of animals, in general, overworking - 1st offense (Tried

Offense Code: 0610

Code/Ordinance Sec.: 47-01-0040(A)

This warrant is CERTIFIED FOR SERVICE in the [ ] County/ [ ] Municipality of

The accused is to be arrested and brought before me to be dealt with according to the law.

(L.S.)

Signature of Judge

Date:

RETURN

A copy of this arrest warrant was delivered to defendant James Trexler on 2-27-08

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

Olympia Magistrate
1601 Shop Road
Columbia, SC 29201

ORIGINAL ORIGINAL ORIGINAL ORIGINAL

STATE OF SOUTH CAROLINA)
[X] County/ [ ] Municipality of)
Richland / Olympia Magistrate)

AFFIDAVIT

ORIGINAL

Form Approved by S.C. Attorney General April 21, 2003 SCCA 518

Personally appeared before me the affiant Elisabeth Perry who being duly sworn deposes and says that defendant James W Trexler did within this county and state on or about 02/26/2008 violate the criminal laws of the State of South Carolina (or ordinance of [X] County/ [ ] Municipality of Richland / Olympia Magistrate) in the following particulars:

DESCRIPTION OF OFFENSE: Animals / Ill treatment of animals, in general, overworking - 1st offense (Tried

I further state that there is probable cause to believe that the defendant named above did commit the crime set forth and that probable cause is based on the following facts:

That on 02/26/2008 while at 412 Derby Lane in the Olympia Magisterial District of Richland County, one James Trexler did commit the crime of Ill /Treatment of Animals in that he is the owner of a 7 year old Black Stallion with a body score of 4 (#32). He knowingly and intentionally deprived the animal of necessary quantitites of wholesome foodstuff suitable for the species and age, at suitable intervals and sufficient to maintain a reasonable level of nutrition to allow for proper growth and weight. There was no feed or hay found on the property. The animal was found wandering around on the muddy, wet property. Four other horses were confined separately inside a barn standing in 4 or more inches of feces, urine and mud. Their water buckets were filled with feces and other organic debris. Affiant and others are witness to prove same.

Signature of Affiant Elisabeth Perry

STATE OF SOUTH CAROLINA)
[X] County/ [ ] Municipality of)
Richland / Olympia Magistrate)

Affiant's Address 121 Humane Ln
Columbia, SC 29209

Affiant's Telephone (783)126-7 x

CERTIFIED TRUE COPY OF ORIGINAL FILED IN MY OFFICE
C.C.C.P. & G.S. RICHLAND COUNTY, SOUTH CAROLINA
08 MAR 5 PM 2:50
BARBARA A. SCOTT C.C.C.P. & G.S.

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that on or about 2/26/2008 defendant James W Trexler did violate the criminal laws of the State of South Carolina (or ordinance of [X] County/ [ ] Municipality of Richland / Olympia Magistrate) as set forth below

DESCRIPTION OF OFFENSE: Animals / Ill treatment of animals, in general, overworking - 1st offense (Tried

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him or her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as soon thereafter as is practicable

Sworn to and subscribed before me)
on 02/27/2008)
(L.S.))
Signature of Issuing Judge)
Harold A. Cuff)
Judge Code: 5906)

Judge's Address 1601 - B Shop Road
Columbia, SC 29201-4847

Judge's Telephone (803)576-2550

Issuing Court: [X] Magistrate [ ] Municipal [ ] Circuit

ORIGINAL ORIGINAL ORIGINAL ORIGINAL

APP. 989

ARREST WARRANT

I-891851

STATE OF SOUTH CAROLINA

[X] County/ [ ] Municipality of

Richland / Olympia Magistrate

THE STATE

against

James W Trexler

Address: 412 Derby Lane

Hopkins, SC 29061-

Phone: SSN:

Sex: M Race: W Height: 5 11 Weight: 130

DL State: SC DL #:

DOB: Agency ORI #:

Prosecuting Agency: Hspca/ The Humane Society

Prosecuting Officer: Elisabeth Perry - 122

Offense: Animals / Ill treatment of animals, in general, overworking - 1st offense (Tried

Offense Code: 0610

Code/Ordinance Sec: 47-01-0040(A)

This warrant is CERTIFIED FOR SERVICE in the [✓] County/ [ ] Municipality of . The accused is to be arrested and brought before me to be dealt with according to the law.

(L.S.)

Signature of Judge

Date:

RETURN

A copy of this arrest warrant was delivered to defendant James W. Trexler on 02/29/08

Signature of Certified Law Enforcement Officer

RETURN WARRANT TO:

Olympia Magistrate
1601 Shop Road
Columbia, SC 29201

ORIGINAL ORIGINAL ORIGINAL ORIGINAL

AFFIDAVIT

ORIGINAL

Form Approved by S.C. Attorney General April 21, 2003 SCCA 518

STATE OF SOUTH CAROLINA
[X] County/ [ ] Municipality of
Richland / Olympia Magistrate

Personally appeared before me the affiant Elisabeth Perry who being duly sworn deposes and says that defendant James W Trexler did within this county and state on or about 02/26/2008 violate the criminal laws of the State of South Carolina (or ordinance of [X] County/ [ ] Municipality of Richland / Olympia Magistrate) in the following particulars:

DESCRIPTION OF OFFENSE Animals / Ill treatment of animals, in general, overworking - 1st offense (Tried

I further state that there is probable cause to believe that the defendant named above did commit the crime set forth and that probable cause is based on the following facts:

That on 02/26/2008 while at 412 Derby Lane in the Olympia Magisterial District of Richland County, one James Trexler did commit the crime of III /Treatment of Animals in that he is the owner of a 20 year old Gray Stallion with a body score of 3.5 (#31). He knowingly and intentionally deprived the animal of necessary quantities of wholesome foodstuff suitable for the species and age, at suitable intervals and sufficient to maintain a reasonable level of nutrition to allow for proper growth and weight. There was no feed or hay on the property. The animal was separately confined in a barn with 3 other horses, standing in 4 or more inches of feces, urine, and mud. The water bucket was filled with feces and other organic debris. One horse was also found wandering the muddy, wet property. Affiant and others are witness to prove same.

Signature of Affiant

STATE OF SOUTH CAROLINA
[X] County/ [ ] Municipality of
Richland / Olympia Magistrate

Affiant's Address 121 Humane Ln
Columbia, SC 29209

Affiant's Telephone (783)126-7 x

CERTIFIED TRUE COPY OF ORIGINAL FILED
RICHLAND COUNTY SOUTH CAROLINA
C.C.C.P. & G.S.

08 MAR -5 PM 12:50
BARBARA A. SCOTT
C.C.C.P. & G.S.
FILED

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that on or about 2/26/2008 defendant James W Trexler did violate the criminal laws of the State of South Carolina (or ordinance of [X] County/ [ ] Municipality of Richland / Olympia Magistrate) as set forth below:

DESCRIPTION OF OFFENSE: Animals / Ill treatment of animals, in general, overworking - 1st offense (Tried

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him or her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as soon thereafter as is practicable

Sworn to and subscribed before me on 02/27/2008 (L.S.)

Signature of Issuing Judge

Harold A. Cuff

Judge Code: 5906

Judge's Address 1601 - B Shop Road
Columbia, SC 29201-4847

Judge's Telephone (803)576-2550

Issuing Court: [X] Magistrate [ ] Municipal [ ] Circuit

ORIGINAL ORIGINAL ORIGINAL

APP. 990

EXHIBIT

E.1 – E.4

WITNESSES

L(S) Investigator Holly Wagner, RCSD

ARREST WARRANT NUMBER

DP08059

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury

Date: MAR 13 2008

VERDICT

Foreperson of Petit Jury

Date

DOCKET NO. 2008-GS-40-02282

The State of South Carolina

County of Richland

COURT OF GENERAL SESSIONS

MARCH TERM 2008

101

THE STATE

vs.

James W. Trexler

Indictment for

ILL TREATMENT OF ANIMALS

SC Code: 47-01-40(B)

CDR Code: 2804

Class F/F

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

I hereby appear in my own proper person and plead guilty to the within indictment or to

Defendant

Witness:

C C C, P I S, AND G S

8441-A-0258

APP. 992

STATE OF SOUTH CAROLINA)
) INDICTMENT
COUNTY OF RICHLAND)

At a Court of General Sessions, convened on March 12, 2008, the Grand Jurors of Richland County present upon their oath:

ILL TREATMENT OF ANIMALS

That James W. Trexler did in Richland County, on or about February 26, 2008, inflict excessive or repeated unnecessary pain or suffering upon a 2 year old Bay filly; or by omission or commission caused this to be done, all in violation of SC Code of Laws § 47-1-40.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

WARREN B. GIESE, SOLICITOR

8441-A-0259

WITNESSES

(S) Investigator Holly Wagner, RCSD

ARREST WARRANT NUMBER

DP08060

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury
Date: MAR 13 2008

VERDICT

Foreperson of Petit Jury
Date

DOCKET NO. 2008-GS-40-02283

The State of South Carolina

County of Richland

COURT OF GENERAL SESSIONS

MARCH TERM 2008

101

THE STATE
vs.

James W. Trexler

Indictment for

ILL TREATMENT OF ANIMALS

SC Code: 47-01-40(B)
CDR Code: 2804
Class F/F

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

I hereby appear in my own proper person and plead guilty to the within indictment or to

Defendant

Witness

C.C.C. P.S. AND G.S.

8441-A-0260

APP. 994

STATE OF SOUTH CAROLINA)
)
COUNTY OF RICHLAND)

INDICTMENT

At a Court of General Sessions, convenec on March 12, 2008, the Grand Jurors of Richland County present upon their oath:

ILL TREATMENT OF ANIMALS

That James W. Trexler did in Richland County, on or about February 26, 2008, inflict excessive or repeated unnecessary pain or suffering upon a 20 year old Gray Stallion, or by omission or commission caused this to be done, all in violation of SC Code of Laws § 47-1-40.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

WARREN B. GIESE, SOLICITOR

8441-A-0261

WITNESSES

(S) Investigator Holly Wagner, RCSD

ARREST WARRANT NUMBER

DP08061

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury
Date: MAR 13 2008

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. 2008-GS-40-02284

The State of South Carolina

County of Richland

COURT OF GENERAL SESSIONS

MARCH TERM 2008

101

THE STATE
vs.

James W. Trexler

Indictment for

ILL TREATMENT OF ANIMALS

SC Code: 47-01-40(B)
CDR Code: 2804
Class F/F

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

I hereby appear in my own proper person and plead guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. AND G.S

8441-A-0262

APP. 996

STATE OF SOUTH CAROLINA)
)
COUNTY OF RICHLAND)

INDICTMENT

At a Court of General Sessions, convened on March 12, 2008, the Grand Jurors of Richland County present upon their oath:

ILL TREATMENT OF ANIMALS

That James W. Trexler did in Richland County, on or about February 26, 2008, inflict excessive or repeated unnecessary pain or suffering upon a 6 year old Bay Stallion, or by omission or commission caused this to be done, all in violation of SC Code of Laws § 47-1-40.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

WARREN B. GIESE, SOLICITOR

8441-A-0263

WITNESSES

(S) Investigator Holly Wagner, RCSD

ARREST WARRANT NUMBER

DP08062

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury

Date: MAR 13 2008

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2008-GS-40-02286

The State of South Carolina

County of Richland

COURT OF GENERAL SESSIONS

MARCH TERM 2008

101

THE STATE

vs.

James W. Trexler

Indictment for

ILL TREATMENT OF ANIMALS

SC Code: 47-01-40(B)

CDR Code: 2804

Class F/F

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury

Defendant

I

hereby appear in my own proper person and plead guilty to the within indictment or to

Defendant

Witness

C.C.C. PLS. AND G.S

8441-A-0264

APP. 998

EXHIBIT

F

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND

IN THE COURT OF GENERAL SESSIONS
ORDER FOR [illegible]UCTION OF ARREST RECORDS

EXHIBIT D

THE STATE OF SOUTH CAROLINA

Race Cau Sex M Age 50
DOB SSN

vs.

SID #

James William Trexler

Defendant

Charges were disposed of in the court indicated below:

☐ Magistrate ☐ Municipal ☑ General Sessions

AKA

IT APPEARS that the defendant is entitled to have all records relating to this offense expunged and destroyed according to the applicable section o the South Carolina Code of Laws indicated below:

Warrant/GS No. I891847-851 Date of Arrest Place of Arrest RICHLAND County, S.C.

Arrest Charge ILL TreaTMENTMENT TO ANIMALS

☑ § 17-1-40. The charge was dismissed, *not prossed* or the defendant was found not guilty on 07-15-2010

☐ § 17-22-150(a). The charge was *not prossed* on by the Solicitor because the defendant successfully completed the Pre-Trial Intervention Program. (*PTI Director must attest to eligibility for expungement*).

☐ § 17-22-530(A). The charge was *not prossed* on by the Solicitor because the defendant successfully completed the Alcohol Education Program Program. (*AEP Director must attest to eligibility for expungement*).

☐ § 34-11-90(e). The defendant was convicted of a first offense misdemeanor under the Fraudulent Check Law on and no additional criminal conviction as defined by § 34-11-90(e) has taken place in one year from date of conviction.

☐ § 44-53-450(b). The defendant was charged with first offense simple possession of marijuana or hashish on , received a conditional discharge and has successfully complied with the terms as set forth by the court.

☐ § 22-5-910. The defendant was convicted of a first offense for a crime carrying a penalty of not more than 30 days on , that offense did not involve the exceptions enumerated in § 22-5-910, and no additional criminal conviction as defined by § 22-5-910 has taken place within three years from date of conviction or five years from the date of conviction for criminal domestic violence. (*Summary Court Judge must attest to eligibility*).

☐ § 22-5-920. The defendant was convicted of a first offense as a youthful offender on , that offense did not involve the exceptions enumerated in § 22-5-920, and no additional criminal conviction as defined by § 22-5-920 has taken place during a five-year period following completion of his sentence, including probation and parole as a youthful offender.

☐ § 56-5-750(F). The defendant was convicted of a misdemeanor first offense failure to stop motor vehicle on and no additional criminal conviction has taken place for three years after completion of the sentence.

JEANETTE W. GRIFFITH
CLERK OF COURT
RICHLAND COUNTY
FILED
2010 AUG 25 PM 3:12

SLED verifies the offense listed above is eligible for expungement: ☐ Yes ☐ No SLED Date

IT IS ORDERED that all records relating to such arrest and subsequent discharge pursuant to the above-referenced section be dismissed, expunged and immediately destroyed and that no evidence of such records pertaining to such charge shall be retained by any municipal, county or state agency except nonpublic information retained on each person accepted for Pre-Trial Intervention pursuant to § 17-22-130, nonpublic information retained by SC Law Enforcement Division (SLED) pursuant to § 34-11-90(e), nonpublic information retained by the Department of Narcotic and Dangerous Drugs Under SLED pursuant to § 44-53-450, nonpublic information retained by SLED pursuant to § 22-5-910 and § 22-5-920, and nonpublic information retained by SLED and Department of Public Safety pursuant to § 56-5-750 (F).

Solicitor: ☒ Consents
☐ Declines to Consent
☐ Determined ineligible for expungement

Signed this 23 day of August 2010

W. Barry [illegible]
Circuit Solicitor

I attest that the defendant is eligible for expungement pursuant to S.C. Code §17-22-150(a) (successful completion of PTI), §17-22-530(A) (successful completion of AEP), § 22-5-910 (summary court conviction) or § 44-53-450(b) (conditional discharge).

[illegible]
Circuit Court Judge

Director PTI / Director AEP/Summary Court Judge (circle one)

Defendant / Attorney for Defendant (Circle One)