THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM GREENVILLE COUNTY
Court of Common Pleas

D. Garrison Hill, Circuit Judge

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SC Court of Appeals

Appellate Case No. 2015-000778
Case No. 2013-CP-23-01762

Carol Simpson, Appellant,

v.

Frank A. Landgraff, Carol Sutton, Sutton & Associates Investigations, Inc., Defendants,

Of Whom Frank A. Landgraff is the Respondent.

RECORD ON APPEAL – VOLUME ONE

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PAUL B. WICKENSIMER
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STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
COUNTY OF GREENVILLE	)	THIRTEENTH JUDICIAL CIRCUIT
Carol Simpson,	)	C.A. NO.: 2013-CP-23-01762
Plaintiff,	)	
v.	)	
Frank A. Landgraff, Carol Sutton, Carol Sutton & Associates-Investigations, Inc.,	)	**AMENDED ORDER GRANTING SUMMARY JUDGMENT TO DEFENDANT LANDGRAFF**
Defendants.	)	

Plaintiff brought this action claiming Defendant Frank A. Landgraff hired Defendant Carol Sutton and her private investigative agency to place a video camera in Landgraff's bedroom for the purpose of capturing evidence of her adultery with Landgraff's then-wife. Her complaint alleges causes of action for invasion of privacy, outrage, and civil conspiracy. Defendant Landgraff now moves for summary judgment.

The court has considered all filings made by the parties, even those that may have been untimely. This includes Plaintiff's lengthy affidavit filed in Defendant Landgraff's divorce case. Both sides have presented this affidavit to the court at different stages of this case, and both have indignantly criticized the other for disclosing it, contending it was "sealed" by Family Court order, even though no such order has been presented. The court prefers to resolve this dispute on the entire record.

Defendant claims there is no genuine material factual dispute concerning any of Plaintiff's claims. Construing the record in the light most favorable to Plaintiff, there are factual allegations that Defendant set up a motion-activated video camera in Landgraff's master bedroom for the purpose of recording Plaintiff. Plaintiff had been a frequent houseguest of Landgraff and

believed she had a right to privacy in Landgraff's bedroom. According to Plaintiff, the record also requires the following inference:

> Inference—Landgraff attempted to have an affair with Plaintiff. When she refused, he encouraged a friendship with his Wife. He then pushed for a threesome. When that ended, he orchestrated an evening between Plaintiff and his Wife. He set up a camera to record his fantasy. He then attempted to re-kindle the threesome. When his efforts ultimately failed, he portrayed himself as the victim and ended his already troubled marriage. He showed no remorse for Plaintiff for using her in his scheme.

See Plaintiff's Memorandum in Opposition to the Defendants' Proposed Order at 20.

While the court is required to draw inferences and ambiguities in Plaintiff's favor at the summary judgment stage, it is not required to indulge a party's selective accounts of events and turn them kaleidoscope-like until some illusory factual dispute faintly appears. Inference need not produce ignorance. While in the above excerpt Plaintiff declares she refused to have an affair with Landgraff, her previous sworn Affidavit to the Family court flatly admits she did.

But that is neither here nor there. Nowhere in the record do we learn precisely what is on the videotape, if it still exists, or whether its contents were shared with a third party outside of the judicial process.[1]

Plaintiff argues that a Greenville County Sheriff's Office Incident Report raises an inference that the video contains images of sexual activity between her and Landgraff's then-wife, and references "still shots" that Defendant Sutton provided to investigators. The Incident Report also states that the investigator had "a copy of the digital recording itself," and mentions that a certain sex toy appears in the video.

The Incident Report was generated in the course of investigating Defendants for potential prosecution for voyeurism and, as noted in the Order on Plaintiff's Motion for Reconsideration,

[1] There is evidence Defendant Landgraff submitted a copy of the tape to counsel and the court during the Family Court litigation, and someone gave it to law enforcement.

Hit

was not furnished to the court or made part of the record until over two months after the summary judgment hearing, 54 days after the court issued a Form 4 granting Defendant summary judgment, and a month after Defendant had submitted a proposed order noting the lack of any evidence regarding the recording.

Assuming the recordings show Plaintiff with Landgraff's then-wife, summary judgment is still warranted. Accepting the slant Plaintiff pushes for and presuming her credibility, Landgraff was videotaping her while she was in his bedroom having sexual contact with his wife. South Carolina law recognizes "[i]t is a well founded policy of law that no person be permitted to acquire a right of action from their own unlawful act and one who participates in an unlawful act cannot recover damages for the consequence of that act. This rule applies at both law and in equity and whether the cause of action is in contract or in tort." Jackson v. Bi-Lo Stores, Inc., 313 S.C. 272, 276, 437 S.E.2d 168 (Ct. App. 1993) (citations omitted). This defense has been known as in pari delicto, which translates as "in cases of equal or mutual fault, the position of the defending party is the better one," Proctor v. Whitlark & Whitlark, Inc., 406 S.C. 225, 228, 750 S.E.2d 93, 94 (Ct. App. 2013) (cert. granted Aug. 22, 2014), although our supreme court long ago appeared to prefer Lord Mansfield's rendering: "The principle of public policy is this. 'Ex dolo malo non oritur actio.' No court will lend its aid to a man who founds his cause of action upon an immoral or illegal act." White v. Commercial & Farmers' Bank, 66 S.C. 491, 45 S.E. 94, 102 (1903); see generally 4 S.C. Jur. Action § 21.

Other states recognize the principle, sometimes calling it the "wrongful conduct" bar, the unlawful acts doctrine, or ex turpi causa. Long part of American law, it is kin to the discredited "outlaw" doctrine that appeared in early English society. See Davis, The Plaintiff's Illegal Act as a Defense in Actions of Tort, 18 Harv. L. Rev. 505 (1905); King, Outlaws and Outlier Doctrines:

The Serious Misconduct Bar in Tort Law, 43 Wm. & Mary L. Rev. 1011 (2002). It was applied in the famous "Highwayman" case, Everett v. Williams (Ex. 1725), where two robbers sought an accounting. The case did not end well: the solicitors were fined for contempt for bringing it to court, and the robbers were hanged. Still robust, the principle reminds that "the law leaves the quarreling accomplices where it finds them." Thomas v. UBS AG, 706 F.3d 846, 857 (7th Cir. 2013) (Posner, J.).

A Plaintiff's wrongful conduct will bar his right to claim damages caused by the conduct. The misconduct must be immoral, criminal or otherwise prohibited. And it must have been at least a concurring cause of the injury. See Restatement (Second) of Torts § 889 (1979) (one injured not barred from recovery merely because at time of injury he was committing a tort or crime).

The wrongful conduct rule has arisen in numerous contexts. It has been used to bar a Plaintiff convicted of possessing child pornography from suing his social worker for failure to effectively treat his sexual addiction, Greenwald v. Van Handel, 311 Conn. 370, 88 A.3d 467 (2014), an action for recovery of injuries from a gunshot wound that occurred when decedent attempted to steal a handgun, Ryan v. Hughes-Ortiz, 959 N.E.2d 1000 (Mass. App. 2012), a claim for injuries due to Oxycontin addiction when the Plaintiff had unlawfully obtained multiple prescriptions, Price v. Purdue Pharma Co., 920 So.2d. 479 (Miss. 2006), a lawsuit by a patient at a substance abuse treatment center against his counselor with whom he had an adulterous affair and used illegal drugs, Correll v. St. John's Hospital-Macomb Center, 2002 WL 226935 (Mich. App. 2002), and a claim by a teenager against a boy who sold him fireworks from which he extracted gunpowder to make a pipe bomb that exploded in his hands, Barker v. Kallash, 63 N.Y.2d 19, 468 N.E.2d 39 (1984).

Cardozo noted that "the principle that no man should profit from his own inequity or take advantage of his own wrong" had "its roots deeply fastened in universal sentiments of justice." Cardozo, The Nature of the Judicial Process at 41 (Yale Univ. Press 1921). In a different context, Justice Brandeis explained the driving rationale:

> The court's aid is denied only when [the plaintiff] has violated the law in connection with the very transaction as to which he seeks legal redress. Then aid is denied despite the defendant's wrong. It is denied in order to maintain respect for law; in order to promote confidence in the administration of justice; in order to preserve the judicial process from contamination.

Olmstead v. United States, 277 U.S. 438, 483-484 (1928) (Brandeis, J., dissenting); see also Bateman Eichler, Hill Richards, Inc. v. Berner, 472 U.S. 299, 306 (1985) ("The defense is grounded on two premises: first, that courts should not lend their good offices to mediating disputes among wrongdoers; and second, that denying judicial relief to an admitted wrongdoer is an effective means of deterring illegality.")(footnotes omitted).

If Defendant Landgraff had stormed into his bedroom and caught Plaintiff and his then-wife in flagrante delicto, no court would countenance Plaintiff later suing him-- the husband and homeowner-- for invasion of privacy, emotional distress and outrage, even if he had a photographic memory. Or, if Defendant husband had stationed a private investigator in his bedroom or outside its window to collect evidence of his wife's suspected infidelity with Plaintiff, it would be remarkable if Plaintiff as the paramour could then mulct the husband and the private investigator in damages for conspiring to invade her privacy.[2]

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[2] This forms an alternative basis for granting Defendant Landgraff summary judgment. Specifically, the court finds there is no proof of a substantial and unreasonable intrusion into Plaintiff's privacy and therefore her invasion of privacy claim fails as a matter of law. Snakenberg v. Hartsford Casualty Ins. Co., Inc., 299 S.C. 164, 383 S.E.2d 2 (Ct. App. 1989). Her outrage cause of action claim must be dismissed as well, given there is insufficient proof of extreme and outrageous conduct by Defendants. See Hubbard & Felix, The S.C. Law of Torts at 468-69 (4th ed. 2011) (whether Defendant's conduct is sufficiently extreme and outrageous is initially question of law for court). Finally, there can be no civil conspiracy without proof of special damages or an agreement to injure Plaintiff.

Adultery is a criminal offense. S.C. Code § 16-15-60. While this statute is rarely enforced and regularly violated, it still represents our state's express public policy. This policy is deafeningly echoed in South Carolina domestic law, which recognizes adultery as a ground for divorce, § 20-3-10(1), and our Constitution. S.C. Const. Art. XVII, § 3. Consequently, Plaintiff's adulterous conduct bars her claims. Her wrongful conduct is directly connected to her injury, and her claims fundamentally depend on proof of that conduct.

Plaintiff appears to contend she was entrapped by Landgraff, who through a long, lecherous and manipulative scheme made her think his home was a haven when in reality he was building evidence that would be helpful when he sought a divorce. But the wrongful conduct rule is not reserved for puritan Defendants; as Lord Mansfield noted the defense "sounds at all times very ill in the mouth of the defendant. It is not for his sake, however, that the objection is ever allowed, but it is founded in general principles of policy which the defendant has the advantage of, contrary to the real justice as between him and the plaintiff..." White v. Commercial & Farmers' Bank, 66 S.C. 491, 45 S.E. 94, 102 (1903) (quoting Holman v. Johnson, 98 Eng. Rep. 1120, 1121 (K.B. 1775)); see also Coppell v Hall, 74 U.S. 542, 559 (1868) ("The defence is allowed, not for the sake of the defendant, but of the law itself.").

In this digital age our important privacy interests are especially threatened by recorded images. That the images may persist on some relatively permanent medium does not alter the analysis or the result required by the wrongful conduct bar. There is no evidence Defendant has disclosed them to non-parties outside of the judicial process, and if there was such evidence the wrongful conduct rule likely would not apply. If such disclosure ever occurs, other state and federal remedies may be available.

IT IS THERFORE ORDERED that Defendant Landgraff is granted summary judgment pursuant to Rule 56, SCRCP because:

1. There is no genuine issue of material fact as to Plaintiff's claims against Defendant;
2. Even if there is a scintilla of such evidence, Plaintiff's claims are barred as a matter of law due to the wrongful conduct bar and the in pari delicto doctrine.

IT IS SO ORDERED.

D. Garrison Hill
Circuit Judge

February 27, 2015
Greenville, South Carolina

STATE OF SOUTH CAROLINA COUNTY OF GREENVILLE	)	THIRTEENTH JUDICIAL CIRCUIT IN THE COURT OF COMMON PLEAS
Jane Doe, Plaintiff,	)	CA. No. 2013-CP-23-1762
vs.	)	**ORDER GRANTING PLAINTIFF RIGHT TO PROCEED ANONYMOUSLY**
Frank A. Landgraff, Carol Sutton, Sutton & Associates Investigations, Inc., Defendants.	)	

The Plaintiff in this case seeks to proceed under a pseudonym. The court finds that the subject matter of this lawsuit relates to Plaintiff's private affairs, and has no significant public interest. Identifying the Plaintiff poses a risk to Plaintiff's legitimate privacy interests and that could chill her rights to the judicial process. The court can discern no unfairness or other prejudice to Defendants. The court finds Plaintiff should be identified as "Jane Doe"[1] to preserve her privacy interests regarding the sensitive issues involved in this case.

IS IT THEREFORE ORDERED that Plaintiff may proceed under the name "Jane Doe", and all filings by the parties shall be so captioned. No one shall reveal the true identity of "Jane Doe" without further written order of this court.

IT IS SO ORDERED.

May 17, 2013
Greenville, South Carolina

D. Garrison Hill
Circuit Judge

[1] For reasons unknown, Plaintiff proposes to use the pseudonym "Mary R. McCorvey." The court finds the traditional fictitious name "Jane Doe" is less likely to cause confusion.

STATE OF SOUTH CAROLINA COUNTY OF GREENVILLE	)	THIRTEENTH JUDICIAL CIRCUIT IN THE COURT OF COMMON PLEAS
Jane Doe, Plaintiff, vs. Frank A. Landgraff, Carol Sutton, and Sutton & Associates Investigations, Inc., Defendants.	)	CA. No. 2013-CP-23-1762 **ORDER DENYING PLAINTIFF'S MOTION FOR TEMPORARY RESTRAINING ORDER**

Plaintiff has filed a complaint alleging Defendants have invaded her privacy, inflicted emotional distress upon her, and otherwise violated her rights by surreptitiously videotaping her while she was a guest in Defendant Landgraff's home. Using a pseudonym, Plaintiff moves for an ex parte Order temporarily restraining Defendants from disclosing her identity.

For a preliminary injunction to be granted, Plaintiff must establish that: 1) she will suffer irreparable harm if the injunction is not granted; 2) she will likely succeed on the merits of the litigation; and 3) she has no adequate remedy at law. Scratch Golf Co. v. Dunes West Residential Golf Properties, Inc., 361 S.C. 117, 603 S.E.2d 905 (2004); Rule 65, SCRCP. A temporary injunction is "an extraordinary and drastic remedy, one that should not be granted unless the movant, by a clear showing, carries the burden of persuasion." Mazurek v. Armstrong, 520 U.S. 968, 972 (1997) (per curiam).

This standard is heightened when a party seeks relief ex parte, for then the rule expressly provides that "[n]o temporary restraining order shall be granted without notice ...

Copy mailed to Attorney William G. Mayer on May 17 2013.

unless it clearly appears from specific facts shown by affidavit or by a verified complaint that immediate and irreparable injury, loss or damage will result to the applicant before notice can be served and a hearing had thereon." Rule 65(b), SCRCP (emphasis added).

Plaintiff has failed to show immediate, irreparable harm will ensue if an injunction is not granted. The only affidavit Plaintiff presents in support of her motion is one signed by her counsel,[1] paragraph 4 of which states:

> "I have also spent substantial time researching the facts of this case. I have determined the following to be true:
> a. Plaintiff was a guest in the home when the videotaping occurred;
> b. Plaintiff did not know Defendants had installed a hidden camera in a bedroom to secretly videotape her;
> c. Plaintiff thought she could reasonably expect her privacy at the time of the videotaping;
> d. Plaintiff did not consent to the secret videotaping;
> e. On numerous occasions, Defendants have taken specific actions relating to the videotaping to embarrass and intimidate Plaintiff;
> f. Based on their past actions, Defendants could escalate these actions if not enjoined."

At oral argument on the motion, Plaintiff's counsel could not supply concrete factual detail as to what "specific actions" related to the taping Defendants have taken against Plaintiff in the past. Thus, Plaintiff seeks to restrain Defendants – without notice or allowing them access to the courts to be heard – from doing something they have not yet done but that, in the opinion of Plaintiff's counsel, they might do in the future.

Courts cannot box shadows. Plaintiff may fear Defendants will make damaging revelations about her private affairs, but courts cannot be called upon to preemptively secure genies in bottles that may never be opened. It is precisely for this reason that a party seeking a preliminary injunction must show that "irreparable injury is likely in the absence of

[1] It is highly unusual for a lawyer to sign an affidavit in support of a client's ex parte motion for TRO.

injunctive relief." Winter v. Nat'l Resources Defense Council, Inc., 555 U.S. 7, 22 (2008). A party's fear of harm, however legitimate, is not enough if the object of the harm, however damaging, is not likely to materialize. See Holiday Inns of America, Inc. v. B & B Corp., 405 F.2d 614, 618 (3d Cir. 1969) ("The dramatic and drastic power of injunctive relief may be unleashed only against conditions generating a presently existing threat; it may not be used simply to eliminate the possibility of a remote future injury, or a future invasion of rights. ...") (Aldisert, J.); see also Wright & Miller, Federal Practice & Procedure, section 2948.1 (2013) ("Speculative injury is not sufficient, there must be more than an unfounded fear on the part of the applicant. ... A presently existing actual threat must be shown.").

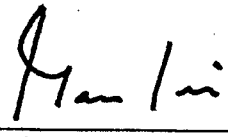
Plaintiffs point to decisions holding that a violation of one's constitutional rights can constitute irreparable harm. That is true, but the right to privacy Plaintiff claims springs from the common law, not a constitutional provision. Even if it were grounded in a constitutional right, there is no evidence of the requisite state action. Moreover, the alleged videotaping of Plaintiff occurred in December 2009 and there is no evidence that Defendants have disclosed Plaintiff's identity or continued infringing upon Plaintiff's rights

Finally, temporary injunctions are typically authorized when necessary to maintain the status quo. Here the status quo could only be disrupted by judicial action.

IT IS THEREFORE ORDERED that Plaintiff's motion for TRO is respectfully denied.

IT IS SO ORDERED.

May 17, 2013
Greenville, South Carolina



D. Garrison Hill
Circuit Judge

STATE OF SOUTH CAROLINA	)	**IN THE COURT OF COMMON PLEAS**
COUNTY OF GREENVILLE	)	**THIRTEENTH JUDICIAL CIRCUIT**
Jane Doe,	)	
Plaintiff,	)	**MOTION AND ORDER FOR CONTINUANCE**
vs	)	
	)	**2013-CP-23-01762**
Frank A. Landgraff, et al,	)	
Defendant.	)	

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GREENVILLE CO. S.C.
PAUL B. WICKENSHAMER
2013 DEC 5 PM 4 41

The parties to this action respectfully request Plaintiff's Motion to Strike and Motion for Summary Judgment currently docketed for Thursday, December 5, 2013 at 11:00 be continued pending the discovery process.

After reviewing the file I find it would be proper to grant this motion and

IT IS SO ORDERED

Circuit Court Judge
Thirteenth Judicial Circuit

Laurens, South Carolina
December 3, 2013

WE SO MOVE OR CONCUR

William G. Mayer, Atty for Doe

Reid T. Sherard, Atty for Landgraff

Joe Mooneyham, Atty for Sutton

ENTERED COMPUTER

STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS

COUNTY OF GREENVILLE) Civil Action No. 2013-CP-01762

FILED IN THE COURT
GREENVILLE CO. S.C.
PAUL C. TIMKEMEYER
2014 JAN 6 PM 2:29

Jane Doe,

Plaintiff,

vs.

Frank A. Landgraff, Carol Sutton, Carol Sutton & Associates-Investigations, Inc.,

Defendants.

ORDER

Defendant Frank Landgraff ("Landgraff") moves to set aside the May 17, 2013 Order ("Subject "Order") allowing Plaintiff to proceed anonymously in this lawsuit and restraining the parties from disclosing Plaintiff's identity to third-parties. Oral argument on the motion was held November 12, 2013. The Court grants Landgraff's Motion and dissolves the Subject Order.

Plaintiff did not serve Landgraff with a Summons, Complaint, or the Subject Order until June 1, 2013. Plaintiff concedes the Subject Order issued pursuant to an *ex parte* application under Rule 65, SCRCP. (*See* Pl. Opp. Memo. at 6.) The Subject Order therefore expired on May 28, 2013, ten (10) days after its entry. Rule 65(b), SCRCP (Order "shall expire by its terms within such time after *entry*, not to exceed 10 days...") (emphasis added). By operation of Rule 65(b), the Subject Order lapsed before Landgraff was ever served.

Plaintiff did not seek to renew the temporary injunction; consequently it has evaporated. See Rule 65(b), SCRCP ("[I]f [s]he does not [thereafter file an application for a temporary injunction], the Court shall dissolve the temporary restraining order.")

Landgraff further contends Plaintiff fails to satisfy the required showing to proceed anonymously. Given the record as it now stands, the court agrees. As a result, the Subject Order

Mlt

is vacated. A "general presumption of public identification of parties" exists in cases pending in South Carolina's courts. *Doe v. Howe*, 362 S.C. 212, 219, 607 S.E.2d 354, 357 (Ct. App. 2004). To overcome the presumption, the *Howe* Court outlined several factors (in contested hearings) to be considered, including, *inter alia*: (1) whether the justification asserted by the requesting party merely seeks to avoid the annoyance and criticism attendant to any litigation or seeks to preserve privacy in a matter of sensitive and highly personal nature; (2) whether identification poses a risk of retaliatory physical or mental harm to the requesting party; (3) the ages of the persons whose privacy interests are sought to be protected; (4) whether the action is against a governmental or private party; and (5) the risk of unfairness to the opposing party from allowing an action against it to proceed anonymously. *Doe*, 362 S.C. at 217-218. Plaintiff has not satisfied these criteria.

Plaintiff predicates her need to proceed anonymously on privacy concerns. However, the Court finds Plaintiff's privacy interests are substantially diminished, if not entirely absent, given her voluntary filing of an affidavit ("Prior Affidavit") in another lawsuit.[1] The Prior Affidavit contains detailed information about Plaintiff's relationship with Landgraff's former spouse during Landgraff's marriage, an issue cited by Landgraff as material to his defense of Plaintiff's invasion of privacy claims.[2] Plaintiff cannot claim privacy interests as to issues already disclosed in the public record.

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[1] The Court notes that all parties involved in this case are adults and the conduct cited in the Complaint occurred while they were adults. No evidence exists that Plaintiff's mere *identification* poses a risk of retaliatory physical or mental harm to the requesting party, as reflected by the existence of the Prior Affidavit in the public record.

[2] The Court will refrain from detailing the content of the Prior Affidavit but for purposes of a complete record does incorporate the Prior Affidavit by reference herein. The Prior Affidavit can be found attached as Exhibit 2 to the Motion to Strike in the Circuit Court's record in: *Mulligan v. Landgraff*, C.A. No. 2010-CP-23-6024.

The Court also finds the Subject Order unfairly prejudices Landgraff. Plaintiff publicly levels serious allegations against Landgraff, which he denies. Conversely, in support of his defense, Landgraff levels serious allegations against Plaintiff, which she presumably also denies. Allowing Plaintiff to proceed anonymously, while Landgraff defends publicly, places the parties on unequal footing in the absence of *bona fide* privacy concerns. The Court declines to elevate one party's litigation position over that of another and instead elects to abide by the "general presumption" requiring public identification of parties. *Doe v. Howe*, 362 S.C. at 219.

Landgraff similarly argues, and the Court so finds, that his ability to conduct discovery from third-parties (*i.e.,* issuance of third-party subpoenas and conducting third-party depositions) is impaired because the Subject Order restricts his ability to identify Plaintiff to third-parties while gathering evidence in his defense.

Plaintiff opposes Landgraff's Motion as untimely, mistakenly relying on the 10 day time limit found in Rule 59, SCRCP. Rule 59 relates to final judgments, not interlocutory orders. By contrast, it is well-settled in South Carolina that a trial court may set aside, alter or amend interlocutory orders before entry of final judgment. *See, e.g., PPG Industries, Inc. v. Orangeburg Paint & Decorating Center, Inc.*, 297 S.C. 176, 183 (S.C. Ct. App. 1988) ("A trial judge, until final judgment, controls the trial of the case before him, and as a general rule may amend, correct, modify, or otherwise change its findings of fact and conclusions of law before entry of judgment or decree.") Plaintiff's timeliness argument similarly ignores Rule 65, SCRCP, which dissolves by operation and law *ex parte* orders after ten (10) days. Finally, the court has the inherent power to vacate the Subject Order due to the circumstances under which it was obtained.[3] *Ex Parte Dibble*, 279 S.C. 592, 595, 310 S.E.2d 440 (Ct.App. 1983) (Sanders, C.J.)

[3] Plaintiff's counsel has represented to the court that he had no knowledge of the public filing of

("Courts have the inherent power to do all things reasonably necessary to insure that just results are reached...").

Accordingly, the May 17, 2013 Order is hereby vacated. Within ten (10) days of the receipt of this Order, Plaintiff is ordered to amend her Complaint for the sole purpose of substituting her real name for the pseudonym Jane Doe. All prior restrictions related to identifying the Plaintiff as found in the Subject Order are hereby removed.

IT IS SO ORDERED.

D. Garrison Hill
Circuit Judge

12/23, 2013
Greenville, S.C.

his client's prior affidavit before the Subject Order was obtained.

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF GREENVILLE	)	Civil Action No. 2013-CP-23-01762
Jane Doe,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	
	)	**ORDER AND RULE TO SHOW CAUSE**
Frank A. Landgraff, Carol Sutton, Carol Sutton & Associates-Investigations, Inc.,	)	
	)	
Defendants.	)	

FILED-CLERK OF COURT
GREENVILLE CO.
PAUL E. [illegible]
2014 FEB 20 PM 2 24

TO: PLAINTIFF

UPON READING THE MOTION FOR ENTRY OF RULE TO SHOW CAUSE FILED FEBRUARY 5, 2014, YOU ARE HEREBY ORDERED TO APPEAR IN THIS COURT AT THE GREENVILLE COUNTY COURT OF COMMON PLEAS, 305 E. NORTH STREET, ON April 2, 2014, AT 10:00 A.M., TO SHOW CAUSE WHY YOU SHOULD NOT BE HELD IN CONTEMPT OF THIS COURT'S ORDER FILED JANUARY 6, 2014 AND WHY PERMISSIBLE RELIEF REQUESTED BY DEFENDANT LANDGRAFF SHOULD NOT BE GRANTED.

Greenville, South Carolina

2/11, 2014

Judge of the Court of Common Pleas
Thirteenth Judicial Circuit

Copy mailed to
Attorney Sherard
on 2/20/14

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FORM 4

TATE OF SOUTH CAROLINA
:OUNTY OF GREENVILLE
N THE COURT OF COMMON PLEAS

FILED-CLERK OF COURT
GREENVILLE CO. S.C.
PAUL B. WICKENSIMER
2014 MAR 31 PM 3 21

JUDGMENT IN A CIVIL CASE
CASE NUMBER 2013-CP-23-01762

Jane Doe	Frank A. Landgraff Carol Sutton Carol Sutton & Associates Investigations, Inc.
PLAINTIFF(S)	DEFENDANT(S)

Submitted by:	Attorney for: ☐ Plaintiff ☐ Defendant ☐ Self-Represented Litigant

DISPOSITION TYPE (CHECK ONE)

☐ **JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.

☒ **DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.

☐ **ACTION DISMISSED (*CHECK REASON*):** ☐ Rule 12(b), SCRCP; ☐ Rule 41(a), SCRCP (Vol. Nonsuit); ☐ Rule 43(k), SCRCP (Settled); ☐ Other: _____

☐ **ACTION STRICKEN (*CHECK REASON*):** ☐ Rule 40(j) SCRCP; ☐ Bankruptcy; ☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; ☐ Other: _____

☐ **DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):** ☐ Affirmed; ☐ Reversed; ☐ Remanded; ☐ Other: _____

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

Γ IS ORDERED AND ADJUDGED: ☐ See attached order; (formal order to follow) ☒ Statement of Judgment by the Court:

'he Plaintiff's Motion to Alter or Amend this Court's December 23, 2013 order is denied. The motion is untimely, and contains ɔ valid basis for relief.

ORDER INFORMATION

his order ☐ ends ☒ does not end the case.

Additional Information for the Clerk:

ENTERED COMPUTER

FORM 4

STATE OF SOUTH CAROLINA
COUNTY OF GREENVILLE
IN THE COURT OF COMMON PLEAS

FILED-CLERK OF COURT
GREENVILLE CO. S.C.
PAUL B. WICKENSIMER
2014 JUL 1 PM 1 43

JUDGMENT IN A CIVIL CASE
CASE NUMBER 2013CP2301762

Jane Doe	Frank A Landgraff Carol Sutton & Associates Investigations Inc	Carol Sutton
PLAINTIFF(S)	DEFENDANT(S)	

Submitted by: Attorney for: ☐ Plaintiff ☐ Defendant ☐ Self-Represented Litigant

DISPOSITION TYPE (CHECK ONE)

☐ **JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.

☒ **DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered. ☐ See Page 2 for additional information.

☐ **ACTION DISMISSED (*CHECK REASON*):** ☐ Rule 12(b), SCRCP; ☐ Rule 41(a), SCRCP (Vol. Nonsuit); ☐ Rule 43(k), SCRCP (Settled); ☐ Other: _____

☐ **ACTION STRICKEN (*CHECK REASON*):** ☐ Rule 40(j) SCRCP; ☐ Bankruptcy; ☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; ☐ Other: _____

☐ **DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):** ☐ Affirmed; ☐ Reversed; ☐ Remanded; ☐ Other:

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: ☐ See attached order; (formal order to follow) ☒ Statement of Judgment by the Court:

Defendant's Motion to Strike Plaintiff's Complaint and Dismiss is respectfully Denied. Plaintiff's Motion to Partial Summary Judgment is Denied.

ORDER INFORMATION

This order ☐ ends ☒ does not end the case.
Additional Information for the Clerk: _____

INFORMATION FOR THE JUDGMENT INDEX

Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)

If applicable, describe the property, including tax map information and address, referenced in the order:

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. **Note: Title abstractors and researchers should refer to the official court order for judgment details.**

CPFORM4Cm
SCCA SCRCP Form 4C (Revised 3/2013)

ENTERED COMPUTER

EXHIBIT A

FORM 4

STATE OF SOUTH CAROLINA
COUNTY OF GREENVILLE
IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE
CASE NUMBER 13-01762

FILED-CLERK OF COURT
GREENVILLE CO
PAUL B. WICKENSMER
2014 DEC 5 PM 3 04

Jane Doe	Frank A Landgraff Carol Sutton & Associates Investigations Inc Carol Sutton
PLAINTIFF(S)	DEFENDANT(S)

Submitted by: Attorney for: ☐ Plaintiff ☐ Defendant ☐ Self-Represented Litigant

DISPOSITION TYPE (CHECK ONE)

☐ **JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.

☒ **DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered. ☐ See Page 2 for additional information.

☐ **ACTION DISMISSED (*CHECK REASON*):** ☐ Rule 12(b), SCRCP; ☐ Rule 41(a), SCRCP (Vol. Nonsuit); ☐ Rule 43(k), SCRCP (Settled); ☐ Other: _____

☐ **ACTION STRICKEN (*CHECK REASON*):** ☐ Rule 40(j) SCRCP; ☐ Bankruptcy; ☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; ☐ Other: _____

☐ **DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):** ☐ Affirmed; ☐ Reversed; ☐ Remanded; ☐ Other:

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: ☐ See attached order; (formal order to follow) ☒ Statement of Judgment by the Court:

Defendants' Motion for Summary Judgment is granted. Defendants' Motion to Compel and Plaintiff's Motion to Strike are thus rendered moot. Mr. Lane Davis, Esq. is requested to submit a short proposed order by December 10, 2014.

ORDER INFORMATION

This order ☒ ends ☐ does not end the case.
Additional Information for the Clerk: _____

INFORMATION FOR THE JUDGMENT INDEX

Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)

If applicable, describe the property, including tax map information and address, referenced in the order:

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge

CPFORM4Cm
SCCA SCRCP Form 4C (Revised 3/2013)

STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS

COUNTY OF GREENVILLE) THIRTEENTH JUDICIAL CIRCUIT

FILED-CLERK OF COURT
GREENVILLE CO. S.C.
PAUL B. WICKENSHER
2015 FEB 3 PM 12 10

Carol Simpson,) CA. NO.: 2013-CP-23-01762

Plaintiff,

v.

Frank A. Landgraff, Carol Sutton, Carol Sutton & Associates-Investigations, Inc.,

Defendants.

ORDER

Plaintiff brought this action claiming Defendant Frank A. Landgraff hired Defendant Carol Sutton and her private investigative agency to place a video camera in Landgraff's bedroom for the purpose of capturing evidence of her adultery with Landgraff's then-wife. Her complaint alleges causes of action for invasion of privacy, outrage, and civil conspiracy. Defendants now move for summary judgment.

The court has considered all filings made by the parties, even those that may have been untimely. This includes Plaintiff's lengthy affidavit filed in Defendant Landgraff's divorce case. Both sides have presented this affidavit to the court at different stages of this case, and both have indignantly criticized the other for disclosing it, contending it was "sealed" by Family Court order, even though no such order has been presented. The court prefers to resolve this dispute on the entire record.

Defendants claim there is no genuine material factual dispute concerning any of Plaintiff's claims. Construing the record in the light most favorable to Plaintiff, there are factual allegations that Defendants set up a motion-activated video camera in Landgraff's master bedroom for the purpose of recording Plaintiff. Plaintiff had been a frequent houseguest of

ENTERED COMPUTER

Landgraff and believed she had a right to privacy in Landgraff's bedroom. According to Plaintiff, the record also requires the following inference:

> Inference—Landgraff attempted to have an affair with Plaintiff. When she refused, he encouraged a friendship with his Wife. He then pushed for a threesome. When that ended, he orchestrated an evening between Plaintiff and his Wife. He set up a camera to record his fantasy. He then attempted to re-kindle the threesome. When his efforts ultimately failed, he portrayed himself as the victim and ended his already troubled marriage. He showed no remorse for Plaintiff for using her in his scheme.

See Plaintiff's Memorandum in Opposition to the Defendants' Proposed Order at 20.

While the court is required to draw inferences and ambiguities in Plaintiff's favor at the summary judgment stage, it is not required to indulge a party's selective accounts of events and turn them kaleidoscope-like until some illusory factual dispute faintly appears. Inference need not produce ignorance. While in the above excerpt Plaintiff declares she refused to have an affair with Landgraff, her previous sworn Affidavit to the Family court flatly admits she did.

But that is neither here nor there. Nowhere in the record do we learn what is actually on the videotape, if it still exists, or whether its contents were shared with a third party. The absence of this evidence entitles Defendants to summary judgment. There is not a scintilla of proof that the recordings contain any images of Plaintiff, a condition all of her tort claims hinge upon.[1] For all we know, even if the recordings exist, they may be blank, or contain images that neither depict Plaintiff nor infringe upon her privacy interests.

Even if the court stacks inference upon inference to find that recordings exist and show Plaintiff with Landgraff's then-wife, summary judgment is still proper for another reason.

[1] Specifically, the court finds that due to this lack of evidence there is no proof of a substantial and unreasonable intrusion into Plaintiff's privacy and therefore her invasion of privacy claim fails as a matter of law. Snakenberg v. Hartsford Casualty Ins. Co., Inc., 299 S.C. 164, 383 S.E.2d 2 (Ct. App. 1989). Her outrage cause of action claim must be dismissed as well, given there is insufficient proof of extreme and outrageous conduct by Defendants. See Hubbard & Felix, The S.C. Law of Torts at 468-69 (4th ed. 2011) (whether Defendant's conduct is sufficiently extreme and outrageous is initially question of law for court). Finally, there can be no civil conspiracy without proof of special damages or an agreement to injure Plaintiff.

Accepting the slant Plaintiff pushes for, Landgraff was videotaping her while she was in his bedroom having sexual contact with his wife. South Carolina law recognizes "[i]t is a well founded policy of law that no person be permitted to acquire a right of action from their own unlawful act and one who participates in an unlawful act cannot recover damages for the consequence of that act. This rule applies at both law and in equity and whether the cause of action is in contract or in tort." Jackson v. Bi-Lo Stores, Inc., 313 S.C. 272, 276, 437 S.E.2d 168 (Ct. App. 1993) (citations omitted). This defense has been known as in pari delicto, which translates as "in cases of equal or mutual fault, the position of the defending party is the better one," Proctor v. Whitlark & Whitlark, Inc., 406 S.C. 225, 228, 750 S.E.2d 93, 94 (Ct. App. 2013) (cert. granted Aug. 22, 2014), although our supreme court long ago appeared to prefer Lord Mansfield's rendering: "The principle of public policy is this. 'Ex dolo malo non oritur actio.' No court will lend its aid to a man who founds his cause of action upon an immoral or illegal act." White v. Commercial & Farmers' Bank, 66 S.C. 491, 45 S.E. 94, 102 (1903); see generally 4 S.C. Jur. Action § 21.

Other states recognize the principle, sometimes calling it the "wrongful conduct" bar, the unlawful acts doctrine, or ex turpi causa. Long part of American law, it is kin to the discredited "outlaw" doctrine that appeared in early English society. See Davis, The Plaintiff's Illegal Act as a Defense in Actions of Tort, 18 Harv. L. Rev. 505 (1905); King, Outlaws and Outlier Doctrines: The Serious Misconduct Bar in Tort Law, 43 Wm. & Mary L. Rev. 1011 (2002). It was applied in the famous "Highwayman" case, Everett v. Williams (Ex. 1725), where two robbers sought an accounting. The case did not end well: the solicitors were fined for contempt for bringing it to court, and the robbers were hanged. Still robust, the principle reminds that "the law leaves the

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quarreling accomplices where it finds them." Thomas v. UBS AG, 706 F.3d 846, 857 (7th Cir. 2013) (Posner, J.).

A Plaintiff's wrongful conduct will bar his right to claim damages caused by the conduct. The misconduct must be immoral, criminal or otherwise prohibited. And it must have been at least a concurring cause of the injury. See Restatement (Second) of Torts § 889 (1979) (one injured not barred from recovery merely because at time of injury he was committing a tort or crime).

The wrongful conduct rule has arisen in numerous contexts. It has been used to bar a Plaintiff convicted of possessing child pornography from suing his social worker for failure to effectively treat his sexual addiction, Greenwald v. Van Handel, 311 Conn. 370, 88 A.3d 467 (2014), an action for recovery of injuries from a gunshot wound that occurred when decedent attempted to steal a handgun, Ryan v. Hughes-Ortiz, 959 N.E.2d 1000 (Mass. App. 2012), a claim for injuries due to Oxycontin addiction when the Plaintiff had unlawfully obtained multiple prescriptions, Price v. Purdue Pharma Co., 920 So.2d. 479 (Miss. 2006), a lawsuit by a patient at a substance abuse treatment center against his counselor with whom he had an adulterous affair and used illegal drugs, Correll v. St. John's Hospital-Macomb Center, 2002 WL 226935 (Mich. App. 2002), and a claim by a teenager against a boy who sold him fireworks from which he extracted gunpowder to make a pipe bomb that exploded in his hands, Barker v. Kallash, 63 N.Y.2d 19, 468 N.E.2d 39 (1984).

Cardozo noted that "the principle that no man should profit from his own inequity or take advantage of his own wrong" had "its roots deeply fastened in universal sentiments of justice." Cardozo, The Nature of the Judicial Process at 41 (Yale Univ. Press 1921). In a different context, Justice Brandeis explained the driving rationale:

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> The court's aid is denied only when [the plaintiff] has violated the law in connection with the very transaction as to which he seeks legal redress. Then aid is denied despite the defendant's wrong. It is denied in order to maintain respect for law; in order to promote confidence in the administration of justice; in order to preserve the judicial process from contamination.

Olmstead v. United States, 277 U.S. 438, 483-484 (1928) (Brandeis, J., dissenting); see also Bateman Eichler, Hill Richards, Inc. v. Berner, 472 U.S. 299, 306 (1985) ("The defense is grounded on two premises: first, that courts should not lend their good offices to mediating disputes among wrongdoers; and second, that denying judicial relief to an admitted wrongdoer is an effective means of deterring illegality.")(footnotes omitted).

If Defendant Landgraff had stormed into his bedroom and caught Plaintiff and his then-wife in flagrante delicto, no court would countenance Plaintiff later suing him-- the husband and homeowner-- for invasion of privacy, emotional distress and outrage. Or, if Defendant husband had stationed a private investigator in his bedroom or outside its window to collect evidence of his wife's suspected infidelity with Plaintiff, it would be remarkable if Plaintiff as the paramour could then mulct the husband and the private investigator in damages for conspiring to invade her privacy.

Adultery is a criminal offense. S.C. Code § 16-15-60. While this statute is rarely enforced and regularly violated, it still represents our state's express public policy. Consequently, Plaintiff's adulterous conduct bars her claims. Her wrongful conduct is directly connected to her injury, and her claims fundamentally depend on proof of that conduct.

Plaintiff appears to contend she was entrapped by Landgraff, who through a long, lecherous and manipulative scheme made her think his home was a haven when in reality he was building evidence that would be helpful when he sought a divorce. But the wrongful conduct rule is not reserved for puritan Defendants; as Lord Mansfield noted the defense "sounds at all

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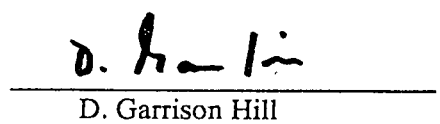
times very ill in the mouth of the defendant. It is not for his sake, however, that the objection is ever allowed, but it is founded in general principles of policy which the defendant has the advantage of, contrary to the real justice as between him and the plaintiff..." White v. Commercial & Farmers' Bank, 66 S.C. 491, 45 S.E. 94, 102 (1903) (quoting Holman v. Johnson, 98 Eng. Rep. 1120, 1121 (K.B. 1775)); see also Coppell v Hall, 74 U.S. 542, 559 (1868) ("The defence is allowed, not for the sake of the defendant, but of the law itself.").

In this digital age our important privacy interests are especially threatened by recorded images. That the images may, as Plaintiff speculates, persist on some relatively permanent medium does not alter the analysis or the result required by the wrongful conduct bar. Even if the images still exist, there is no evidence any Defendant has disclosed them to non-parties, and if there was such evidence the wrongful conduct rule likely would not apply. If such disclosure ever occurs, other state and federal remedies may be available.

IT IS THERFORE ORDERED that Defendants are granted summary judgment pursuant to Rule 56, SCRCP because:

1. There is no genuine issue of material fact as to Plaintiff's claims against Defendants, as there is no proof that any images of Plaintiff exist due to Defendants' conduct;
2. Even if there is a scintilla of such evidence, Plaintiff's claims are barred as a matter of law due to the wrongful conduct bar and the in pari delicto doctrine.

IT IS SO ORDERED.



D. Garrison Hill
Circuit Judge

February 3, 2015
Greenville, South Carolina

STATE OF SOUTH CAROLINA

COUNTY OF GREENVILLE

Mary R. McCorvey,

Plaintiff,

v.

Jane Roe, Detectives, Inc. and John Doe,

Defendants.

IN THE COURT OF COMMON PLEAS
C.A. 2013-CP-23-01762

COMPLAINT
(Jury Trial Demanded)

2013 MAR 27 P 2:51

The Plaintiff complaining of the Defendants will show the Court the following:

1. Plaintiff is a resident of Greenville County and unrelated to any defendant.

2. Defendant Jane Roe is a resident of Greenville County. Defendant Detectives, Inc. is a corporation duly authorized under the laws of the State of South Carolina, has its principal place in Greenville County, and is owned by Detective. Defendant John Doe is resident of Greenville County.. (Collectively, "Defendants")

3. Plaintiff was a frequent and sometimes an overnight guest in Defendant John Doe's house.

4. On at least two occasions, Defendants installed a hidden camera in a bedroom to secretly videotape Plaintiff undressing and in the bed.

5. Plaintiff had no knowledge of and did not consent to the secret videotaping.

6. By sworn statements, Defendants have admitted working together to install the camera and make the videotape.

7. Plaintiff has a constitutional and common law right to privacy.

WRONGFUL INTRUSION INTO PRIVATE AFFAIRS

8. Plaintiff realleges paragraphs 1-7 above as if fully repeated herein.

9. Defendants' actions intruded into Plaintiff's private affairs.

10. The intrusion was into aspects of Plaintiff's life that were private.

11. The intrusion was substantial and unreasonable enough to be legally cognizable.

12. Defendants intentionally intruded on Plaintiff's private affairs.

13. Plaintiff suffered presumed, actual, and punitive damages from Defendants' wrongful intrusion.

INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

14. Plaintiff realleges paragraphs 1-13 above as if fully repeated herein.

15. Defendants intentionally or recklessly inflicted severe emotional distress or was certain or substantially certain that such distress would result from their conduct.

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

17. Defendant's actions caused Plaintiff's emotional distress.

18. Plaintiff's emotional distress was so severe that no reasonable person could be expected to endure it.

19. Plaintiff suffered presumed, actual, and punitive damages from Defendants' intentional infliction of emotional distress.

CIVIL CONSPIRACY

20. Plaintiff realleges paragraphs 1-19 above as if fully repeated herein.

21. Defendants combined their actions for the purpose of injuring Plaintiff.

22. Defendants' combined actions caused Plaintiff to suffer special damages.

WHEREFORE, Plaintiff prays for the following relief:

1. Presumed damages in an amount to be determined by the trier of fact;

2. Actual damages in an amount to be determined by the trier of fact;

3. Special damages in an amount to be determined by the trier of fact;

4. Punitive damages in an amount to be determined by the trier of fact;

5. An order that Defendants are jointly and severally liable for all damages;

6. An order requiring Defendants to account for each and every videotape, recording, picture, photograph, or other depiction or documentation that has been created;

7. An order requiring Defendants to forfeit each and every videotape, recording, picture, photograph, or other depiction or documentation that has been created to Plaintiff; and

8. Such other relief as the Court deems is just and proper.

William G. Mayer
S.C. Bar No. 13340
Attorney for the Plaintiff
118 West Main Street
Laurens, SC 29360
864-984-9202 Telephone
864-715-0496 Facsimile

Plaintiff hereby demands a trial by jury.

William G. Mayer
S.C. Bar No. 13340
Attorney for the Plaintiff
118 West Main Street
Laurens, SC 29360
864-984-9202 Telephone
864-715-0496 Facsimile

Greenville, South Carolina
March 19, 2013

STATE OF SOUTH CAROLINA

COUNTY OF GREENVILLE

Mary R. McCorvey,

Plaintiff,

v.

Frank A. Landgraff, Carol Sutton, Sutton & Associates Investigations, Inc.

Defendants.

FILED-CLERK OF COURT
GREENVILLE CO. S.C.
PAUL B. WICKENSHER
2013 APR 25 P 1:42

IN THE COURT OF COMMON PLEAS
C.A. 2013-CP-23-01762

AMENDED COMPLAINT TO FURTHER IDENTIFY DEFENDANTS
(Jury Trial Demanded)

The Plaintiff complaining of the Defendants will show the Court the following:

1. Plaintiff is a resident of Greenville County and unrelated to any defendant.

2. Defendant Jane Roe is a resident of Greenville County. Defendant Detectives, Inc. is a corporation duly authorized under the laws of the State of South Carolina, has its principal place in Greenville County, and is owned by Detective. Defendant John Doe is resident of Greenville County. (Collectively, "Defendants")

3. Plaintiff was a frequent and sometimes an overnight guest in Defendant John Doe's house.

4. On at least two occasions, Defendants installed a hidden camera in a bedroom to secretly videotape Plaintiff undressing and in the bed.

5. Plaintiff had no knowledge of and did not consent to the secret videotaping.

6. By sworn statements, Defendants have admitted working together to install the camera and make the videotape.

7. Plaintiff has a constitutional and common law right to privacy.

WRONGFUL INTRUSION INTO PRIVATE AFFAIRS

8. Plaintiff realleges paragraphs 1-7 above as if fully repeated herein.

9. Defendants' actions intruded into Plaintiff's private affairs.

10. The intrusion was into aspects of Plaintiff's life that were private.

11. The intrusion was substantial and unreasonable enough to be legally cognizable.

12. Defendants intentionally intruded on Plaintiff's private affairs.

13. Plaintiff suffered presumed, actual, and punitive damages from Defendants' wrongful intrusion.

INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

14. Plaintiff realleges paragraphs 1-13 above as if fully repeated herein.

15. Defendants intentionally or recklessly inflicted severe emotional distress or was certain or substantially certain that such distress would result from their conduct.

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

17. Defendant's actions caused Plaintiff's emotional distress.

18. Plaintiff's emotional distress was so severe that no reasonable person could be expected to endure it.

19. Plaintiff suffered presumed, actual, and punitive damages from Defendants' intentional infliction of emotional distress.

CIVIL CONSPIRACY

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21. Defendants combined their actions for the purpose of injuring Plaintiff.

22. Defendants' combined actions caused Plaintiff to suffer special damages.

WHEREFORE, Plaintiff prays for the following relief:

1. Presumed damages in an amount to be determined by the trier of fact;

2. Actual damages in an amount to be determined by the trier of fact;

3. Special damages in an amount to be determined by the trier of fact;

4. Punitive damages in an amount to be determined by the trier of fact;

5. An order that Defendants are jointly and severally liable for all damages;

6. An order requiring Defendants to account for each and every videotape, recording, picture, photograph, or other depiction or documentation that has been created;

7. An order requiring Defendants to forfeit each and every videotape, recording, picture, photograph, or other depiction or documentation that has been created to Plaintiff; and

8. Such other relief as the Court deems is just and proper.

William G. Mayer
S.C. Bar No. 13340
Attorney for the Plaintiff
118 West Main Street
Laurens, SC 29360
864-984-9202 Telephone
864-715-0496 Facsimile

Plaintiff hereby demands a trial by jury.

William G. Mayer
S.C. Bar No. 13340
Attorney for the Plaintiff
118 West Main Street
Laurens, SC 29360
864-984-9202 Telephone
864-715-0496 Facsimile

Greenville, South Carolina
April 25, 2013

STATE OF SOUTH CAROLINA

COUNTY OF GREENVILLE

Jane Doe,

Plaintiff,

v.

Frank A. Landgraff, Carol Sutton, Carol Sutton & Associates - Investigations, Inc.

Defendants.

IN THE COURT OF COMMON PLEAS
C.A. 2013-CP-23-01762

AMENDED COMPLAINT TO AMEND CAPTION
(Jury Trial Demanded)

2013 MAY 29 P 3:34

The Plaintiff complaining of the Defendants will show the Court the following:

1. Plaintiff is a resident of Greenville County and unrelated to any defendant.

2. Defendant Carol Sutton is a resident of Greenville County. Defendant Carol Sutton & Associates - Investigations, Inc. is a corporation duly authorized under the laws of the State of South Carolina, has its principal place in Greenville County, and is owned by Carol Sutton. Defendant Frank A. Landgraff is resident of Greenville County. (Collectively, "Defendants")

3. Plaintiff was a frequent and sometimes an overnight guest in Defendant Frank A. Landgraff's house.

4. On at least two occasions, Defendants installed a hidden camera in a bedroom to secretly videotape Plaintiff undressing and in the bed.

5. Plaintiff had no knowledge of and did not consent to the secret videotaping.

6. By sworn statements, Defendants have admitted working together to install the camera and make the videotape.

7. Plaintiff has a constitutional and common law right to privacy.

WRONGFUL INTRUSION INTO PRIVATE AFFAIRS

8. Plaintiff realleges paragraphs 1-7 above as if fully repeated herein.

9. Defendants' actions intruded into Plaintiff's private affairs.

10. The intrusion was into aspects of Plaintiff's life that were private.

11. The intrusion was substantial and unreasonable enough to be legally cognizable.

12. Defendants intentionally intruded on Plaintiff's private affairs.

13. Plaintiff suffered presumed, actual, and punitive damages from Defendants' wrongful intrusion.

INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

14. Plaintiff realleges paragraphs 1-13 above as if fully repeated herein.

15. Defendants intentionally or recklessly inflicted severe emotional distress or was certain or substantially certain that such distress would result from their conduct.

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

17. Defendant's actions caused Plaintiff's emotional distress.

18. Plaintiff's emotional distress was so severe that no reasonable person could be expected to endure it.

19. Plaintiff suffered presumed, actual, and punitive damages from Defendants' intentional infliction of emotional distress.

CIVIL CONSPIRACY

20. Plaintiff realleges paragraphs 1-19 above as if fully repeated herein.

21. Defendants combined their actions for the purpose of injuring Plaintiff.

22. Defendants' combined actions caused Plaintiff to suffer special damages.

WHEREFORE, Plaintiff prays for the following relief:

1. Presumed damages in an amount to be determined by the trier of fact;

2. Actual damages in an amount to be determined by the trier of fact;

3. Special damages in an amount to be determined by the trier of fact;

4. Punitive damages in an amount to be determined by the trier of fact;

5. An order that Defendants are jointly and severally liable for all damages;

6. An order requiring Defendants to account for each and every videotape, recording, picture, photograph, or other depiction or documentation that has been created;

7. An order requiring Defendants to forfeit each and every videotape, recording, picture, photograph, or other depiction or documentation that has been created to Plaintiff; and

8. Such other relief as the Court deems is just and proper.

William G. Mayer
S.C. Bar No. 13340
Attorney for the Plaintiff
118 West Main Street
Laurens, SC 29360
864-984-9202 Telephone
864-715-0496 Facsimile

Plaintiff hereby demands a trial by jury.

William G. Mayer
S.C. Bar No. 13340
Attorney for the Plaintiff
118 West Main Street
Laurens, SC 29360
864-984-9202 Telephone
864-715-0496 Facsimile

Greenville, South Carolina
May 29, 2013

STATE OF SOUTH CAROLINA

COUNTY OF GREENVILLE

IN THE COURT OF COMMON PLEAS

C.A. 2013-CP-23-01762

GREENVILLE CO S.C.
PAUL B. WICKENSIMER
2013 JUN 14 P 2:34

Jane Doe,

Plaintiff,

v.

Frank A. Landgraff, Carol Sutton, Carol Sutton & Associates - Investigations, Inc.

Defendants.

AMENDED COMPLAINT
(Jury Trial Demanded)
June 14, 2013

The Plaintiff complaining of the Defendants will show the Court the following:

1. Plaintiff is a resident of Greenville County and unrelated to any defendant.

2. Defendant Carol Sutton is a resident of Greenville County. Defendant Carol Sutton & Associates - Investigations, Inc. is a corporation duly authorized under the laws of the State of South Carolina, has its principal place in Greenville County, and is owned by Carol Sutton. Defendant Frank A. Landgraff is resident of Greenville County. (Collectively, "Defendants")

3. Plaintiff was a frequent and sometimes an overnight guest in Defendant Frank A. Landgraff's house.

4. On at least two occasions, Defendants installed a hidden camera in a bedroom to secretly videotape Plaintiff undressing and in the bed.

5. Plaintiff had no knowledge of and did not consent to the secret videotaping.

6. Plaintiff has a constitutional and common law right to privacy.

7. On numerous occasions, Defendants have taken specific actions relating to the videotaping to embarrass and intimidate Plaintiff.

8. Defendants acted with malice.

WRONGFUL INTRUSION INTO PRIVATE AFFAIRS

9. Plaintiff realleges paragraphs 1-7 above as if fully repeated herein.

10. Defendants' actions intruded into Plaintiff's private affairs.

11. The intrusion was into aspects of Plaintiff's life that were private.

12. The intrusion was substantial and unreasonable enough to be legally cognizable.

13. Defendants intentionally intruded on Plaintiff's private affairs.

14. Plaintiff suffered presumed, actual, and punitive damages from Defendants' wrongful intrusion.

INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

15. Plaintiff realleges paragraphs 1-13 above as if fully repeated herein.

16. Defendants intentionally or recklessly inflicted severe emotional distress or was certain or substantially certain that such distress would result from their conduct.

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

18. Defendant's actions caused Plaintiff's emotional distress.

19. Plaintiff's emotional distress was so severe that no reasonable person could be expected to endure it.

20. Plaintiff suffered presumed, actual, and punitive damages from Defendants' intentional infliction of emotional distress.

CIVIL CONSPIRACY

21. Plaintiff realleges paragraphs 1-19 above as if fully repeated herein.

22. Defendants combined their actions for the purpose of injuring Plaintiff.

23. By sworn statements, Defendants have admitted working together to install the camera, make the videotape, and use it for their benefit.

24. Defendants' combined actions caused Plaintiff to suffer special damages including, but not limited to loss of professional reputation, medical expenses, and future medical expenses.

WHEREFORE, Plaintiff prays for the following relief:

1. Presumed damages in an amount to be determined by the trier of fact;

2. Actual damages in an amount to be determined by the trier of fact;

3. Special damages in an amount to be determined by the trier of fact;

4. Punitive damages in an amount to be determined by the trier of fact;

5. An order that Defendants are jointly and severally liable for all damages;

6. An order requiring Defendants to account for each and every videotape, recording, picture, photograph, or other depiction or documentation that has been created;

7. An order requiring Defendants to forfeit each and every videotape, recording, picture, photograph, or other depiction or documentation that has been created to Plaintiff; and

8. Such other relief as the Court deems is just and proper.

William G Mayer 6/14/13

William G. Mayer
S.C. Bar No. 13340
Attorney for the Plaintiff
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Laurens, SC 29360
864-984-9202 Telephone
864-715-0496 Facsimile

Plaintiff hereby demands a trial by jury.

William G Mayer 6/14/13

William G. Mayer
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STATE OF SOUTH CAROLINA

COUNTY OF GREENVILLE

FILED-CLERK OF COURT
GREENVILLE CO. S.C.
PAUL D. ..ICKENSIMER
2014 JUN 20 PM 4 05

IN THE COURT OF COMMON PLEAS
C.A. 2013-CP-23-01762

Carol Simpson,

Plaintiff,

v.

Frank A. Landgraff, Carol Sutton, Carol Sutton & Associates - Investigations, Inc.

Defendants.

AMENDED COMPLAINT
(Jury Trial Demanded)
June 19, 2014

The Plaintiff complaining of the Defendants will show the Court the following:

1. Carol Simpson is a resident of Greenville County and unrelated to any defendant.

2. Defendant Carol Sutton is a resident of Greenville County. Defendant Carol Sutton & Associates - Investigations, Inc. is a corporation duly authorized under the laws of the State of South Carolina, has its principal place in Greenville County, and is owned by Carol Sutton. Defendant Frank A. Landgraff is resident of Greenville County. (Collectively, "Defendants")

3. Plaintiff was a frequent and sometimes an overnight guest in Defendant Frank A. Landgraff's house.

4. On at least two occasions, Defendants installed a hidden camera in a bedroom to secretly videotape Plaintiff undressing and in the bed.

5. Plaintiff had no knowledge of and did not consent to the secret videotaping.

6. Plaintiff has a constitutional and common law right to privacy.

7. On numerous occasions, Defendants have taken specific actions relating to the videotaping to embarrass and intimidate Plaintiff.

8. Defendants acted with malice.

WRONGFUL INTRUSION INTO PRIVATE AFFAIRS

9. Plaintiff realleges paragraphs 1-7 above as if fully repeated herein.

10. Defendants' actions intruded into Plaintiff's private affairs.

11. The intrusion was into aspects of Plaintiff's life that were private.

12. The intrusion was substantial and unreasonable enough to be legally cognizable.

13. Defendants intentionally intruded on Plaintiff's private affairs.

14. Plaintiff suffered presumed, actual, and punitive damages from Defendants' wrongful intrusion.

INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

15. Plaintiff realleges paragraphs 1-13 above as if fully repeated herein.

16. Defendants intentionally or recklessly inflicted severe emotional distress or was certain or substantially certain that such distress would result from their conduct.

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

18. Defendant's actions caused Plaintiff's emotional distress.

19. Plaintiff's emotional distress was so severe that no reasonable person could be expected to endure it.

20. Plaintiff suffered presumed, actual, and punitive damages from Defendants' intentional infliction of emotional distress.

CIVIL CONSPIRACY

21. Plaintiff realleges paragraphs 1-19 above as if fully repeated herein.

22. Defendants combined their actions for the purpose of injuring Plaintiff.

23. By sworn statements, Defendants have admitted working together to install the camera, make the videotape, and use it for their benefit.

24. Defendants' combined actions caused Plaintiff to suffer special damages including, but not limited to loss of professional reputation, medical expenses, and future medical expenses.

WHEREFORE, Plaintiff prays for the following relief:

1. Presumed damages in an amount to be determined by the trier of fact;

2. Actual damages in an amount to be determined by the trier of fact;

3. Special damages in an amount to be determined by the trier of fact;

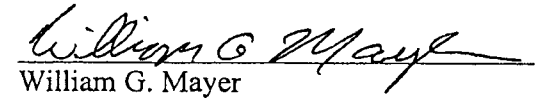
4. Punitive damages in an amount to be determined by the trier of fact;

5. An order that Defendants are jointly and severally liable for all damages;

6. An order requiring Defendants to account for each and every videotape, recording, picture, photograph, or other depiction or documentation that has been created;

7. An order requiring Defendants to forfeit each and every videotape, recording, picture, photograph, or other depiction or documentation that has been created to Plaintiff; and

8. Such other relief as the Court deems is just and proper.



William G. Mayer
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Attorney for the Plaintiff
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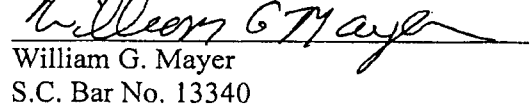
Plaintiff hereby demands a trial by jury.



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Greenville, South Carolina
June 19, 2014

STATE OF SOUTH CAROLINA

COUNTY OF GREENVILLE

FILED-CLERK OF COURT
GREENVILLE CO
2013 JUL -1 P 4:19

THIRTEENTH JUDICIAL CIRCUIT
COURT OF COMMON PLEAS
C.A. No. 2013-CP-23-01762

Jane Doe,

Plaintiff,

v.

Frank A. Landgraff, Carol Sutton,
Carol Sutton & Associates – Investigations, Inc.

Defendants.

ANSWER OF
FRANK A. LANDGRAFF

Defendant, Frank A. Landgraff ("Landgraff"), answering the Amended Complaint of Jane Doe ("Doe") filed June 14, 2013, would respectfully show the Court as follows. Each and every allegation for which Landgraff does not supply a specific response is denied.

1. As to Paragraph 1, no individual named Jane Doe exists, the named Plaintiff is not the real party in interest, and no formal disclosure of Plaintiff's identity has been made to Landgraff. Plaintiff improperly obtained an Order from the Court, in an *ex parte* application, regarding her ability to proceed anonymously, and Landgraff has not been given an opportunity to be heard. Paragraph 1's allegations are denied as a result.

2. As to Paragraph 2, Landgraff admits he is a resident of Greenville County. Landgraff lacks sufficient information to admit or deny the balance of Paragraph 2's allegations and therefore they are denied.

3. As to Paragraph 3, no individual named Jane Doe exists, the named Plaintiff is not the real party in interest, and no formal disclosure of Plaintiff's identity has been made to Landgraff. Plaintiff improperly obtained an Order from the Court, in an *ex parte* application,

regarding her ability to proceed anonymously, and Landgraff has not been given an opportunity to be heard. Paragraph 3's allegations are denied as a result. Landgraff further denies Paragraph 3's characterization through the use of the term frequent.

4. As to Paragraph 4, no individual named Jane Doe exists, the named Plaintiff is not the real party in interest, and no formal disclosure of Plaintiff's identity has been made to Landgraff. Plaintiff improperly obtained an Order from the Court, in an *ex parte* application, regarding her ability to proceed anonymously, and Landgraff has not been given an opportunity to be heard. Paragraph 4's allegations are denied as a result. Landgraff further denies Paragraph 4's allegations particularly as they relate to statements of intent.

5. As to Paragraph 5, no individual named Jane Doe exists, the named Plaintiff is not the real party in interest, and no formal disclosure of Plaintiff's identity has been made to Landgraff. Plaintiff improperly obtained an Order from the Court, in an *ex parte* application, regarding her ability to proceed anonymously, and Landgraff has not been given an opportunity to be heard. Paragraph 5's allegations are denied as a result. Landgraff further denies Paragraph 5's legal characterizations regarding the existence of any intent(s) and the necessity of any consent(s) to be obtained.

6. As to Paragraph 6, no individual named Jane Doe exists, the named Plaintiff is not the real party in interest, and no formal disclosure of Plaintiff's identity has been made to Landgraff. Plaintiff improperly obtained an Order from the Court, in an *ex parte* application, regarding her ability to proceed anonymously, and Landgraff has not been given an opportunity to be heard. Paragraph 6's allegations are denied as a result. Landgraff further denies Paragraph 6's legal conclusions particularly as to the application of constitutional restrictions and their application to private citizens.

7. As to Paragraph 7, no individual named Jane Doe exists, the named Plaintiff is not the real party in interest, and no formal disclosure of Plaintiff's identity has been made to Landgraff. Plaintiff improperly obtained an Order from the Court, in an *ex parte* application, regarding her ability to proceed anonymously, and Landgraff has not been given an opportunity to be heard. Paragraph 7's allegations are denied as a result. Landgraff further denies Paragraph 7's use of the phrases "numerous occasions" and "specific actions" without alleging any supporting facts.

8. Landgraff denies Paragraph 8's allegations.

9. Landgraff denies Paragraph 9's allegations, consistent with the above denials.

10. Landgraff denies Paragraph 10's allegations.

11. Landgraff denies Paragraph 11's allegations.

12. Landgraff denies Paragraph 12's allegations.

13. Landgraff denies Paragraph 13's allegations.

14. Landgraff denies Paragraph 14's allegations.

15. Landgraff denies Paragraph 15's allegations, consistent with the above denials.

16. Landgraff denies Paragraph 16's allegations.

17. Landgraff denies Paragraph 17's allegations.

18. Landgraff denies Paragraph 18's allegations.

19. Landgraff denies Paragraph 19's allegations.

20. Landgraff denies Paragraph 20's allegations.

21. Landgraff denies Paragraph 21's allegations, consistent with the above denials.

22. Landgraff denies Paragraph 22's allegations.

23. Landgraff denies Paragraph 23's allegations.

24. Landgraff denies Paragraph 24's allegations.

25. Landgraff denies the Prayer for Relief, including sub-paragraphs 1 through 8.

FOR A FIRST AFFIRMATIVE DEFENSE
(Failure to State a Claim)

26. Landgraff incorporates by reference all prior responses, not inconsistent.

27. Plaintiff failed to state a claim upon which relief can be granted.

FOR A SECOND AFFIRMATIVE DEFENSE
(Real Party In Interest)

28. Landgraff incorporates by reference all prior responses, not inconsistent.

29. Plaintiff's Complaint warrants immediate dismissal as it violates Rule 17, SCRCP.

FOR A THIRD AFFIRMATIVE DEFENSE
(Failure to Plead Special Damages With Specificity)

30. Landgraff incorporates by reference all prior responses, not inconsistent.

31. Plaintiff alleges special damages without pleading the same with specificity. Accordingly, all claims for special damages violate Rule 9(g), SCRCP and warrant immediate dismissal.

FOR A FOURTH AFFIRMATIVE DEFENSE
(Ineffective Amendment)

32. Landgraff incorporates by reference all prior responses, not inconsistent.

33. Plaintiff submitted multiple successive purported amendments to her Complaint in violation of Rule 15, SCRCP. All amendments beyond those contained in Plaintiff's first Amended Complaint are unauthorized and procedurally improper. Plaintiff cannot rely upon any and all such ineffective amendments to support any claim for relief.

FOR A FIFTH AFFIRMATIVE DEFENSE
(Improper Allegations of Civil Conspiracy)

34. Landgraff incorporates by reference all prior responses, not inconsistent.

35. Plaintiff improperly attempts to recover damages for an alleged civil conspiracy. South Carolina law disallows Plaintiff from recovering damages for the same delicts allegedly supporting the other claims asserted by Plaintiff.

36. In addition, civil conspiracy claims require allegations of special damages which must be stated with particularity.

FOR A SIXTH AFFIRMATIVE DEFENSE
(Privilege)

37. Landgraff incorporates by reference all prior responses, not inconsistent.

38. Some or all of Plaintiff's claims are barred by the doctrine of privilege.

FOR A SEVENTH AFFIRMATIVE DEFENSE
(Justification)

39. Landgraff incorporates by reference all prior responses, not inconsistent.

40. Some or all of Plaintiff's claims are barred by the doctrine of justification. To the extent Plaintiff's allegations in any way prove true, which is denied, Landgraff's actions prove justified as an exercise of rights available to him under the common law.

FOR AN EIGHTH AFFIRMATIVE DEFENSE
(Ex Turpi Causa)

41. Landgraff incorporates by reference all prior responses, not inconsistent.

42. Some or all of Plaintiff's claims are barred by the doctrine of *ex turpi causa*. It is a well-founded principle of law that no person can acquire a right of action from their own unlawful act. One who participates in an unlawful act cannot recover damages for the consequences of that act.

43. In addition, no wrongful intrusion can occur in instances where Plaintiff enjoyed no lawful right to be present and was engaging in activities contrary to the law and public policy of the State of South Carolina.

FOR A NINTH AFFIRMATIVE DEFENSE
(Willful Publication/Consent)

44. Landgraff incorporates by reference all prior responses, not inconsistent.

45. Some or all of the affairs characterized by Plaintiff were publicly disclosed by Plaintiff in court filings. Plaintiff voluntarily submitted an affidavit in prior court filings wherein she divulged detailed information about the private affairs she now claims supports her claim for intrusion.

46. No privacy expectation attaches to information Plaintiff voluntarily places in the public domain.

47. Some or all of Plaintiff's claims are, therefore, barred by or diminished by virtue of the doctrine of consent.

48. Landgraff is further informed and believes Plaintiff failed to disclose such previous public filings when Plaintiff improperly sought, through an *ex parte* application, an Order to proceed anonymously in this action.

FOR A TENTH AFFIRMATIVE DEFENSE
(Lack of Causation)

49. Landgraff incorporates by reference all prior responses, not inconsistent.

50. Some or all of the damages claimed by Plaintiff resulted from unrelated causes. For example, Plaintiff's professional reputation, if diminished, resulted from acts or conduct wholly unrelated to Landgraff or any allegation in the Complaint.

51. Plaintiff's professional reputation, if diminished, resulted from her own improper acts.

FOR AN ELEVENTH AFFIRMATIVE DEFENSE
(Improper Remedies)

52. Landgraff incorporates by reference all prior responses, not inconsistent.

53. Plaintiff's Prayer for Relief seeks remedies unavailable under the claims alleged.

WHEREFORE, having fully answered the June 14, 2013 Amended Complaint, Landgraff prays for the following relief:

A. An Order dismissing Plaintiff's Amended Complaint with prejudice;

B. An Order awarding Landgraff costs;

C. Such other relief as the Court deems necessary or just.

NELSON MULLINS RILEY & SCARBOROUGH LLP

By: Reid T. Sherard

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Greenville, SC 29601
(864) 250-2300
Attorneys for Frank A. Landgraff

Greenville, South Carolina

7/1, 2013

STATE OF SOUTH CAROLINA	)	THIRTEENTH JUDICIAL CIRCUIT
	)	COURT OF COMMON PLEAS
COUNTY OF GREENVILLE	)	C.A. No. 2013-CP-23-01762
	)	
Carol Simpson,	)	2014 JUL 10 PM 3 47
	)	
Plaintiff,	)	
	)	
v.	)	ANSWER OF
	)	FRANK A. LANDGRAFF
Frank A. Landgraff, Carol Sutton,	)	
Carol Sutton & Associates – Investigations, Inc.	)	
	)	
Defendants.	)	
	)	

Defendant, Frank A. Landgraff ("Landgraff"), answering the Amended Complaint of Carol Simpson ("Simpson") filed June 20, 2014, would respectfully show the Court as follows. Each and every allegation for which Landgraff does not supply a specific response is denied.

1. As to Paragraph 1, Landgraff admits Simpson is unrelated to him. Landgraff is without sufficient information to admit or deny the balance of Paragraph 1's allegations and therefore they are denied.

2. As to Paragraph 2, Landgraff admits he is a resident of Greenville County. Landgraff lacks sufficient information to admit or deny the balance of Paragraph 2's allegations and therefore they are denied.

3. As to Paragraph 3, Landgraff admits Simpson has been physically present inside his residence. Landgraff denies the characterization through the use of the phrase "frequent and sometimes an overnight guest." Landgraff denies the remaining allegations.

4. Landgraff denies Paragraph 4's allegations, and particularly as they relate to statements of intent.

5. Landgraff denies Paragraph 5's allegations, and particularly the legal characterizations regarding the existence of any intent(s) and the necessity of any consent(s) to be obtained.

6. Landgraff denies Paragraph 6's allegations, and particularly the legal conclusions as to the application of constitutional restrictions and their application to private citizens.

7. Landgraff denies Paragraph 7's allegations, and particularly the use of the phrases "numerous occasions" and "specific actions" without alleging any supporting facts.

8. Landgraff denies Paragraph 8's allegations.

9. Landgraff denies Paragraph 9's allegations, consistent with the above denials.

10. Landgraff denies Paragraph 10's allegations.

11. Landgraff denies Paragraph 11's allegations.

12. Landgraff denies Paragraph 12's allegations.

13. Landgraff denies Paragraph 13's allegations.

14. Landgraff denies Paragraph 14's allegations.

15. Landgraff denies Paragraph 15's allegations, consistent with the above denials.

16. Landgraff denies Paragraph 16's allegations.

17. Landgraff denies Paragraph 17's allegations.

18. Landgraff denies Paragraph 18's allegations.

19. Landgraff denies Paragraph 19's allegations.

20. Landgraff denies Paragraph 20's allegations.

21. Landgraff denies Paragraph 21's allegations, consistent with the above denials.

22. Landgraff denies Paragraph 22's allegations.

23. Landgraff denies Paragraph 23's allegations.

24. Landgraff denies Paragraph 24's allegations.

25. Landgraff denies the Prayer for Relief, including sub-paragraphs 1 through 8.

FOR A FIRST AFFIRMATIVE DEFENSE
(Failure to State a Claim)

26. Landgraff incorporates by reference all prior responses, not inconsistent.

27. Simpson failed to state a claim upon which relief can be granted.

FOR A SECOND AFFIRMATIVE DEFENSE
(Failure to Plead Special Damages With Specificity)

28. Landgraff incorporates by reference all prior responses, not inconsistent.

29. Simpson alleges special damages without pleading the same with specificity. Accordingly, all claims for special damages violate Rule 9(g), SCRCP and warrant immediate dismissal.

FOR A THIRD AFFIRMATIVE DEFENSE
(Ineffective Amendment)

30. Landgraff incorporates by reference all prior responses, not inconsistent.

31. Simpson submitted multiple successive purported amendments to her Complaint in violation of Rule 15, SCRCP and the Order filed January 6, 2014. All amendments beyond those contained in Simpson's first Amended Complaint are unauthorized and procedurally improper. Simpson cannot rely upon any and all such ineffective amendments to support any claim for relief.

FOR A FOURTH AFFIRMATIVE DEFENSE
(Improper Allegations of Civil Conspiracy)

32. Landgraff incorporates by reference all prior responses, not inconsistent.

33. Simpson improperly attempts to recover damages for an alleged civil conspiracy. South Carolina law disallows Simpson from recovering damages for the same delicts allegedly supporting the other claims asserted by Simpson.

34. In addition, civil conspiracy claims require allegations of special damages which must be stated with particularity.

FOR A FIFTH AFFIRMATIVE DEFENSE
(Privilege)

35. Landgraff incorporates by reference all prior responses, not inconsistent.

36. Some or all of Simpson's claims are barred by the doctrine of privilege.

FOR A SIXTH AFFIRMATIVE DEFENSE
(Justification)

37. Landgraff incorporates by reference all prior responses, not inconsistent.

38. Some or all of Simpson's claims are barred by the doctrine of justification. To the extent Simpson's allegations in any way prove true, which is denied, Landgraff's actions prove justified as an exercise of rights available to him under the common law.

FOR A SEVENTH AFFIRMATIVE DEFENSE
(Ex Turpi Causa)

39. Landgraff incorporates by reference all prior responses, not inconsistent.

40. Some or all of Simpson's claims are barred by the doctrine of *ex turpi causa*. It is a well-founded principle of law that no person can acquire a right of action from their own unlawful act. One who participates in an unlawful act cannot recover damages for the consequences of that act.

41. In addition, no wrongful intrusion can occur in instances where Simpson enjoyed no lawful right to be present and was engaging in activities contrary to the law and public policy of the State of South Carolina.

FOR AN EIGHTH AFFIRMATIVE DEFENSE
(Willful Publication/Consent)

42. Landgraff incorporates by reference all prior responses, not inconsistent.

43. Some or all of the affairs characterized by Simpson were publicly disclosed by Simpson in court filings. Simpson voluntarily submitted an affidavit in prior court filings wherein she divulged detailed information about the private affairs she now claims supports her claim for intrusion.

44. No privacy expectation attaches to information Simpson voluntarily places in the public domain.

45. Some or all of Simpson's claims are, therefore, barred by or diminished by virtue of the doctrine of consent.

46. Landgraff is further informed and believes Simpson failed to disclose such previous public filings when Simpson improperly sought, through an *ex parte* application, an Order to proceed anonymously in this action.

FOR A NINTH AFFIRMATIVE DEFENSE
(Lack of Causation)

47. Landgraff incorporates by reference all prior responses, not inconsistent.

48. Some or all of the damages claimed by Simpson resulted from unrelated causes. For example, Simpson's professional reputation, if diminished, resulted from acts or conduct wholly unrelated to Landgraff or any allegation in the Complaint.

49. Simpson's professional reputation, if diminished, resulted from her own improper acts.

FOR A TENTH AFFIRMATIVE DEFENSE
(Improper Remedies)

50. Landgraff incorporates by reference all prior responses, not inconsistent.

51. Simpson's Prayer for Relief seeks remedies unavailable under the claims alleged.

WHEREFORE, having fully answered the June 20, 2014 Amended Complaint, Landgraff prays for the following relief:

A. An Order dismissing Simpson's Amended Complaint with prejudice;

B. An Order awarding Landgraff costs;

C. Such other relief as the Court deems necessary or just.

NELSON MULLINS RILEY & SCARBOROUGH LLP

By: Reid T. Sherard

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Attorneys for Frank A. Landgraff

Greenville, South Carolina
7/10, 2014

STATE OF SOUTH CAROLINA	)	
	)	IN THE COURT OF COMMON PLEAS
COUNTY OF GREENVILLE	)	
		Civil Action No.: 2013-CP-23-01762
Jane Doe,	)	
	)	
Plaintiff,	)	
	)	Answer Of Carol Sutton
vs.	)	and Carol Sutton & Associates—Investigations, Inc.
	)	
	)	
	)	
Frank A. Landgraff, Carol Sutton,	)	
Carol Sutton & Associates –	)	
Investigations, Inc.,	)	
	)	
Defendants.	)	
	)	

Defendants Carol Sutton and Carol Sutton and Associates—Investigations, Inc.; in answer to the plaintiff's complaint, would respectfully allege as follows:

FOR A FIRST DEFENSE AS TO ALL CAUSES OF ACTION

1. Any allegation of the complaint not hereafter admitted or explained is hereby denied in its entirety, and strict proof thereof demanded.

2. To the extent that any paragraph of the complaint refers to the fictitious person "Jane Doe", no such person exists. The named plaintiff is not the person in interest, and these defendants are unaware of the identity of the fictitious person who may be the plaintiff, as a result of that party's *ex parte* application to the Court to proceed anonymously. These defendants therefore generally deny any allegation that relates to the plaintiff based on the lack of knowledge of his or her identity, and therefore based on their inability to respond based on lack of information or belief.

2. The allegations of Paragraph1 are denied, and strict proof thereof demanded.

3. These defendants admit, on information and belief, the allegations of Paragraph 2 of the complaint.

4. These defendants lack information and belief as to the allegations of Paragraph 3 of the complaint, and therefore deny the same, and demand strict proof thereof.

5. As these defendants are unaware of the identity of Jane Doe, and as no such person exists, they deny the allegations of Paragraph 4 and demand strict proof thereof. Further, Paragraph 4 does not state with specificity where the bedroom that is mentioned is located, and they therefore deny that allegation and demand strict proof thereof. Finally, they specifically deny that they installed a hidden camera anywhere with the intention of "secretly" videotaping any particular person undressing and in the bed, as is alleged, and demand strict proof thereof.

6. These defendants have no information and belief as to the allegations of Paragraph 5, and therefore deny the same, and demand strict proof thereof.

7. The allegations of Paragraph 6 are conclusions of law and therefore require no response.

8. The allegations of Paragraph 7 are denied and strict proof thereof demanded.

9. The allegations of Paragraph 8 are denied and strict proof thereof demanded.

10. The allegations of Paragraph 9 are denied and strict proof thereof demanded.

11. The allegations of Paragraph 10 are denied and strict proof thereof demanded.

12. The allegations of Paragraph 11 are denied and strict proof thereof demanded.

13. The allegations of Paragraph 12 are denied and strict proof thereof demanded.

14. The allegations of Paragraph 13 are denied and strict proof thereof demanded.

15. The allegations of Paragraph 14 are denied and strict proof thereof demanded.

16. The allegations of Paragraph 15 are denied and strict proof thereof demanded.

17. The allegations of Paragraph 16 are denied and strict proof thereof demanded.

18. The allegations of Paragraph 17 are denied and strict proof thereof demanded.

19. The allegations of Paragraph 18 are denied and strict proof thereof demanded.

20. The allegations of Paragraph 19 are denied and strict proof thereof demanded.

21. The allegations of Paragraph 20 are denied and strict proof thereof demanded.

22. The allegations of Paragraph 21 are denied and strict proof thereof demanded.

23. The allegations of Paragraph 22 are denied and strict proof thereof demanded.

24. The allegations of Paragraph 23 are denied and strict proof thereof demanded.

25. The allegations of Paragraph 24 are denied and strict proof thereof demanded.

26. The allegations of the plaintiff's prayer for relief are denied and strict proof thereof demanded.

FOR A SECOND DEFENSE

27. These defendants repeat the allegations of the preceding paragraphs as if fully repeated herein.

28. These defendants allege that since the plaintiff is a fictitious person and has not been identified, the complaint must be dismissed pursuant to Rule 17, *South Carolina Rules of Civil Procedure.*

FOR A THIRD DEFENSE

29. These defendants repeat the allegations of the preceding paragraphs as if fully repeated herein.

30. These defendants allege that the plaintiff's complaint fails to state facts sufficient to constitute a cause of action against them.

31. These defendants allege that they are entitled to dismissal of the plaintiff's complaint against them pursuant to Rule 12(b)6 of the *South Carolina Rules of Civil Procedure.*

FOR A FOURTH DEFENSE

32. These defendants repeat the allegations of the preceding paragraphs as if fully repeated herein.

33. The plaintiff has failed to join parties who are indispensible to the just resolution of this matter.

34. This matter must be dismissed for failure to join those parties, pursuant to Rule 12(b)7 and Rule 19(a), *South Carolina Rules of Civil Procedure.*

FOR A FIFTH DEFENSE

35. These defendants repeat the allegations of the preceding paragraphs as if fully repeated herein.

36. The damages incurred by the plaintiff, if any, were caused by the acts of persons outside the control of these defendants, and they therefore plead their acts and omissions as a complete bar to this action as to them.

FOR A SIXTH DEFENSE

37. These defendants repeat the allegations of the preceding paragraphs as if fully repeated herein.

38. These defendants are informed and believe that the plaintiff either implicitly or explicitly consented to the surveillance complained of, and that his or her consent would be an absolute bar to claims against these defendants.

FOR A SEVENTH DEFENSE

39. These defendants repeat the allegations of the preceding paragraphs as if fully repeated herein.

40. Insofar as the plaintiff's complaint seeks punitive damages, such damages are violative of both the United States and South Carolina Constitutions and are therefore not recoverable in this cause.

FOR AN EIGHTH DEFENSE

41. These defendants repeat the allegations of the preceding paragraphs as if fully repeated herein.

42. These defendants allege that by his or her conduct, the plaintiff assumed the risk of injury, if any, which injury is specifically denied, and strict proof thereof demanded.

FOR A NINTH DEFENSE

43. These defendants repeat the allegations of the preceding paragraphs as if fully repeated herein.

44. An element of various causes of action alleged by the plaintiff is special damages, as that term is defined by Rule 9(g), *South Carolina Rules of Civil Procedure.*

45. The plaintiff has failed to plead such damages with specificity, and therefore, those causes of action should be dismissed from the complaint, with prejudice.

FOR A TENTH DEFENSE

46. These defendants repeat the allegations of the preceding paragraphs as if fully repeated herein.

47. The plaintiff's claims for damages arising from civil conspiracy must be plead with specificity.

48. The plaintiff has failed to plead the elements of civil conspiracy, including but not limited to damages arising from a conspiracy different in nature or character from those arising from other acts or omissions plead in the complaint.

49. The defects in the plaintiff's conspiracy cause of action are fatal to that cause of action.

50. The conspiracy cause of action should be dismissed, with prejudice.

FOR AN ELEVENTH DEFENSE
(*Ex Turpi Causa*)

51. These defendants repeat the allegations of the preceding paragraphs as if fully repeated herein.

52. The plaintiff seeks to profit from his or her own unlawful acts.

53. Pursuant to the legal doctrine of *ex turpi causa*, the plaintiff is barred from recovery for damages caused by his or her acts, when those acts violate the statutory and common law, as well as public policy, of the state of South Carolina.

54. The plaintiff's complaint should therefore be dismissed in its entirety, with prejudice.

FOR A TWELFTH DEFENSE

55. These defendants repeat the allegations of the preceding paragraphs as if fully repeated herein.

56. These defendants are informed and believe, after reviewing other court filings in this matter, that the plaintiff may previously have disclosed the events or occurrences which give rise to his or her causes of action against them to other persons, and may have raised them in prior pleadings, in other courts, or in other contexts.

57. To the extent such disclosures occurred, the plaintiff has diminished or abrogated his or her expectation of privacy.

58. That abrogation would act as a complete bar to his or her causes of action against these defendants.

59. As a result, the complaint must be dismissed, with prejudice.

FOR A THIRTEENTH DEFENSE

60. These defendants repeat the allegations of the preceding paragraphs as if fully repeated herein.

61. Some or all of the damages alleged by the plaintiff arose as a result of events unrelated to the events and occurrences plead in the complaint.

62. These defendants therefore allege lack of causation as a defense.

WHEREFORE, having fully answered the plaintiff's Complaint, these defendants pray that the Complaint against them be dismissed, with prejudice, that they be awarded the costs of this action, and for such other and further relief as the Court may deem just and proper.

Mooneyham Berry, LLC

Joe Mooneyham, SC Bar No.: 004041
Post Office Box 8359
Greenville, South Carolina 29604
864 421.0036, fax 864 421.9060
joe@upstatetriallawyers.com
Attorneys for Defendants Carol Sutton and
Carol Sutton & Associates—Investigations, Inc.

Greenville, South Carolina

July 15, 2013

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
COUNTY OF GREENVILLE	)	
Carol Simpson	)	Civil Action No.: 2013-CP-23-01762
Plaintiff,	)	**DEFENDANTS CAROL SUTTON, CAROL SUTTON & ASSOCIATES – INVESTIGATIONS, INC., ANSWER TO AMENDED COMPLAINT**
v.	)	
Frank A. Landgraff, Carol Sutton, Carol Sutton & Associates – Investigators, Inc.,	)	
Defendants.	)	

FILED-CLERK OF COURT
GREENVILLE CO. S.C.
PAUL B. WICKENSIMER
2014 NOV 26 PM 12 01

Defendants Carol Sutton and Carol Sutton & Associates – Investigations, Inc., in answer to the plaintiff's Amended Complaint, would respectfully allege as follows. Any allegation of the Amended Complaint not admitted or explained is hereby denied in its entirety, and strict proof demanded.

FOR A FIRST DEFENSE AS TO ALL CAUSES OF ACTION

1. The allegations of paragraph 1 are denied, and strict proof thereof demanded.

2. These defendants admit, on information and belief, the allegations of paragraph 2 of the Amended Complaint.

3. These defendants lack information and belief as to the allegations of paragraph 3 of the complaint, and therefore deny the same, and demand strict proof thereof.

4. These defendants deny the allegations of paragraph 4 and demand strict proof thereof. Further, paragraph 4 does not state with specificity where the bedroom that is mentioned is located, and they therefore deny that allegation and demand strict proof thereof. Finally, they specifically deny that they installed a hidden camera anywhere with the intention of "secretly"

videotaping any particular person undressing and in the bed, as is alleged, and demand strict proof thereof.

5. These defendants have no information and belief as to the allegations of paragraph 5, and therefore deny the same, and demand strict proof thereof.

6. The allegations of paragraph 6 are conclusions of law and therefore require no response.

7. The allegations of paragraph 7 are denied and strict proof thereof demanded.

8. The allegations of paragraph 8 are denied and strict proof thereof demanded.

9. The allegations of paragraph 9 are denied and strict proof thereof demanded.

10. The allegations of paragraph 10 are denied and strict proof thereof demanded.

11. The allegations of paragraph 11 are denied and strict proof thereof demanded.

12. The allegations of paragraph 12 are denied and strict proof thereof demanded.

13. The allegations of paragraph 13 are denied and strict proof thereof demanded.

14. The allegations of paragraph 14 are denied and strict proof thereof demanded.

15. The allegations of paragraph 15 are denied and strict proof thereof demanded.

16. The allegations of paragraph 16 are denied and strict proof thereof demanded.

17. The allegations of paragraph 17 are denied and strict proof thereof demanded.

18. The allegations of paragraph 18 are denied and strict proof thereof demanded.

19. The allegations of paragraph 19 are denied and strict proof thereof demanded.

20. The allegations of paragraph 20 are denied and strict proof thereof demanded.

21. The allegations of paragraph 21 are denied and strict proof thereof demanded.

22. The allegations of paragraph 22 are denied and strict proof thereof demanded.

23. The allegations of paragraph 23 are denied and strict proof thereof demanded.

24. The allegations of paragraph 24 are denied and strict proof thereof demanded.

25. The allegations of the plaintiff's Prayer for Relief are denied and strict proof thereof demanded.

FOR A SECOND DEFENSE

26. These defendants repeat the allegations of the preceding paragraphs as if fully repeated herein.

27. The plaintiff failed to state a claim upon which relief can be granted.

28. These defendants allege that they are entitled to dismissal of the plaintiff's Amended Complaint against them pursuant to Rule 12(b)(6) of the *South Carolina Rules of Civil Procedure.*

FOR A THIRD DEFENSE

29. These defendants repeat the allegations of the preceding paragraphs as if fully repeated herein.

30. The plaintiff has failed to join parties who are indispensable to the just resolution of this matter.

31. This matter must be dismissed for failure to join those parties, pursuant to Rule 12(b)(7) and Rule 19(a) of the *South Carolina Rules of Civil Procedure.*

FOR A FOURTH DEFENSE

32. These defendants repeat the allegations of the preceding paragraphs as if fully repeated herein.

33. The damages incurred by the plaintiff, if any, were caused by the acts of persons outside the control of these defendants, and they therefore plead their acts and omissions as a complete bar to this action as to them.

FOR A FIFTH DEFENSE

34. These defendants repeat the allegations of the preceding paragraphs as if fully repeated herein.

35. These defendants are informed and believe that the plaintiff either implicitly or explicitly consented to the surveillance complained of, and that her consent would be an absolute bar to claims against these defendants.

FOR A SIXTH DEFENSE

36. These defendants repeat the allegations of the preceding paragraphs as if fully repeated herein.

37. Insofar as the plaintiff's complaint seeks punitive damages, such damages are in violation of both the United States and South Carolina Constitutions and are therefore not recoverable in this cause.

FOR A SEVENTH DEFENSE

38. These defendants repeat the allegations of the preceding paragraphs as if fully repeated therein.

39. These defendants allege that by her conduct, the plaintiff assumed the risk of injury, if any, which injury is specifically denied, and strict proof thereof demanded.

FOR AN EIGTH DEFENSE

40. These defendants repeat the allegations of the preceding paragraphs as if fully repeated therein.

41. An element of various causes of action alleged by the plaintiff is special damages, as that term is defined by Rule 9(g) of the *South Carolina Rules of Civil Procedure.*

FOR A NINTH DEFENSE

42. These defendants repeat the allegations of the preceding paragraphs as if fully repeated herein.

43. The plaintiff's claims for damages arising from civil conspiracy must be plead with specificity.

44. The plaintiff has failed to plead the elements of civil conspiracy, including but not limited to damages arising from a conspiracy different in nature or character from those arising from other acts or omissions plead in the Amended Complaint.

45. The defects in the plaintiff's conspiracy cause of action are fatal to that cause of action.

46. The conspiracy cause of action should be dismissed, with prejudice.

FOR A TENTH DEFENSE
(Ex Turpi Causa)

47. These defendants repeat the allegations of the preceding paragraphs as if fully repeated herein.

48. The plaintiff seeks to profit from her own unlawful actions.

49. Pursuant to the legal doctrine of *Ex Turpi Causa*, the plaintiff is barred from recovery for damages cause by her acts, when those acts violate the statutory and common law, as well as public policy, of the state of South Carolina.

50. The plaintiff's Amended Complaint should therefore be dismissed in its entirety, with prejudice.

FOR AN ELEVENTH DEFENSE

51. These defendants repeat the allegations of the preceding paragraphs as if fully repeated herein.

52. These defendants are informed and believe, after reviewing other court filings in this matter, that the plaintiff may previously have disclosed the events or occurrences which give rise to her causes of action against them to other persons, and may have raised them in prior pleadings, in other courts, or in other contexts.

53. To the extent such disclosures occurred, the plaintiff has diminished or abrogated her expectation of privacy.

54. That abrogation would as a complete bar to her causes of action against these defendants.

55. As a result, the complaint must be dismissed, with prejudice.

FOR A THIRTEENTH DEFENSE

56. These defendants repeat the allegations of the preceding paragraphs as if fully repeated herein.

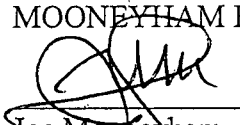
57. Some or all of the damages alleged by the plaintiff arose as a result of events unrelated to the events and occurrences plead in the complaint.

58. These defendants therefore allege lack of causation as a defense.

WHEREFORE, having fully answered the plaintiff's Amended Complaint, these defendants pray that the Amended Complaint against them be dismissed, with prejudice, that they be awarded the costs of this action, and for such other and further relief as the Court may deem just and proper.

Signature Block Located On Following Page

MOONEYHAM BERRY, LLC.



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Attorney for Defendants, Carol Sutton and Carol Sutton & Associates–Investigations, Inc.

Greenville, South Carolina
November 26, 2014

STATE OF SOUTH CAROLINA	)	
	)	COURT OF COMMON PLEAS
COUNTY OF GREENVILLE	)	2013-CP-23-01762
	)	
	)	
	)	
	)	
	)	
CAROL SIMPSON,	)	
PLAINTIFF,	)	
	)	
vs.	)	TRANSCRIPT OF RECORD
	)	
FRANK LANDGRAFF, ET AL.,	)	
DEFENDANTS.	)	
	)	

COPY

November 17, 2014
Greenville, South Carolina

B E F O R E:

THE HONORABLE D. GARRISON HILL, JUDGE.

A P P E A R A N C E S:

WILLIAM G. MAYER, ESQ.
Attorney for the Plaintiff

LANE W. DAVIS, ESQ.
Attorney for Defendant Frank Landgraff

HOLLIE M. JENKINS
Circuit Court Reporter

I N D E X

(There were no witnesses called.)

E X H I B I T S

(There were no exhibits introduced.)

1 P R O C E E D I N G S

2 THE COURT: This is 2013-CP-23-1762. And it's a motion
3 to compel
4 MR. DAVIS: There are, actually, three motions.
5 THE COURT: Motion to strike and motion for summary
6 judgment.
7 And, Mr. Davis, good morning.
8 MR. DAVIS: Good morning, sir.
9 Your Honor, Lane Davis for Defendant Frank Landgraff.
10 If it suits the Court, I would propose the -- start
11 with the motion for summary judgment. I think it would
12 just make more sense to the Court overall.
13 THE COURT: Okay. That's fine with me.
14 MR. DAVIS: Your Honor, there are four basic grounds
15 supporting our position for summary judgment in this case.
16 You may remember this case.
17 THE COURT: I do. I tend to remember the cases with
18 the lawyers as the parties, which, ironically, will be the
19 case that preceded this and the case that follows this.
20 MR. DAVIS: Two in a row.
21 THE COURT: Three in a row, it will be.
22 MR. DAVIS: Well, Your Honor, in the early 90s, the
23 U.S. Supreme Court analyzed how the burden on a summary
24 judgment motion is supposed to work. They did so in the
25 Celotex case. And, basically, what the U.S. Supreme Court

1 said was that it is fine and an acceptable discharge of a
2 defendant's burden by filing a motion for summary judgment
3 that points to an absence of evidence to support the prima
4 facie elements of the claims asserted by the plaintiff.
5 And, in this case, we did that.
6 And, in the State of South Carolina, the South
7 Carolina Supreme Court embraced and adopted the analysis
8 from the U.S. Supreme Court in the Celotex case. And they
9 did so in the case of Baughman v. AT&T. That's 306 S.C.
10 101.
11 Here, Your Honor --
12 THE COURT: So the U.S. Supreme Court uses the
13 scintilla test. Is that what you're telling me?
14 MR. DAVIS: No. The U.S. Supreme Court uses the
15 Celotex case.
16 THE COURT: All right. So how did we adopt the U.S.
17 Supreme Court case?
18 MR. DAVIS: The South Carolina Supreme Court followed
19 the analysis of the U.S. Supreme Court in the Celotex case
20 in the Baughman case saying, yes, it's correct. On a
21 motion for summary judgment, a defendant can file a
22 motion, point to the absence of evidence to support his
23 adversaries claims and --
24 THE COURT: Okay.
25 MR. DAVIS: -- that effectively discharges his

1 burden. In that instance, the plaintiff is obligated to
2 come forward with competent evidence of record to
3 demonstrate an issue of material fact as to the elements
4 of his claims. And under Rule 6(D), that evidence had to
5 be filed and submitted with the Court and served upon me
6 48 hours in advance of this hearing.
7 48 hours in advance of this hearing was Thursday at
8 10:00. There have been no affidavits served upon me.
9 There have been none filed with the Court at this
10 juncture.
11 And what is before the Court is a motion for summary
12 judgment to which the Plaintiff failed to response, and
13 failed to provide any evidence to the Court upon which
14 Your Honor could construe the facts in a light most
15 favorable for them. There's nothing for the Court to
16 construe, even if it wanted to. The case at this point
17 and juncture, Your Honor, is over. We've discharged our
18 burden, and they've failed to respond.
19 That, Your Honor, is in relation to the three claims
20 the Plaintiff has asserted. Your Honor, the Plaintiff has
21 asserted a claim for intrusion of privacy, a claim for
22 intentional infliction of emotional distress, which, if it
23 suits the Court, I'll just call outrage just to make it a
24 little easier to say, and, also, a claim for civil
25 conspiracy.

1 As to intrusion, the Plaintiff had to put forward
2 competent evidence of record demonstrating an intrusion
3 into that which is private. And, number three, it has to
4 be a substantial and unreasonable enough intrusion to be
5 legally cognizable to the Court. And, number four, it had
6 to be intentional. Those elements are set forth in the
7 Snakenberg decision found at 299 S.C. 164.
8 For the outrage claim, you can find the elements to
9 that in the Ford v. Hutson case, 276 S.C. 157. That would
10 require intentional and reckless infliction of severe
11 emotional distress by my client, Frank Landgraff. The
12 conduct had to be so extreme and so outrageous so as to
13 exceed all possible bounds. The defendant's acts had to
14 cause plaintiff's emotional distress. The emotional
15 distress suffered by plaintiff had to be so severe that no
16 one could be expected to endure it.
17 As to civil conspiracy. The absence of the evidence
18 of record in this case includes an absence of evidence
19 demonstrating that there was a combination of two or more
20 people for purposes of injuring plaintiff, which caused
21 special damages. That can be found in the LaMotte v.
22 Punchline case, 296 S.C. 66.
23 All of those elements were put to the test by our
24 motion for summary judgment. It was timely filed. It was
25 timely received. And the Plaintiff did receive it. And I

1 know that for a fact because they did serve me with an
2 opposing memorandum on Friday. But that memorandum
3 contained no supporting affidavits. None were attached
4 and none served upon me. To the extent that they were
5 served on the Court, I do not know, but I don't think they
6 were. And, if they were, they were improperly filed with
7 the Court and not served on me.
8 So that is ground number one. Ground number one is
9 they failed to respond to their duty in responding to my
10 motion for summary judgment. Under Rule 56, juris
11 prudence, my client has a procedural right to receive a
12 judgment short of trial. And the Plaintiff fails to
13 discharge their burden in a summary judgment motion, as
14 per the Baughman decision by the Supreme Court.
15 The second issue supporting our motion for summary
16 judgment relates to the Court's gate keeping function with
17 respect to certain types of claims. As Your Honor knows,
18 there are certain types of issues, certain types of
19 elements, certain types of claims that fall within the
20 legal province of the Court.
21 For example, if you had a contract claim, it would be
22 the province of the Court to determine whether it was
23 clear and unambiguous on its face. That's something
24 that's conferred to the legal discretion of the Court.
25 In this case, there are two claims pending that are

1 exactly like that. The outrage claim and the intrusion
2 claim have threshold inquiries for the Court to decide.
3 With respect to those cases in the reverse order. In
4 the Snakenberg case, the Court, specifically, held -- and
5 I quote, "Whether the conduct in question meets this test
6 is in the first instance a question of law for the Court."
7 The test that it was referring to is whether the intrusion
8 was substantial and unreasonable enough to be cognizable
9 by law.
10 In this case, number one, as I pointed out with
11 respect to issue number one, the Plaintiff failed to put
12 any competent evidence of record into the record for the
13 Court to find that there was a substantial and
14 unreasonable intrusion.
15 Number two, Your Honor, as you recall, this is an
16 instance where my client had a video camera installed in
17 his own master bedroom. And in that master bedroom, he
18 caught his wife having an extramarital affair with the
19 Plaintiff, Carol Simpson, in the case.
20 Your Honor has within its province the legal
21 authority to determine that, no, if you have a situation
22 where there is a marital relationship and one party has
23 video footage for some reason of the other party
24 committing adultery and it's in their own house, it's in
25 their own bedroom, it's in a place where the Defendant in

1 this case, Frank Landgraff, can honestly say, well,
2 listen, if my wife had not been committing adultery, there
3 would have not been -- nothing on that videotape.
4 Your Honor has the authority and it's in Your Honor's
5 province to determine today as a matter of law that that
6 is not a substantial and unreasonable enough intrusion
7 into the privacy rights of the paramour who was committing
8 adultery with my client's wife, with the paramour that
9 ruined my wife's -- not my wife's, my client's marriage in
10 his own bedroom and in his own house while he was out of
11 town. Your Honor can rule today that as a matter of law
12 that is not sufficient enough to support the claim of
13 intrusion of privacy in this case. And coupled with the
14 lack of evidence of competent -- competent evidence of
15 record, this Court should do that.
16 Similarly, the tort of outrage has the same sort of
17 threshold determination in the Hainer v. AmMed
18 International decision, 320 S.C. 316. The Supreme Court
19 found there that whether the conduct alleged by plaintiff
20 constitutes extreme and outrageous conduct is a threshold
21 legal issue for the Court to decide.
22 These issues are for Your Honor to determine here and
23 now whether or not to allow this case to go to a jury.
24 Under these facts, it would be unconscionable to allow the
25 intermeddling paramour, the woman who ruined my client's

1 marriage to come in here and try to use her own bad acts
2 as an ATM machine to get a payout. I'm asking the Court
3 to disallow that and to dismiss both of those claims as a
4 matter of law, and in addition to issue number one that we
5 previously talked about.
6 Issue number three relates to the third claim for
7 civil conspiracy. In relation to that claim, it is black
8 letter law under Rule 9 that the Plaintiff must come
9 forward with particularized allegations of special
10 damages.
11 In this case, not only were the allegations not
12 particularized, the Plaintiff, also, failed to come
13 forward with those special damages evidence in response to
14 our motion for summary judgment. As a consequence, the
15 claim for civil conspiracy like the other two claims,
16 also, fails as a matter of law.
17 THE COURT: Mr. Davis, let me ask you a question. At
18 the time the Plaintiff had the contact with the --
19 Mr. Landgraff's wife that is the subject of the
20 Plaintiff's claims, what was the status of Mr. Landgraff's
21 marriage?
22 MR. DAVIS: They were still married residing under
23 the same roof.
24 What happened was the Plaintiff befriended
25 Mrs. Landgraff -- or the then Mrs. Landgraff. And they

1 started spending more and more time together. My client
2 became worried about the relationship after some things
3 that he saw. And that was why he had the video camera
4 installed. It was really an exercise of either ruling out
5 or ruling in his suspicions, and by the by could have gone
6 either way. Had they been doing nothing, nothing would
7 have been caught. The unfortunate problem here is they
8 were committing an adulterous affair. And they were doing
9 it in his own bed.
10 THE COURT: But there was no court order or anything
11 related to their marriage? Nobody had filed a complaint,
12 or motion, or anything in Family Court?
13 MR. DAVIS: No, sir. That all came later.
14 THE COURT: All right. I just wanted -- all right.
15 MR. DAVIS: The fourth issue relates to the doctrine
16 of ex turpi causa and/or is sometimes called in pari
17 delicto --
18 THE COURT: Are you sure you're pronouncing those
19 right?
20 MR. DAVIS: No, I'm not, not at all.
21 THE COURT: How would anybody know?
22 MR. DAVIS: Well, I -- you know, unless you were
23 around in ancient Rome, I guess you probably wouldn't
24 know.
25 In the case of Jackson v. Bi-Lo, 313 S.C. 272, the

1 Court of Appeals wrote -- and I quote, "It is a well
2 founded policy of law that no person be permitted to
3 acquire a right of action from their own unlawful act.
4 And one who participates in an unlawful act cannot recover
5 damages for the consequences of that act." This rule
6 applies at both law and in equity, and whether the cause
7 of action is in contract or in court.
8 In this case, that is exactly what happened. We had
9 an interloping paramour who came in, ruined this guy's
10 marriage, invaded his own master bedroom, and then has the
11 audacity to come into this courtroom and ask you to allow
12 her to go to a jury and ask a jury to award her damages
13 because her privacy was intruded on when she was
14 committing an affair -- an adulterous affair in this guy's
15 own bedroom.
16 THE COURT: What was the first Latin principle you
17 mentioned? I'm not sure I'm familiar with that. Ex what?
18 MR. DAVIS: Ex turpi causa, also referred to
19 sometimes as in pari delicto.
20 THE COURT: Oh, okay.
21 MR. DAVIS: What the Plaintiff tries to say in
22 response to this argument, Your Honor -- and it is an
23 argument that causes me to be at a complete loss is that,
24 well, just because it was some sort of homosexual
25 adultery, it wasn't adultery. And, therefore, that wasn't

1 against the public policy of the state. And, therefore,
2 it doesn't trigger ex turpi causa as an affirmative
3 defense. And, therefore, just because I wasn't having an
4 extramarital affair with a guy, I should still get to
5 recover before a jury. That is complete and total
6 nonsense. But I, also, would suggest to the Court that
7 it's not consistent with the case law in the state of
8 South Carolina.
9 In the decision of R.G.M. v. D.E.M., 306 S.C. 145,
10 the Supreme Court held in 1991 -- and I quote that,
11 "Homosexual activity between persons, at least, one of
12 whom is married to someone other than the sexual partner
13 constitutes adultery." And that passage was in specific
14 relation to a homosexual adulterous affair.
15 Moreover, the doctrine of in pari delicto, the cases
16 that address that, for example, the decision of Myatt v.
17 RHBT Financial Corp., 370 S.C. 391, which was a Court of
18 Appeals opinion from 2006. And, in that decision, the
19 Court of Appeals explained that the doctrine is not really
20 technically applied with the wooden hands that the
21 Plaintiff might suggest, that in reality that they held --
22 and I quote the doctrine of in pari delicto is, "The
23 principle that a Plaintiff who has participated in
24 wrongdoing may not recover damages from the wrongdoing."
25 So the hook that the Plaintiff wants to hang their

1 hat on, this sort of silly theory that, oh, well, it
2 wasn't truly illegal activity because the statute for
3 adultery really contemplates a man and woman. And,
4 therefore, we don't fall underneath that. And, therefore,
5 ex turpi causa or in pari delicto does not apply is simply
6 wrong as far as the case law in this case.
7 What the cases uniformly say in relation to both ex
8 turpi causa and in pari delicto is that what we're looking
9 at is a violation of public policy, the type of wrongdoing
10 that the Court should not rubber stamp and allow a
11 plaintiff to proceed and ask to be paid when they
12 participated.
13 Those are my four grounds supporting summary judgment
14 this morning, Your Honor. I am asking the Court to grant
15 summary judgment in this case. I would note to the Court
16 that at almost every step, the Plaintiff has evinced an
17 unwillingness to, actually, cooperate and prosecute her
18 claims in this case. Part of that relates to the motion
19 to compel that we'll talk about earlier [sic]. Part of
20 that relates to the Plaintiff's complete and unwillingness
21 to abide by the Court's standing mediation order.
22 When I asked, hey, listen, we have a binding
23 mediation order. When are we going to mediate? They just
24 don't respond. I asked them, well, what is your demand?
25 What do you want? They won't respond. When the Court

1 ordered them to amend their complaint to, actually,
2 substitute the real name of the Plaintiff, they just
3 failed to respond and waited an extra four or five months
4 before complying with the court order, and only after I
5 had to seek affirmative relief.
6 At every step of the way, they're playing games.
7 They're flouting the rules of the Court. But what's worse
8 is now they've failed to abide by their obligations with
9 respect to the motion for summary judgment. It's ripe.
10 It's timely. The case should be dismissed.
11 Thank you.
12 THE COURT: Has the case been statused yet?
13 MR. DAVIS: Yes, sir. It's up for trial in March.
14 And it's only up in March because the Plaintiff asked
15 for longer than we probably should have had. It's been
16 restatused. It was statused once, got restatused. And
17 then we had to have a special status conference because
18 the Plaintiff objected to Judge Verdin hearing the status
19 conference. So Judge Welmaker has put it on the jury
20 trial calendar for March of next year.
21 THE COURT: Well, it'd be almost two years old then,
22 wouldn't it?
23 MR. DAVIS: Yes, sir.
24 THE COURT: All right.
25 MR. DAVIS: And I would note, the Plaintiff's haven't

1 even attempted to conduct any discovery in this case. I
2 mean, they're not interested in anything but trying to
3 slur my client's name and/or try to exact a paycheck out
4 of a person they think can pay them some money.
5 Thank you.
6 THE COURT: Okay. Thank you, Mr. Davis.
7 Yes, sir, Mr. Mayer.
8 MR. MAYER: Thank you.
9 First, I'd like to respond to Mr. Davis' comments at
10 the end of his presentation about our being unwilling to
11 cooperate. I would say no. If we'd filed this action
12 originally -- and it was my mistake. I filed it
13 improperly. Because I tried to protect Mr. Landgraff by
14 filing this action under a double set of pseudonyms. And
15 the Court informed me that that wasn't -- so it took a
16 while to get going on that. We tried -- actually, did
17 that to try to protect Mr. Landgraff, despite the --
18 counsel's arguments that our actions are to the contrary.
19 I don't believe we're unwilling to cooperate. We
20 requested relief. We did not get what we wanted. We
21 fought as hard as we could to keep a pseudonym on. We
22 thought that that was proper. It was not. We already
23 doubled the issue about taking so long to change the name,
24 which, obviously, we did.
25 Mr. Davis' comment about no settlement is because he

1 wants a dollar figure from us. And a dollar figure is
2 fine. But what my client is looking for is to make her
3 argument to a jury and get vindication that this is --
4 that this happened. The dollar figure is the exact
5 opposite of what she's looking for.
6 Now, I understand. I've been talking to her about
7 this since Mr. Lane -- Mr. Davis and I had our discussion
8 at the first status conference meeting. And she's
9 understanding that this is a civil court and the damages
10 come in dollar figures. And that's what it has to be.
11 And we will make settlement discussions as it were.
12 We have prepared our discovery. We've -- I believe
13 we filed it last week. I don't believe we've sent it out
14 yet. We're going to request what it is that we need.
15 We've been doing a lot of research and spending the time
16 and resources we have on dealing with motions and issues
17 of law like the ex turpi causa, which I know more about
18 now than I did before.
19 As far as the status of the conferences, the
20 presentation that Mr. Davis made sounded like I had
21 somehow dragged my feet on this and we caused some problem
22 with multiple statuses. What happened was we had a status
23 conference. I was informed at the conference something
24 which I didn't know, which is Judge Verdin was staffing
25 the conference. And she has a conflict due, I believe, to

1 her husband with Nelson Mullins. And they asked if she
2 could go ahead and hear it.
3 Well, at that point, I don't -- I did not have my
4 client with me. I'm not going to waive that if that's
5 something she would raise. I said I would prefer not.
6 And my understanding at that conference was they were
7 going to call down to Judge Welmaker and he would have
8 done it probably the same day. As it turned out, that
9 wasn't so. He would get in touch with us. That came some
10 weeks later. It was done by virtue of a telephone call.
11 And we did it on a conference call and set March as the
12 day.
13 One of the reasons was because we have depositions to
14 do, which we plan on doing, and, also, Mr. Davis had,
15 specifically, requested to mediate this. I thought better
16 to do that after these particular motions. And when
17 Mr. Davis requested last that we have dates for
18 mediation -- I think we're looking at January. But,
19 again, I wanted to get by today before we did that.
20 In response to Mr. Davis' motion -- we're already
21 some 25 minutes into the half hour, I believe, that we
22 have set. The burden of summary judgment, Your Honor --
23 the allegations that have been made in this motion -- and
24 I disagree with a lot of the material that's been
25 presented to the Court.

1 She makes her claim that this was an intrusion. And
2 our claim is in there. The paperwork we filed supports
3 it. The argument about an intrusion into privacy. Well,
4 this was absolutely an intrusion into privacy. This man
5 put a camera to videotape this woman in what he suspected
6 to be a sexual situation or an erotic situation.
7 The claim that Mr. Davis continues to make that
8 Mr. Landgraff is a victim in this is not supported by the
9 facts, as I understand them. She did -- my client did not
10 start this friendship, which is something that Mr. Davis
11 claimed in his presentation that she went ahead and made
12 friends with I believe that -- that she initiated the
13 friendship. Actually, Mr. Landgraff initiated the
14 friendship.
15 And this was not a simple relationship between my
16 client and Mrs. Landgraff. This was something -- the
17 three of them traveled a good bit. They made trips
18 together. They spent weekends together. They spent time
19 together. At one point, my client had a key to the house
20 and the information for the alarm codes to get into the
21 house.
22 The -- my position on the intrusion is that she
23 absolutely has a right to the privacy of being in a
24 bedroom. One of the arguments that we have -- one of the
25 things that Snakenberg does put out -- Snakenberg was

1 referenced a couple of times --
2 I'm sorry, Your Honor. I thought you said something.
3 Was that Snakenberg was referenced a couple of
4 times -- is that my client has a right to things which are
5 private in her life.
6 Now, the argument that there was filming being
7 done -- it was not necessary for purposes of Mr. Landgraff
8 making his Family Court case to make that film. The
9 cameras could be placed anywhere. The cameras did not
10 have to be placed where they were. Mr. Landgraff,
11 certainly, did not have a reason to name my client in his
12 Family Court pleadings, nor to put stills from this
13 videotape into those pleadings. And, in doing that, he
14 has violated her -- things which are to her private.
15 THE COURT: It's been a while since I've practiced
16 law. But isn't adultery fornication crimes?
17 MR. MAYER: Adultery is a crime by statute. I
18 believe it was originally statuted in 1848. It,
19 specifically, says that adultery is a relationship between
20 a man and a woman. Adultery is not and has never been a
21 common law crime either in South Carolina or in England
22 where we brought our common law from. It was --
23 THE COURT: So what if a burglar came into someone's
24 home and in the process of stealing goods took off all of
25 his or her clothes and this was recorded on a camera,

1 could the burglar then sue the homeowner for invasion of
2 privacy or outrage?
3 MR. MAYER: Well, I think that if the homeowner had
4 invited the person there or known -- that created
5 circumstances under which the person was invited there and
6 set up a camera where he thought that the person would be
7 in a bathroom or something like that, potentially.
8 Also, burglars are not invited into the house. This
9 is a guest who had been a guest many times before.
10 Mr. Landgraff knew that she would be there that weekend.
11 And we will -- I'm starting to ramble, Your Honor. I
12 think the difference between a burglar who is committing a
13 crime and coming into the house and an invitee is not
14 comparable, Your Honor.
15 THE COURT: Okay.
16 MR. MAYER: Again, the intrusion was intentional,
17 Your Honor. The camera was put there, specifically, for
18 this reason.
19 THE COURT: Whose bedroom was it? I mean --
20 MR. MAYER: It was the bedroom of Mr. and
21 Mrs. Landgraff, Your Honor.
22 THE COURT: Okay. I thought there was some
23 allegation that the camera was in like a guest bedroom
24 where the Plaintiff would occasionally stay, but that's
25 not correct?

1 MR. MAYER: No.

2 The Plaintiff would occasionally stay -- in fact, the
3 camera was placed in Mr. and Mrs. Landgraff's bedroom
4 where my client was an invitee of, at least, Mrs. Landgraff,
5 but our position is both of those individuals. This was a
6 relationship between Mr. Landgraff's wife and my client
7 that he not only knew about, but condoned and supported.

8 THE COURT: Where was he at the --

9 MR. MAYER: There's a question about that, Your
10 Honor. He takes the position that he was out of town.
11 But he was back first thing in the morning to assist the
12 technician of the detective to remove the equipment. This
13 is not the only time the equipment had been placed there.
14 But it was the only time that they got any footage like
15 that.

16 They had traveled a good bit, Your Honor, multiple
17 places, multiple states. This was not the casual
18 relationship or the relationship to which Mr. Landgraff
19 was a third party that he puts forward before the Court.

20 MR. DAVIS: Your Honor, for my benefit of trying to
21 fashion a reply, could we identify where in the record any
22 of this stuff is located?

23 THE COURT: Sure.

24 MR. MAYER: Your Honor, this is in the paperwork that
25 we filed with the Court last week, and that I sent to

1 Mr. Davis' office by e-mail.
2 THE COURT: Okay. I don't know if I've got that. I
3 mean, I have -- let me tell you what I've got. This is a
4 common problem because things get filed with the clerk.
5 And the Clerk's Office may have already in their efficient
6 manner sent the files to me. And then the briefs get
7 filed. And, sometimes, the clerks don't know where to put
8 them.
9 So I don't have -- all I've got is an answer to the
10 motion to compel -- Plaintiff's answer to motion to
11 compel, memorandum in support of motion to strike,
12 Plaintiff's motion to strike, motion to compel. That's
13 pretty much what I've got.
14 MR. DAVIS: Your Honor, and part of the reason why I
15 ask -- I hate to interrupt. And I apologize.
16 MR. MAYER: Oh, no, not a problem.
17 MR. DAVIS: Is because the memorandum I had had no --
18 that I received on Friday late in the day had no
19 supporting materials whatsoever. It had no affidavits.
20 It had no declarations. There was nothing -- and it --
21 I'll admit that the memorandum that was sent to me made
22 reference to some sort of supporting documentation. But
23 there wasn't any that was ever served on me.
24 MR. MAYER: Your Honor, I e-mailed this document from
25 my computer. It's attached -- everything is attached.

1 And it should go --
2 What did you get in it?
3 MR. DAVIS: I got your memorandum with no
4 attachments.
5 MR. MAYER: You got that?
6 MR. DAVIS: I got just that, yes.
7 MR. MAYER: And you did not get the attachments?
8 MR. DAVIS: That is correct. I was not served with
9 attachments.
10 MR. MAYER: Did you get the mailed copy?
11 MR. DAVIS: I haven't received anything but the bare
12 memorandum with no attachments.
13 MR. MAYER: Your Honor, I am in a position -- I
14 e-mailed to Mr. Davis the motion with attachments. This
15 was what we printed and filed.
16 This is what it looks like with the attachments --
17 (WHEREUPON, an off-the-record discussion was held
18 between counsel.)
19 MR. DAVIS: Well, I respectfully suggest that that
20 should have been served on me.
21 MR. MAYER: It was e-mailed. And if I'm not
22 mistaken, Your Honor, it was, also, put into the mail to
23 Mr. Davis.
24 THE COURT: All right. Let me -- I think I told
25 y'all what I had in my file. So what should be there?

1 MR. DAVIS: Your Honor, may we both approach?
2 THE COURT: Yes. Sure.
3 (WHEREUPON, a bench conference was held.)
4 THE COURT: All right. So we have a memorandum that,
5 I think, was filed on Friday with some attachments. And
6 Mr. Landgraff's counsel does not believe he received it.
7 So if counsel for Mr. Landgraff wishes to file
8 anything in the form of affidavits or evidence in response
9 to that, I'll, certainly, give him an opportunity to do
10 so. And I don't have a copy of this memorandum. So if I
11 can get a copy of it later, it would be helpful.
12 Yes, sir. Go ahead.
13 MR. MAYER: I'm assuming, Your Honor, a copy will be
14 forthcoming from the Clerk's Office.
15 THE COURT: Well, you relied on them once. Are you
16 going to rely on them again?
17 MR. DAVIS: I would note, Your Honor, that as of
18 Friday, his supporting -- his opposing affidavits were
19 already untimely.
20 THE COURT: Okay. I understand.
21 If you just want to e-mail me the memo and the
22 attachments, Mr. Mayer, that will be fine.
23 MR. MAYER: And your e-mail address, Your Honor?
24 THE COURT: It's ghilllc@sccourts.org.
25 MR. MAYER: I just want to touch, Your Honor, on the

1 ex turpi causa. My understanding of ex turpi causa is
2 that it deals with unlawful behavior. The behavior is not
3 unlawful. It may be ill approved. But it's not unlawful,
4 Your Honor.
5 In the Bi-Lo case that was referenced, in that case,
6 the individuals admitted criminal acts. But adultery is
7 not a criminal act. It's not unlawful in this state,
8 unless it's the statutory case which is between a man and
9 a woman. This is not.
10 And I would say that Mr. Davis' claims -- his
11 presentation was that she should not be allowed to recover
12 under that. Well, that may be. But she should, at least,
13 be allowed to be heard. And that's all we're asking for,
14 Your Honor, is a chance to be heard, a chance to finish
15 discovery, and have a trial. That's all we're asking for
16 at this point.
17 THE COURT: Thank you, sir.
18 All right. I think I understand the arguments on
19 that motion. So let's move on to the next motion since
20 we're already...
21 MR. DAVIS: Yes, sir.
22 The next motion is my motion to compel.
23 THE COURT: Okay.
24 MR. DAVIS: I have been successful in narrowing it, I
25 believe, significantly.

1 THE COURT: All right. Yes, sir.
2 MR. DAVIS: The first thing that I need to address,
3 however, Your Honor, is there have been some allegations
4 in the written materials that we did not consult with
5 respect to my motion to compel. That is, unfortunately,
6 untrue.
7 I sent Mr. Mayer an e-mail on June 11, 2014,
8 specifically, asking him to have a teleconference to
9 discuss the discovery issues. After sending this e-mail,
10 I phoned his office two times. I received no response to
11 either this e-mail or my subsequent phone contacts to
12 Mr. Mayer. So I realize that doesn't really relate to the
13 substance, other than the fact that there has been an
14 allegation that I did not satisfy Rule 11 consultation
15 requirements. I just wanted to put that to rest out of
16 the box.
17 The -- on the motion to compel, Your Honor,
18 unfortunately, the inadequate responses are somewhat
19 pervasive. The very first thing that they did that was
20 inadequate as a matter of procedural rule is that they
21 have not served us with any privilege log.
22 Now, mind you, they have interposed objections citing
23 things like attorney-client and work product issues. But
24 there's been no corresponding privilege log. And, you
25 know, to the extent that the answer is -- there aren't any

1 documents that have been withheld on those privileges,
2 then those privileges should not have been asserted. To
3 the extent that there are documents that have been
4 withheld, they should have been appropriately logged so I
5 could question the veracity and appropriateness of the
6 assertion of the privileges asserted. They have done
7 neither.
8 The second defect that they have with respect to
9 their discovery responses is that they were required to
10 provide me a verification to their responses. They
11 haven't provided me any verification to any of their
12 responses. In this case, that is important, Your Honor.
13 There are a number of responses that Mr. Mayer has
14 interposed on behalf of his client that I have reason to
15 believe are -- let's just say wrong, to be polite. And,
16 as a consequence, I would require -- or ask the Court to
17 require them to supply me with a verification of their
18 discovery responses.
19 With respect to their formal written discovery in
20 relation to interrogatories RFP's and RFA's, there are
21 deficiencies. I will note that Mr. Mayer has served me
22 with a supplement with respect to his responses. So that
23 has mooted some of the prior concerns. But, yet, many of
24 them still persist.
25 With respect to interrogatories, I asked in relation

1 to interrogatory number three for the standard set forth
2 an itemized statement of all damages exclusive of pain and
3 suffering claims that have been sustained by the
4 Plaintiff. And the response that I got was just complete
5 and total gobbledygook. I mean, I can't even tell you
6 what most of it means.
7 The Plaintiff objected because it purported to usurp
8 the authority of the jury to determine damages. The
9 Plaintiff objected that it exceeded the scope of discovery
10 by seeking information that will be determined by experts.
11 Yet, no experts have been disclosed. And then it goes on
12 to say without waiving these objections, Landgraff admits
13 that damages are more than $25,000 by propounding more
14 than standard interrogatories to the Plaintiff.
15 I mean, it just -- the stuff in the response makes
16 absolutely no sense. Obviously, if I'm going to defend
17 Mr. Landgraff, Mr. Landgraff has a due process right to
18 know what is being claimed against him and how much is
19 being asked to be awarded against him in this courtroom.
20 And the Plaintiff is just playing games. This is just
21 more of the same that has been going on throughout the
22 entirety of the case.
23 Similarly, in relation to interrogatory six, we asked
24 the Plaintiff to identify what the factual bases were with
25 respect to various paragraphs in the complaint. Tell --

1 you've made these allegations, what facts did you have
2 when you certified to the Court that there was a Rule 11
3 basis for making those allegations? And we specified
4 certain paragraphs in interrogatory six, three, four,
5 seven, eight, 10, 11, 12, 13, 16, 17, 18, 19, 22, and 23.
6 And Plaintiff objected that it's seeking the legal
7 reasoning and theories of Plaintiff's contentions.
8 And then she goes on to say, well, without waiving
9 those objections, Plaintiff will supplement her responses
10 when appropriate. I guess when appropriate will be
11 determined solely and exclusively by her.
12 Your Honor noted that the case has been going on for
13 two years. I can't get basic damage information out of
14 these people. I can't get basic fact discovery out of
15 these people. And, you know, when I asked for summary
16 judgment, part of the reason I'm asking for summary
17 judgment is because they're not dealing with me in good
18 faith in discovery.
19 In relation to interrogatory number nine, I asked
20 whether the -- to provide us with bills and expenses
21 arising out of the allegations in the complaint. They did
22 identify two people. I guess all I need to know for that
23 is to make sure that that's all the damages that they're
24 going to be claiming at trial.
25 Because what I'm concerned about when I see these

1 really anemic responses is, obviously, that a month before
2 trial -- this is going to go on for 26 months. And then a
3 month before trial, they're going to dump a pile of
4 paperwork on me and start coming in and claiming, oh,
5 well, we get to put on this evidence. That's not fair.
6 In relation to interrogatory 12, we asked for the
7 contact information of physicians, psychologists, and
8 other mental or physical care providers that provided
9 treatment to the Plaintiff. Now, here, the Plaintiff is
10 claiming that she committed an adulterous affair with my
11 client's wife in his bedroom, got videotaped, and it
12 caused her some horrible emotional damages. I mean, it
13 just -- she's just a wreck out of this, according to the
14 Plaintiff.
15 So in order to analyze whether those claims are
16 factually supported, whether there is a veracity problem
17 with respect to her claims in this case, we've asked,
18 okay, well, tell us who did you go to? Who treated you?
19 What's their addresses? It's so we can get in contact
20 with them, issue subpoenas, evaluate the responsive
21 documents, and take a deposition, if need be, like in
22 every other personal injury case; right? What I get is,
23 well, I object to this as overbroad.
24 She hasn't claimed any physical damages, so she could
25 say, well, I don't have any treatment providers that I

1 went to see for my physical analysis [phonetic], but
2 here's all of my emotional ones. She could say that. She
3 doesn't. She just plays games with me. And I can't get
4 any responsive information out of the Plaintiff in order
5 to defend my client. It's not fair. They're playing
6 games with the rules. It's been prejudicial to my client
7 for a while now.
8 We're asking the Court to compel responses to those
9 interrogatories and, also, with respect to RFP five, 13,
10 14, 19, 20, 31, 33, 39, and 41, which I will briefly go
11 through. I mean, I know this is as boring as watching
12 paint dry. And I apologize.
13 THE COURT: Have y'all taken depositions?
14 MR. DAVIS: No, sir.
15 THE COURT: All right.
16 MR. DAVIS: Part of the reasons we haven't taken
17 depositions is because we were delayed with the snarling
18 of the pleadings, and so on and so forth.
19 And then with respect to discovery responses, we
20 got -- I mean, how am I supposed to take the Plaintiff's
21 deposition when I don't know what her damage claim is?
22 The request for production, request five, Your Honor,
23 any and all documents relating to any damage of any kind
24 as referenced in the amended complaint. Plaintiff, once
25 again, gives an absolutely incomprehensible response, and

1 then doesn't, actually, provide us with anything
2 meaningful in response.
3 She said that she has case law, scholarly articles,
4 and other public information regarding damages. Well,
5 that's great. I mean, I guess she could produce those,
6 but that's not really what I'm looking for. I'm looking
7 for what evidence does she have to support her damage
8 claim that she's going to present to a jury?
9 Then she goes on to note that she has documents
10 relating to Landgraff's net worth. Notably, we haven't
11 produced those to her, so I'm not sure where she obtained
12 evidence of my client's net worth. But I'd like her to
13 produce that because now I need to know whether she
14 violated the Family Court order. At any rate, she's not
15 providing any of the damage support, any of the evidence
16 that's supporting the damages. She needs to do that out
17 of pure fairness.
18 Number 13 relates to recordings, videos, negative
19 electronic files, videotapes in the Plaintiff's
20 possession, or custody, or control of the Plaintiff, which
21 the Plaintiff shared with, provided to, or made available
22 to Lynn Mulligan and/or Attorney Chace Campbell. She
23 admits that certain documents exist in her response, but
24 she still hasn't produced them. That's fairly important,
25 Your Honor, to the extent that there are documents that

1 have been traded between my client's ex-wife, and the
2 Plaintiff in this case, and her attorney.
3 Because one of the things that we think is going on
4 in this case is that when the two of those people were
5 together, my ex -- my client's ex-wife and her paramour,
6 we believe they conspired to sort of gin up this whole
7 lawsuit against Mr. Landgraff. And we would like and are
8 entitled to explore that theory of the case.
9 And, precisely, we think that what happened was there
10 was a prenup that my client had with his ex-wife. So she
11 wasn't really going to get much out of the divorce when
12 she was going to divorce him and go off with the paramour.
13 And so they ginned up this claim for intrusion of privacy
14 to try to exact more money from my client. As a
15 consequence, those documents are, clearly, material.
16 They're, clearly, subject to the discovery rules. And
17 they should be produced.
18 Number 14 is asking for all recordings in the
19 Plaintiff's possession, custody, or control that Plaintiff
20 intends to use at any deposition, hearing, or trial. They
21 just decided not to give those to us, I guess, saying that
22 they don't have any documents that they know that they're
23 going to use at this time. We're asking the Court to
24 compel that response.
25 Number 19 is akin -- I won't go through it again.

1 But it's almost the same as number 13. It just goes in a
2 different direction, slightly different.
3 Request for production 20, any and all forms of
4 communications slight premeditation [phonetic] to Chace
5 Campbell. Again, we get the Heisman there. There's no
6 attorney-client relationship with Chace Campbell in this
7 case. That was Lynn Mulligan's attorney in my client's
8 divorce proceeding.
9 Request for production 31. You know, the Plaintiff
10 complains because it's overly broad. Obviously, what we
11 were looking for there were these were mobile telephone
12 statements, texting type of things. She complains that
13 it's overly broad. If that's the case, you know, we'd be
14 willing to limit it to Mulligan, Landgraff, and Chace
15 Campbell, if that's the issue.
16 But we were trying to not force the Plaintiff to have
17 to go through all of those documents and redact it, except
18 for those entries. We thought that was, actually, going
19 to be more burdensome than just producing your telephone
20 records. But if that's what she wants to do, if she
21 thinks that there's privileged information in there, she
22 should redact the stuff that's privileged and produce the
23 non-privileged information. She hasn't done that. All
24 she's, basically, done is told us to go fly a kite.
25 Obviously, in this case, there is a little bit of

1 jawing on the part of the Plaintiff that my client did
2 something wrong, which was unfounded and is unfounded
3 today. We are entitled to explore what the relationship
4 was, what the e-mail traffic, the texting traffic, the
5 phone conversation traffic was between the Plaintiff and
6 Lynn Mulligan, who is my client's ex-wife.
7 In relation to RFP 39, we've asked the Plaintiff to
8 supply us with federal and state income tax returns. She
9 objects and invokes some sort of privilege, but doesn't
10 tell us what privilege it is she's invoking. There is no
11 privilege that governs state and federal income tax
12 returns.
13 Understand, in this case, one of the things that she
14 has alleged is that she has suffered professional and
15 reputational harm. So the only way that we can really
16 gain insight into whether she truly has suffered that sort
17 of harm, well, has your business dropped off? Did your
18 income change? You know, you're practicing law as a
19 lawyer, did it -- did the amount of money you made from
20 year to year go down because of these professional
21 reputational harms? We're entitled to explore that
22 information in this case. And they just have refused for
23 no reason to give it to us invoking privileges that don't
24 exist.
25 41 is sort of more of the same. We asked for copies

1 of any and all medical records, reports, summaries,
2 bills -- documentation relating to the Plaintiff beginning
3 January 1, 2004, and continuing through the trial of this
4 matter. So we're asking her to produce to us the
5 documents that would support your claims of this
6 emotional -- these horrible emotional harms that you've
7 suffered. And she tells us, no, we're not going to give you
8 that.
9 In respect to the final category, there are only two.
10 One relates to RFA number one. Request for admission
11 number one asks the Plaintiff to admit that she
12 participated in sexual activities with Lynn Mulligan while
13 Mulligan was married to Landgraff. My opposing counsel
14 stood up this morning and admitted to that. But when she
15 responds, she lodges an objection. And we're asking the
16 Court to require them to remove the objection in response
17 to request for admission. It wasn't appropriate. And it
18 shouldn't be there. And it impairs our ability to use
19 requests for admission inside the context of this lawsuit.
20 THE COURT: What was the response? I'm sorry.
21 MR. DAVIS: She wrote, I object as phrased as
22 argumentative. And it goes on, and goes on, and goes on.
23 And then in the very last line, she, eventually, admits to
24 it, but only after she objects to, you know, the verbiage
25 of it up above. But we are standing in court this morning

1 and Mr. Mayer stood up and admitted to what she's
2 objecting to in relation to the request for admission.
3 In relation to requests for admission number four, we
4 asked had Plaintiff never entered Landgraff's master
5 bedroom at 122 Antigua Way, Greer, she would have not been
6 captured on video footage as alleged in the amended
7 complaint filed June 14th, 2014. Again, the Plaintiff
8 goes on to interpose sort of nonsensical objections and
9 just doesn't respond to the request for admission until,
10 you know, after she objects for three or four nonsensical
11 sentences. We're asking the Court to require them to
12 remove the objections. They're not proper objections.
13 They're not contemplated by Rule 36. And they should be
14 removed.
15 For those reasons, we're asking Your Honor to require
16 the Plaintiff to participate in full and fair discovery in
17 this case. It is imperative that discovery be full and
18 fair in order for my client to have a fair shake. And
19 we're asking the Court to require that.
20 THE COURT: What about the motion to strike?
21 Because, obviously, we're running out of time. Is that
22 still being argued?
23 MR. DAVIS: Your Honor, I don't really understand his
24 motion to strike --
25 THE COURT: Oh, it's his motion?

1 MR. DAVIS: Yeah.
2 THE COURT: I'll let him talk about it. I'm sorry.
3 I apologize.
4 MR. DAVIS: Yes, sir.
5 THE COURT: All right. Yes, sir, Mr. Mayer.
6 MR. MAYER: Thank you, Your Honor.
7 With regards to the motion to compel, we've turned
8 over all the documents that we have that I'm aware of. If
9 she believes she has some, she'll continue to try to find
10 them. And, of course, discovery is ongoing. We've sent
11 one supplemental set of packages on up.
12 The arguments about her referencing documents that
13 existed, when we find them -- and she believes she may
14 have them. When we find them, we will send them as -- we
15 will send them altogether.
16 We have no recordings, the recordings asked for, all
17 communications that Mr. Davis wants. If we have them,
18 they've got them. The objections that she makes regarding
19 privilege are regarding -- she has a calendar. She only
20 has one. It's her office calendar. So there's
21 information on there that's client based. If the Court
22 wishes us to submit the calendar to the Court to
23 determine -- or to -- or a redacted copy to the Court --
24 she just has ethical obligations not to send that
25 information out.

1 The same is true with her telephone records. If they
2 want redacted copies, that's fine. Our responses to these
3 have, basically, been that the requests are very broad.
4 I'm going to be as brief as possible. I realize we're
5 intruding on other peoples time.
6 The objections are to verbiage. We understand that
7 when you deal with requests to admit, you admit in total
8 or not. What I will do is I will -- I've listened to
9 Mr. Davis' complaints here. I will do my best to
10 alleviate them. We will give partial responses where
11 partial is fitting and not step on anything which may be
12 privileged for my particular client.
13 He gave a couple of indications of limitations on
14 answers. I will provide those to the best of my ability
15 the information that's available to me. And I will get
16 him this paperwork that he wishes.
17 Your Honor, with regard to my motion to strike.
18 THE COURT: Yes, sir.
19 MR. MAYER: I think my motion is laid out. You've
20 got a copy of it. You've got a copy of my motion in
21 response to it. I would just put it to the Court without
22 oral argument, if you would be amenable to that.
23 MR. DAVIS: No. Because I don't understand what he
24 wrote. So there's a problem with that. We can come back
25 another day. That's fine. If he wants -- if this is a

1 solution for him, if he wants me to amend my answer to
2 provide more factual information for each affirmative
3 defense that he's identified in his filing, I'm glad to do
4 so.
5 I'll point out the fact that what he's complaining
6 about is, well, I don't -- I haven't gotten notice of what
7 your basis is for supporting these affirmative defenses.
8 And then the guy turns around and files a 12-page
9 memorandum arguing the merits of those affirmative
10 defenses and why they're factually not right.
11 The guy, clearly, knows what the basis is for each
12 and every one of the affirmative defenses that he's
13 complaining about, not to mention the fact that the -- he
14 bottoms the entirety of his motion to strike on the
15 Twombly Iqbal standards from federal court that don't
16 apply in the State of South Carolina. And there is a
17 divergence of authority with respect to even those cases
18 about how they apply to affirmative defenses. Most
19 courts, in fact, say they don't apply to affirmative
20 defenses, and primarily because a defendant only has
21 30 days to respond to a complaint where a plaintiff has a
22 -- the luxury of having an indefinite period of time to
23 prepare the complaint. So the same --
24 THE COURT: Well, he's got three years.
25 MR. DAVIS: Yeah, three years.

1 But, I mean, the same rigor is not -- it is not true
2 that the same rigor even in federal court applies to
3 affirmative defenses. But it doesn't matter because that
4 standard doesn't apply in this court anyway.
5 THE COURT: All right. Well, y'all maybe consult
6 about that. If you need to come back and argue it, I'll
7 let you do that.
8 MR. MAYER: If I may, Your Honor.
9 Mr. Davis has offered to flesh out the defenses other
10 than just alleging them. And I would be happy with that
11 at this point.
12 THE COURT: All right. Well, I'll review these
13 motions in light of what I've heard here today.
14 Thank you for your arguments.
15 And I'll let you know something as soon as I can.
16 Thank you.
17 MR. DAVIS: Your Honor, just for purposes of the
18 record, I'm -- how much time do I have to submit reply
19 materials?
20 I've been deprived of the opportunity to submit a
21 reply affidavit to whatever materials that Mr. Mayer filed
22 that I have never received.
23 THE COURT: Well, let's see. You're going to give
24 him the materials today?
25 MR. MAYER: I'll hand deliver them, Your Honor.

1 THE COURT: Okay. Then, you know, I'll give you
2 until Friday to respond.
3 MR. DAVIS: All right. Sounds good.
4 Thank you.
5 THE COURT: Thank y'all.
6 **********END OF TRANSCRIPT OF RECORD**********
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CERTIFICATE OF REPORTER

STATE OF SOUTH CAROLINA)

COUNTY OF GREENVILLE)

I, HOLLIE JENKINS, Official Court Reporter for the Thirteenth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete Transcript of Record of the proceedings had and the evidence introduced in the captioned case, relative to appeal, in the Court of Common Pleas for Greenville County, South Carolina, on the 17th day of November, 2014.

I do further certify that I am neither of kin, counsel, nor interest to any party hereto.

January 3, 2015

Hollie M. Jenkins

Hollie M. Jenkins, Court Reporter

My Commission Expires: 09/24/20

STATE OF SOUTH CAROLINA

COUNTY OF GREENVILLE

Mary R. McCorvey,

Plaintiff,

v.

Jane Roe, Detectives, Inc. and John Doe

Defendants.

IN THE COURT OF COMMON PLEAS
C.A. 2013-CP-23-~~0177~~ 01762

Plaintiff's Motion To Proceed Under Pseudonym

2013 MAR 27 P 2:53
FILED CLERK OF COURT GREENVILLE CO. S.C. PAUL B. WICKENSIMER

ENTERED COMPUTER

Plaintiff moves for an order allowing her to proceed under pseudonym and for such other relief as the Court determines is prudent to protect her anonymity.

Barring Court instruction to the contrary, Plaintiff's attorney will represent her at the hearing and she will not be present.

Should this motion be granted, Plaintiff will inform the Court of her real name in an affidavit filed under seal or by another mechanism chosen by the Court.

William G. Mayer
S.C. Bar No. 13340
Attorney for the Plaintiff
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Laurens, SC 29360
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864-715-0496 Facsimile

March 19, 2013
Greenville, SC

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STATE OF SOUTH CAROLINA

COUNTY OF GREENVILLE

Mary McCorvey,

Plaintiff,

v.

Jane Roe, Detectives, Inc. and John Doe,

Defendants.

IN THE COURT OF COMMON PLEAS
C.A. 2013-CP-23-01762

Plaintiff's *Ex Parte* Motion for a Temporary Restraining Order and Rule to Show Why a Preliminary Injunction Should Not Issue

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Pursuant to SCRCP 65, Plaintiff hereby requests that the Court issue an *Ex Parte* Temporary Restraining Order simply enjoining the disclosure of her identity until a timely hearing can be held on the Rule to Show Why a Preliminary Injunction Should Not Issue. Plaintiff has filed her Complaint with a Motion to Proceed under Pseudonym. In support of this Motion, Plaintiff would show the following.

NEED FOR TEMPORARY RESTRAINING ORDER

You just found out that when you were a guest at a friend's house, he used a hidden camera to videotape you while you were in the bedroom. He admits to making the videotape. What do you do?

You could file civil suit for invasion of privacy, but how are you going to keep your name out of the news? How do you prevent your now former friend from telling your other friends and business associates? Is seeking redress really worth the risk of further invasion of your privacy and the resulting damages?

Plaintiff has filed a Complaint against Defendants for Wrongful Intrusion into Private Affairs, Intentional Infliction of Emotional Distress, and Civil Conspiracy. Contemporaneously,

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she also filed a Motion to Proceed under Pseudonym. This Motion is designed (1) to shield Plaintiff's identity and the details of the intrusion, (2) to give her access to the Court without subjecting her to re-traumatization and additional emotional distress that publicity would inevitably bring, and (3) to mitigate the damages from Defendants' prior invasion of her privacy.

LEGAL GROUNDS FOR TEMPORARY RESTRAINING ORDER

The Court has broad authority to issue a temporary restraining order to prevent one party from hurting another during litigation. The sole purpose is to maintain the status quo during adjudication of the case which is all that Plaintiff is requesting. "To obtain an injunction, a party must demonstrate irreparable harm, a likelihood of success on the merits, and the absence of an adequate remedy at law."[1] Once the Plaintiff has demonstrated she is entitled to a temporary restraining order, the Court should issue the temporary restraining order without regard to the ultimate determination of the case on the merits.[2]

Irreparable Harm

Once Plaintiff serves Defendants with the Complaint and Motion to Proceed under Pseudonym, they will know that an action has been filed. They already know who she is. Before the Court hears her Motion, Defendants or third parties could negligently or intentionally irreparably harm Plaintiff by revealing her name or other identifying information or the details of the invasion of privacy through court filings, media communications, and/or internet postings if they are not enjoined. Once her identity is disclosed, Plaintiff would be unable to regain her anonymity.

Any disclosure of this sort would further invade Plaintiff's constitutional right to privacy.

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[1] *Grosshuesch v. Cramer*, 367 S.C. 1, 4, 623 S.E.2d 833, 834 (2005)
[2] *Helsel v. City of North Myrtle Beach*, 307 S.C. 29, 413 S.E.2d 824 (1992).

It would bring the attention of and questions from the media, friends, co-workers, and the general community. According to the United States Supreme Court, the public disclosure of confidential information is irreparable.[3] Further, relying on a First Amendment case, the United States Supreme Court and all federal circuit courts – including the Fourth Circuit -- have recognized that constitutional violations constitute *per se* irreparable harm for purposes of preliminary injunctive relief.[4]

Denial of a constitutional right also constitutes irreparable harm.[5] The United States Supreme Court has recognized a constitutional right to privacy including "the individual interest in avoiding disclosure of personal matters."[6] This interest is the "right to be let alone," which has been characterized as "the right most valued by civilized men."[7] Thus, a further invasion of Plaintiff's right to privacy is irreparable harm.

Likelihood of Success on the Merits

Plaintiff has set forth sufficient facts to constitute a claim for wrongful intrusion of private affairs.[8] Defendants have admitted to installing the camera in the bedroom to videotape Plaintiff without her knowledge or consent – a fact pattern very similar to the facts in the *Snakenburg* case that recognized the tort of wrongful intrusion into private affairs.[9]

This conduct is atrocious and intolerable in a civilized society. Plaintiff will show the

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[3] *See, e.g., Ruckelshaus v. Monsanto Co.*, 463 U.S. 1315, 1317 (1983).
[4] *Elrod v. Burns*, 427 U.S. 347, 373 (1976) ("The loss of First Amendment freedoms, for even minimal periods of time, unquestionably constitutes irreparable injury."); *See also, Newson v. Albemarle County*, 354 F.3d 249, 261 (4th Cir. 2003); *Giovani Carandola, Ltd. v. Bason*, 303 F.3d 507, 520-21 (4th Cir. 2002); *Johnson v. Bergland*, 586 F.2d 993, 995 (4th Cir. 1978).
[5] *Faulkner v. Jones*, 10 F.3d 226, 230 (4th Cir. 1993); *Ross v. Meese*, 818 F.2d 1132, 1135 (4th Cir. 1987) ("Moreover, the denial of a constitutional right, if denial is established, constitutes irreparable harm for purposes of equitable jurisdiction.")
[6] *Whalen v. Roe*, 429 U.S. 589, 599 (1977)
[7] *Id.*, p. 599 & n.25.
[8] *Snakenberg v. Hartford Casualty Ins. Co., Inc.*, 383 S.E.2d 2, 299 S.C. 164 (S.C. App. 1989) ("Wrongful intrusion into private affairs, consists of the following elements, which must be pleaded and proved: (1) Intrusion . . . (2) Into that which is private . . . (3) Substantial and unreasonable enough to be legally cognizable . . . (4) Intentional . . . .").
[9] *Id.*, The tort of invasion of privacy was recognized in South Carolina in a case that also involved the secret videotaping of guests in the bedroom of a private residence.

severity of her emotional distress at trial to establish her claim for intentional infliction of emotional distress.

"When seeking a preliminary injunction, the plaintiff need not prove an absolute legal right; the plaintiff need only present 'a fair question to raise as to the existence of such a right.'"[10] Significantly, Plaintiff has presented undisputed facts that may warrant summary judgment in her favor. Thus, she has more than made the requisite showing of a likelihood of success on the merits.

Inadequate Remedy at Law

"A temporary injunction is used to preserve the subject of controversy in the condition which it is at the time of the [o]rder until opportunity is offered for full and deliberate investigation and to preserve the existing status during litigation."[11] Plaintiff has filed her Complaint along with a Motion to Proceed under Pseudonym. Defendants will have an opportunity to be fully heard on the merits of that Motion. Plaintiff is simply asking this Court to enjoin the disclosure of her real name and other relief enumerated below until the Court rules on the issue of pseudonymity.

No other remedy will preserve Plaintiff's anonymity during litigation. Money damages would not restore the status quo or fully compensate Plaintiff for a further invasion of privacy or emotional distress. Neither money damages nor any relief other than an injunction is an adequate option -- especially in light of the better remedy of injunctive relief. Thus, all other remedies are inadequate at law.

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[10] *Peek v. Spartanburg Reg's Healthcare Sys.*, 367 S.C. 450, 456, 626 S.E.2d 34, 36 (Ct. App. 2005) *holding modified by Pointer Invs. v. Century Builders of Piedmont, Inc.*, 387 S.C. 583, 694 S.E. 2d 15 (2010) (quoting *Williams v. Jones*, 92 S.C. 342, 347, 75 S.E. 705, 710 (1912)).

[11] *Mailsource, L.L.C. v. M.A. Bailey & Assocs.*, 356 S.C. 363, 368, 588 S.E. 2d 635 (Ct. App. 2003)

GROUNDS FOR EX PARTE TEMPORARY RESTRAINING ORDER

"Pursuant to Rule 65(b), SCRCP), a trial judge can issue a temporary restraining order without providing notice where it clearly appears from specific facts shown by affidavit or by verified complaint that immediate or irreparable injury, loss or damage will result to the applicant before notice can be served and a hearing had thereon."[12] Based on the specific facts in Counsel's affidavit and the applicable law, Plaintiff has made a *prima facie* case that disclosure of her real name would cause immediate and irreparable injury. Thus, she is entitled to the temporary restraining order requested.

The South Carolina Supreme Court has "stated repeatedly that *ex parte* orders are reserved for those rare occasions where no adverse interest exists or where exigent circumstances dictate that action be taken prematurely."[13] With the possible exceptions of not being able to embarrass or intimidate Plaintiff, Defendants have no interest adverse to preventing the disclosure of Plaintiff's identity.[14] Preventing the denial of a right guaranteed to Plaintiff by the United States Constitution is an exigent circumstance necessitating an *ex parte* order. Significantly, this case satisfies both conditions for which this "rare" relief is reserved.

South Carolina courts have not hesitated to grant *ex parte* temporary restraining orders under appropriate circumstances.[15] Ironically, Chief Justice Toal granted an *ex parte* temporary

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[12] *Zabinski v. Bright Acres Associates*, 346 S.C. 580, 600-601, 553 S.E.2d 110, 120 (200).

[13] *Herring v. Credit Bureau of Columbia, S.C.*, 252 S.E.2d 123 1979)

[14] Enjoining Defendants may actually serve to protect them from the increased damages caused by added emotional distress to Plaintiff from disclosure.

[15] *Ex Parte* TROs are more frequently granted in Family Court, but those cases have been omitted. *Beaufort County v. Butler*, 316 S.C. 465, 451 S.E.2d 386 (S.C. 1994) (*Ex parte* TRO preventing cutting of timber); *Davis v. Richland County Council*, 372 S.C. 497, 642 S.E.2d 740 (S.C. 2007) (*Ex parte* TRO preventing County Council from enforcing Act No. 207); *Curtis v. State*, 345 S.C. 557, 549 S.E.2d 591 (S.C. 2001) (*Ex parte* TRO preventing enforcement of law due to possible infringement of privacy rights); *Hook Point, LLC v. BB&T*, 397 S.C. 507, 725 S.E.2d 681 (S.C. 2012) (*Ex parte* TRO preventing honor of draft on a line of credit); *Atwood Agency v. Black*, 374 S.C. 68, 646 S.E.2d 882 (S.C. 2007) (*Ex parte* TRO restraining rentals to those on list of former employer); *First Carolina Nat. Bank v. A & S Enterprises, Inc.*, 277 S.C. 591, 291 S.E.2d 380 (S.C. 1982) (*Ex parte* TRO allowing seizure collateral for loan); *DeBerry v. McCain*, 275 S.C. 569, 274 S.E.2d 293 (S.C. 1981) (*Ex parte* TRO restraining insurance company from taking certain actions); *Herring v. Retail Credit Co.*, 266 S.C. 455, 224 S.E.2d

restraining order even though she was "very troubled" by her belief that the Petitioner could have provided notice, but demonstrated a lack of diligence.[16]

Just two months ago, Circuit Court Judge Diane S. Goodstein of the First Judicial Circuit granted an *Ex Parte* Temporary Restraining Order (which became a preliminary injunction) so broad in scope that "No individual, organization, association or entity, whether incorporated of not, may use, assume, or adopt in any way, directly or indirectly, the registered names and the seal or mark of The Protestant Episcopal Church in the Diocese of South Carolina as are set out below or any names of seal that may be perceived to those names and seal and mark."[17] In short, Defendant could not use Plaintiffs' names – not to prevent the denial of a constitutional right, but just "to avoid any confusion."

Admittedly, "an order or decree in a court of common pleas granting, continuing, modifying, or refusing an injunction is immediately appealable."[18] However, that remedy leaves Plaintiff exposed to the same irreparable harm and denial of her constitutional rights[19] as does failing to grant this Motion. This damages not only Plaintiff, but the public as confirmed by the Fourth Circuit by its explicit holding that "upholding constitutional rights is in the public interest."[20]

If the Court grants this Motion, Defendants will simply be prevented from disclosing Plaintiff's identity for 10 days or even less if they feel aggrieved enough to move to have the

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663 (S.C. 1976) (*Ex parte* TRO requiring company to remove information regarding guilty plea and sentence from its records).

[16] Order 2009-05-04-01.

[17] *The Protestant Episcopal Church in the Diocese of South Carolina, et al. v. The Episcopal Church (a/k/a, The Protestant Episcopal Church in the United States of America*, Case No. 2013-CP-18-00013 in the Court of Common Pleas for the First Judicial Circuit.

[18] *Curtis v. State*, 345 S.C. 557, 568, 549 S.E.3d 591, 596 (S.C. 2001)

[19] The First Amendment guarantees access to the courts for redress of grievances. If this Court requires Plaintiff to proceed only if she risks public disclosure, it would effectively block her access to the court unless she were willing to sacrifice her privacy. Forcing this choice could cause a chilling effect on the Plaintiff's willingness to pursue her legitimate claims thereby denying her the fundamental constitutional right of access to courts.

[20] *Legend Night Club v. Miller*, 637 F.3d 291, 303 (4th Cir. 2011).

order dissolved or modified.[21] If the Court denies this Motion, Plaintiff may suffer a further invasion of her privacy, re-traumatization, or emotional distress. Preventing Defendants from disclosing Plaintiff's name (or taking an action that they are not even taking presently) pales in comparison to the irreparable harm that disclosing Plaintiff's identity threatens.

GIVING OF SECURITY

"[N]o restraining order or temporary injunction shall issue except upon the giving of security by the applicant, in such sum as the court deems proper, for the payment of such costs and damages as may be incurred or suffered by any party who is found to have wrongfully enjoined or restrained."[22] If Defendants are wrongfully enjoined, they will suffer no costs or damages. Thus, Plaintiff asks that the security be set at zero.[23]

RELIEF SOUGHT

Having fully set forth the grounds for the relief sought, Plaintiff respectfully requests that the Court grant this *ex parte* motion and issue a Temporary Restraining Order that:

1. Prohibits Defendants, their counsel, Court personnel, and any other person from directly or indirectly disclosing Plaintiff's identity (or any information or distinguishing characteristics which could reveal her true identity) to any third party at any time;
2. Requires pleadings, motions, evidence, documents, and any other filings in this case containing Plaintiff's real name or likeness to be appropriately redacted to remove all

[21] "On two days' notice to the party who obtained the temporary restraining order without notice or on such shorter notice to that party as the court may prescribe, the adverse party may appear and move its dissolution or modification and in that event the court shall proceed to hear and determine such motion as expeditiously as the ends of justice require." Rule 65(b), SCRCP

[22] Rule 65(c), SCRCP.

[23] Notably, the Honorable Perry M. Buckner, Chief Administrative Judge for the 14th Judicial Circuit set security at only $500.00 in a case enjoining Defendants from altering or destroying records and databases.

identifying information and all information that could lead to her identity or, if that is not possible, to be filed under seal;

3. Provides that nothing filed under seal in this matter shall be open to inspection except by the Court, the parties, and their attorneys;

4. Prohibits any person or entity who comes to learn of Plaintiff's true identity (or information or distinguishing characteristics which could reveal Plaintiff's true identity) from directly or indirectly revealing Plaintiff's true identity or distinguishing characteristics by any means to any person or any entity not authorized by this Court to receive such information;

5. Requires that Plaintiff shall only be referred to by her pseudonym, Mary R. McCorvey;

6. Makes the order binding on Defendants, their officers, agents, servants, employees, and attorneys, and upon those persons in active concert or participation with them who receive actual notice of the order by personal service or otherwise;

7. Enjoins any individual or entity not already a party to this case from engaging in any of the proscribed acts upon actual notice being provided of any order issued;

8. Exempts Plaintiff from submitting security since the relief requested threatens no cost of financial damage to Defendants;

9. Orders Defendants to appear before this Court to show cause, if there is any, why this Court should not enter a Preliminary Injunction, pending final ruling on the Complaint against Defendants and imposing such additional relief as may be appropriate;

10. Orders must show the Court why they meet the legal standard to be allowed to continue under pseudonyms. In the interest of fairness and preserving the status quo, Plaintiff has filed under pseudonym as to Defendants. Plaintiff makes no argument on their behalf,

but simply preserves their anonymity pending any request and presentation of their own qualifications to continue to proceed under pseudonym at the show cause hearing;

11. Orders that Plaintiff shall be excused from appearing at the hearing on the Motion for Preliminary Injunction; and

12. Orders such other relief as the Court deems just and proper.

William G. Mayer
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March 25, 2013
Greenville, SC

STATE OF SOUTH CAROLINA COUNTY OF GREENVILLE Mary R. McCorvey, Plaintiff, v. Jane Roe, Detectives, Inc. and John Doe, Defendants.	IN THE COURT OF COMMON PLEAS C.A. 2013-CP-23-01762 **TEMPORARY RESTRAINING ORDER** **ISSUED AT _____** **MARCH ____, 2013**

This matter comes before the Court on an *Ex Parte* Motion for a Temporary Restraining Order ("Motion") and Rule to Show Cause Why a Preliminary Injunction Should Not Issue pursuant to Rule 65(b), SCRCP. The Court has jurisdiction to hear determine the issues raised by this Motion. By Affidavit and the attachments thereto and her Motion, Plaintiff has fully set forth the grounds for the relief sought.

I. Temporary Restraining Order

"To obtain an injunction, a party must demonstrate irreparable harm, a likelihood of success on the merits, and the absence of an adequate remedy at law." *Grosshuesch v. Cramer*, 367 S.C. 1, 4, 623 S.E.2d 833, 834 (2005).

The public disclosure of confidential information is irreparable. *See, e.g., Ruckelshaus v. Monsanto Co.*, 463 U.S. 1315, 1317 (1983). Denial of a constitutional right also constitutes irreparable harm. *Faulkner v. Jones*, 10 F.3d 226, 230 (4th Cir. 1993); *Ross v. Meese*, 818 F.2d 1132, 1135 (4th Cir. 1987) ("Moreover, the denial of a constitutional right, if denial is established, constitutes irreparable harm for purposes of equitable jurisdiction.")

Disclosing Plaintiff's name and the details of the invasion of privacy would constitute disclosure of confidential information and would further invade Plaintiff's constitutional right to privacy. By showing these constitutional violations, Plaintiff has made a showing of irreparable injury.

"When seeking a preliminary injunction, the plaintiff need not prove an absolute legal right; the plaintiff need only present 'a fair question to raise as to the existence of such a right.'" *Peek v. Spartanburg Reg's Healthcare Sys.*, 367 S.C. 450, 456, 626 S.E.2d 34, 36 (Ct. App. 2005) *holding modified by Pointer Invs. v. Century Builders of Piedmont, Inc.*, 387 S.C. 583, 694 S.E. 2d 15 (2010) (quoting *Williams v. Jones*, 92 S.C. 342, 347, 75 S.E. 705, 710 (1912)). Defendants have admitted to intentionally installing the camera in privacy of a bedroom to videotape Plaintiff without her knowledge or consent. This raises a fair enough question to satisfy Plaintiff's burden to show a likelihood of success on the merits.

"A temporary injunction is used to preserve the subject of controversy in the condition which it is at the time of the [o]rder until opportunity is offered for full and deliberate investigation and to preserve the existing status during litigation." *Mailsource, L.L.C. v. M.A. Bailey & Assocs.*, 356 S.C. 363, 368, 588 S.E. 2d 635 (Ct. App. 2003). Only injunctive relief will preserve Plaintiff's anonymity during litigation. Thus, no adequate remedy exists at law.

II. Why the Order is Granted without Notice

"Pursuant to Rule 65(b), SCRCP), a trial judge can issue a temporary restraining order without providing notice where it clearly appears from specific facts shown by affidavit or by verified complaint that immediate or irreparable injury, loss or damage will result to the applicant before notice can be served and a hearing had thereon." *Zabinski v. Bright Acres Associates*, 346 S.C. 580, 600-601, 553 S.E.2d 110, 120 (2001).

Plaintiff asks the Court to enjoin Defendants from disclosing her identity until the Court can have a hearing on the Rule to Show Cause and on the merits of her Motion to Proceed under Pseudonym. Defendants could file documents containing Plaintiff's real name or otherwise reveal her identity while the Court is considering Plaintiff's request for a Temporary Restraining Order. As a result, notifying Defendants could result in the immediate and irreparable harm Plaintiff seeks to prevent. Based on the foregoing, the Court issues this Temporary Restraining Order without notice to the Defendants.

III. Security

"[N]o restraining order or temporary injunction shall issue except upon the giving of security by the applicant, in such sum as the court deems proper, for the payment of such costs and damages as may be incurred or suffered by any party who is found to have wrongfully enjoined or restrained." Rule 65(c), SCRCP. The court finds that the relief that Plaintiff seeks threatens no cost or financial damage to Defendants. As a result, the Court orders that Plaintiff shall give no security in conjunction with this matter.

CONCLUSION

Based on the foregoing, the Court GRANTS Plaintiff's *Ex Parte* Motion for a Temporary Restraining Order. The Court also orders the following:

1. Plaintiff shall serve a filed copy of this Order, together with a Summons and Complaint, on the above-named Defendants in accordance the provisions of Rule 4, SCRCP;
2. Defendants, their counsel, Court personnel, and any other person are prohibited from directly or indirectly disclosing Plaintiff's identity (or any information or distinguishing characteristics which could reveal her true identity) to any third party at any time;

3. If Defendants believe it is necessary in the defense of claims herein to disclose Plaintiff's identity to persons other than those specified in this Order, Defendant shall communicate with Plaintiff's counsel and if agreement cannot be reached in writing, the matter shall be determined by the Court;

4. All pleadings, motions, evidence, documents, and any other filings in this case containing Plaintiff's real name or likeness shall be appropriately redacted to remove all identifying information and all information that could lead to her identity or, if that is not possible, they shall be filed under seal;

5. Nothing filed under seal in this matter shall be open to inspection except by the Court, the parties and their attorneys;

6. Any person or entity who comes to learn of Plaintiff's true identity (or information or distinguishing characteristics which could reveal Plaintiff's true identity) is prohibited from directly or indirectly revealing Plaintiff's true identity or distinguishing characteristics by any means to any person or any entity not authorized by this Court to receive such information;

7. Plaintiff shall only be referred to by her pseudonym, Mary R. McCorvey;

8. This order shall bind Defendants, their officers, agents, servants, employees, and attorneys, and upon those persons in active concert or participation with them who receive actual notice of the order by personal service or otherwise;

9. Any individual or entity not already a party to this case is enjoined from engaging in any of the proscribed acts upon actual notice being provided of any order issued;

10. Plaintiff is exempt from submitting security since the relief requested threatens no cost of financial damage to Defendants;

11. Defendant shall immediately provide a copy of this Order to their officers, agents, servants, employees, and attorneys, and upon those persons in active concert or participation with them within 10 days from the date of the entry of this Order. Each Defendant shall provide a sworn statement certifying compliance with this provision of the Order, which statement shall include the names and addresses of each such person or entity who received a copy of the Order;

12. Defendants must show the Court why they meet the legal standard to be allowed to continue under pseudonyms;

13. Defendants shall appear before this Court to show cause, if there is any, why this Court should not enter a Preliminary Injunction, pending final ruling on the Complaint against Defendant and imposing such additional relief as may be appropriate; and

14. Plaintiff shall be excused from the hearing on the Motion for Preliminary Injunction.

DURATION OF TEMPORARY RESTRAINING ORDER

The Temporary Restraining Order granted herein shall expire on March ____, 2013 at _____, unless within such time, for good cause shown, it is extended for an additional period not to exceed 10 days, or unless further extended pursuant to SCRCP 65.

ORDER TO SHOW CAUSE REGARDING PRELIMINARY INJUNCTION

Pursuant to SCRCP 65, Defendants shall appear before this Court on the March ____, 2013 at _____, at the Greenville County Courthouse, 305 E. North Street, Greenville, SC, to show cause, if there is any, why this Court should not enter a Preliminary Injunction, pending final ruling on the Complaint against Defendant and imposing such additional relief as may be appropriate.

Defendants must file with this Court and serve on all parties any memorandum responding to the order to show cause why a preliminary injunction should not be entered no later than forty-eight (48) hours before the time scheduled date and time of the hearing.

If any party to this action intends to present testimony of any witness at the hearing on a Preliminary Injunction in this matter the party, shall, at least 24 hours prior to the scheduled date and time of the hearing, file with this Court and serve on all other parties a statement disclosing the name, address, and telephone number of any such witness, and either a summary of the witness's expected testimony, or the witness's affidavit revealing the substance of such witness's expected testimony.

_____
Presiding Judge

March _____, 2013
Greenville, SC

D6H

STATE OF SOUTH CAROLINA	)	THIRTEENTH JUDICIAL CIRCUIT
	)	COURT OF COMMON PLEAS
COUNTY OF GREENVILLE	)	C.A. No. 2013-CP-23-01762
	)	
Jane Doe,	)	
	)	
Plaintiff,	)	MOTION REGARDING ORDER
	)	GRANTING PLAINTIFF RIGHT
v.	)	TO PROCEED ANONYMOUSLY
	)	
Frank A. Landgraff, Carol Sutton,	)	
Carol Sutton & Associates – Investigations, Inc.	)	
	)	
Defendants.	)	

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GREENVILLE CO. S.C.

YOU WILL PLEASE TAKE NOTICE THAT Defendant, Frank A. Landgraff, by and through his undersigned counsel, will request the presiding judge[1] of the Court of Common Pleas for the County of Greenville, on the tenth (10th) day after service of this Motion or as soon thereafter as the matter may be heard, to rescind the Order Granting Plaintiff Right To Proceed Anonymously filed May 17, 2013.

The grounds for this Motion will further be set forth in the Memorandum of Law to be submitted to the Court at the appropriate time, the pleadings in this case, together with any and all other relevant documents and materials to be submitted to the Court.

The undersigned certifies that consultation with opposing counsel would serve no useful purpose and thus was not had.

[1] Due to the nature of the relief requested, this motion should be set for hearing before Judge D. Garrison Hill.

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NELSON MULLINS RILEY & SCARBOROUGH LLP

By: _____

Timothy E. Madden, SC Bar No. 11786
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(864) 250-2300
Attorneys for Frank A. Landgraff

Greenville, South Carolina

9/24, 2013

STATE OF SOUTH CAROLINA

COUNTY OF GREENVILLE

Jane Doe,

Plaintiff,

v.

Frank A. Landgraff, Carol Sutton, Carol Sutton & Associates - Investigations, Inc.

Defendants.

IN THE COURT OF COMMON PLEAS

C.A. 2013-CP-23-01762

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GREENVILLE CO. S.C.
PAUL B. VICKERSIMER
2013 NOV 4 PM 2:45

MOTION TO STRIKE and MOTION FOR PARTIAL SUMMARY JUDGMENT

Pursuant to SCRCP Rules 12(f), and 56, Plaintiff Jane Doe respectfully moves the Court for an order striking various portions of Defendants' Answers and for Summary Judgment on her claim for Wrongful Intrusion into Private Affairs. Specifically, Plaintiff requests that the First, Second, Third, Fourth, Fifth, Sixth, Eighth, Ninth, and Eleventh Affirmative Defenses of Defendant Landgraff be stricken and that the Second, Third, Fourth, Sixth, Seventh, Eighth, Ninth, Tenth, Eleventh, and Twelfth Defenses of Defendants Carol Sutton and Carol Sutton & Associates-Investigations, Inc. be stricken.

William G. Mayer
S.C. Bar No. 13340
Attorney for the Plaintiff
118 West Main Street
Laurens, SC 29360
864-984-9202 Telephone
864-715-0496 Facsimile

October 31, 2013
Greenville, SC

FILED-CLERK OF COURT
GREENVILLE CO. S.C.
PAUL B. WICKENSIMER
2014 FEB 5 PM 4 20

STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS

COUNTY OF GREENVILLE) Civil Action No. 2013-CP-23-01762

Jane Doe, Plaintiff, vs. Frank A. Landgraff, Carol Sutton, Carol Sutton & Associates-Investigations, Inc., Defendants.	)	**MOTION FOR INVOLUNTARY DISMISSAL**

Defendant Frank A. Landgraff ("Landgraff") hereby moves this Court for the involuntary dismissal of this action due to Plaintiff's ongoing failure to comply with the Court's Order filed January 6, 2014.

BACKGROUND

On May 17, 2013, the Court filed an Order (the "May 17, 2013 Order") pursuant to an *ex parte* application by Plaintiff which allowed Plaintiff to proceed anonymously in this lawsuit and restrained the parties from disclosing Plaintiff's identity to third-parties.

Landgraff subsequently challenged the May 17, 2013 Order by motion filed September 26, 2013.

After hearing argument on Landgraff's motion the Court filed an Order on January 6, 2014 (the "January 6, 2014 Order", attached hereto as Exhibit A), which vacated the May 17, 2013 Order and further required "[w]ithin ten (10) days of the receipt of this Order, Plaintiff is ordered to amend her Complaint for the sole purpose of substituting her real name for the pseudonym Jane Doe." (Ex. A, p. 4).

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The order coversheet for the January 6, 2014 Order reflects a mailing date to all counsel of Monday, January 6, 2014, and Landgraff's counsel received the order on Wednesday, January 8, 2014, all as reflected on Exhibit A.

On January 24, 2014, Landgraff's counsel sent a letter to Plaintiff's counsel (attached hereto as Exhibit B), pointing out she had not yet filed her Amended Complaint as ordered and requesting that she do so.

On January 31, 2014, Landgraff's counsel sent a second letter to Plaintiff's counsel (attached hereto as Exhibit C), pointing out she had not yet filed her Amended Complaint as ordered and requesting that she do so immediately. To the extent an affirmation under Rule 11, SCRCP is required for this motion this letter meets the requirement.

As of Wednesday, February 5, 2014 at 1:00 p.m., Plaintiff has not yet amended her complaint as ordered by the January 6, 2014 Order (court docket attached hereto as Exhibit D).

AUTHORITY

Rule 41(b), SCRCP addresses involuntary dismissal and specifically provides that "[f]or failure of the plaintiff to prosecute or to comply with these rules or any order of court, a defendant may move for dismissal of an action or of any claim against him."

Simply, the plaintiff in this action has not complied with the January 6, 2014 Order as detailed herein, and the action should be dismissed as explicitly allowed for by procedural rule.

CONCLUSION

For the reasons described herein, the action should be dismissed.

STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENVILLE)

IN THE COURT OF COMMON PLEAS

Civil Action No. 2013-CP-23-01762

Jane Doe,

Plaintiff,

vs.

Frank A. Landgraff, Carol Sutton, Carol Sutton & Associates-Investigations, Inc.,

Defendants.

FILED-CLERK OF COURT
GREENVILLE CO. S.C.
PAUL B. MICHEL
2014 FEB 20 PM 2 24

MOTION FOR ENTRY OF RULE TO SHOW CAUSE

Defendant Frank A. Landgraff ("Landgraff") hereby moves this Court for the issuance of a Rule to Show Cause for Plaintiff's ongoing failure to comply with the Court's Order filed January 6, 2014 (the "January 6, 2014 Order", attached hereto as Exhibit A).

The January 6, 2014 Order states "[w]ithin ten (10) days of the receipt of this Order, Plaintiff is ordered to amend her Complaint for the sole purpose of substituting her real name for the pseudonym Jane Doe." (p. 4).

The order coversheet reflects a mailing date to all counsel of January 6, 2014, and Landgraff's counsel received the order on January 8, 2014, all as reflected on Exhibit A.

On January 24, 2014, Landgraff's counsel sent a letter to Plaintiff's counsel (attached hereto as Exhibit B), pointing out she had not yet filed her Amended Complaint as ordered and requesting that she do so.

On January 31, 2014, Landgraff's counsel sent a second letter to Plaintiff's counsel (attached hereto as Exhibit C), pointing out she had not yet filed her Amended Complaint as

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ordered and requesting that she do so immediately. To the extent an affirmation under Rule 11, SCRCP is required for this motion this letter meets the requirement.

As of Wednesday, February 5, 2014 at 1:00 p.m., Plaintiff has not yet amended her complaint as ordered by the January 6, 2014 Order (court docket attached hereto as Exhibit D).

Landgraff prays for an Order of this Court as follows:

A. Ordering Plaintiff to show cause, if any she can, why she should not be held in willful contempt of this Court's January 6, 2014 Order;

B. Finding and holding Plaintiff in willful and intentional violation of the aforementioned Order, in the various particulars alleged hereinabove, requiring her immediate compliance with the January 6, 2014 Order and punishing her in accordance with all applicable law and issuing all sanctions which this Court may deem just and appropriate; and

C. Awarding such other and further relief as this Court may deem just and proper.

NELSON MULLINS RILEY & SCARBOROUGH LLP

By: Reid T. Sherard

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(864) 250-2300
Attorneys for Frank A. Landgraff

Greenville, South Carolina

2/5, 2014

STATE OF SOUTH CAROLINA

COUNTY OF GREENVILLE

FILED-CLERK OF COURT
GREENVILLE CO. S.C.
PAUL B. WICKENSIMER
2014 MAR 5 AM 9 09

IN THE COURT OF COMMON PLEAS
C.A. 2013-CP-23-01762

Jane Doe,

Plaintiff,

v.

Frank A. Landgraff, Carol Sutton, Carol Sutton & Associates - Investigations, Inc.

Defendants.

MOTION TO AMEND ORDER

PLEASE TAKE NOTICE THAT Plaintiff Jane Doe requests the presiding judge of the Court of Common Pleas for Greenville County to amend the Order entered on January 8, 2014, on the tenth (10th) day after service of this Motion or as soon thereafter as possible,

Plaintiff will submit a timely Memorandum of Law setting forth the grounds for this Motion. The undersigned certifies that consultation with opposing counsel would serve no useful purpose and, thus, was not had.

William G. Mayer
S.C. Bar No. 13340
Attorney for the Plaintiff
118 West Main Street
Laurens, SC 29360
864-984-9202 Telephone
864-715-0496 Facsimile

~~February~~ March 4, 2014
Greenville, SC

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STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENVILLE)

IN THE COURT OF COMMON PLEAS

Civil Action No. 2013-CP-23-01762

Carol Simpson,
Plaintiff,

vs.

Frank A. Landgraff, Carol Sutton, Carol Sutton & Associates-Investigations, Inc.,
Defendants.

MOTION TO COMPEL

FILED-CLERK OF COURT
GREENVILLE CO. S.C.
PAUL B. MUSSELSHER
2014 AUG 28 PM 3 45

TO: PLAINTIFF, THROUGH COUNSEL OF RECORD WILLIAM G. MAYER

Pursuant to Rule 37, SCRCP, Defendant Frank A. Landgraff ("Landgraff") moves the Court for an Order compelling Plaintiff Carol Simpson ("Simpson") to respond fully to certain discovery requests propounded upon them on May 8, 2014. Simpson's responses to those requests were deficient as follows:

(1) Simpson asserted various privileges and protections against responding to certain discovery requests but supplied no privilege log as required by Rule 26(b)(5), SCRCP;

(2) Simpson interposed improper objections or failed to fully respond to Requests for Production Nos. 5, 10, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 31, 33, 37, 39, 41.

(3) Simpson interposed improper objections or failed to fully respond to Requests for Admission Nos. 1, 4, 12, 15.

(4) Simpson interposed improper objections or failed to fully respond to Interrogatory Nos. 3, 6, 9, 10, 11, 12, 14, 15, 17, 18, 19.

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Copies of the discovery requests served on Simpson are attached as **Exhibit 1**. Copies of Simpson's responses are attached as **Exhibit 2**. Accordingly, Landgraff asks the Court to issue an Order compelling Simpson to supply complete discovery responses to the aforementioned requests.

NELSON MULLINS RILEY & SCARBOROUGH LLP

By: _____

Timothy E. Madden, SC Bar No. 11786
E-Mail Address: tim.madden@nelsonmullins.com
Lane W. Davis, SC Bar No. 68796
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104 South Main Street / Ninth Floor
Post Office Box 10084 (29603-0084)
Greenville, SC 29601
(864) 250-2300

Attorneys for Frank A. Landgraff

August 28, 2014

CERTIFICATE OF SERVICE

I, the undersigned Administrative Assistant of the law offices of Nelson Mullins Riley & Scarborough LLP, attorneys for Frank A. Landgraff, do hereby certify that I have served all counsel in this action with a copy of the pleading(s) hereinbelow specified by mailing a copy of the same via first-class U.S. mail to the following address(es):

FILED-CLERK OF COURT
GREENVILLE CO.S.C.
PAUL E. WILKERSONER
2014 AUG 28 PM 3 45

Pleadings:

Motion to Compel

Counsel Served:

William G. Mayer
118 West Main Street
Laurens, SC 29360

Joe Mooneyham
Mooneyham, Berry & Pope, LLC
1225 South Church Street
Greenville, SC 29605

Ann Pollard
Ann Pollard
Administrative Assistant

Aug. 28, 2014

EXHIBIT 1

STATE OF SOUTH CAROLINA	)	THIRTEENTH JUDICIAL CIRCUIT
	)	COURT OF COMMON PLEAS
COUNTY OF GREENVILLE	)	C.A. No. 2013-CP-23-01762
	)	
Jane Doe,	)	
	)	
Plaintiff,	)	FRANK A. LANDGRAFF'S
	)	FIRST INTERROGATORIES
v.	)	TO PLAINTIFF
	)	
Frank A. Landgraff, Carol Sutton,	)	
Carol Sutton & Associates – Investigations, Inc.	)	
	)	
Defendants.	)	
	)	

TO: PLAINTIFF, THROUGH COUNSEL OF RECORD WILLIAM G. MAYER

Defendant, Frank A. Landgraff ("Landgraff"), pursuant to Rules 26 and 33 of the South Carolina Rules of Civil Procedure, hereby requests that the plaintiff serve upon Landgraff's counsel within thirty (30) days, Answers to the following Interrogatories, which shall be deemed continuing in nature from the time of service until the time of the trial of this matter, so that information sought which may come to the knowledge of the plaintiff, her representative or attorney, after the Answers to these Interrogatories have been submitted, shall be transmitted to the undersigned.

INTERROGATORIES

1. Give the names and addresses of persons known to the plaintiff or counsel to be witnesses concerning the facts of the case and indicate whether written or recorded statements have been taken from the witnesses and indicate who has possession of such statements.

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

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

4. List the names and addresses of any expert witnesses whom the plaintiff proposes to use as a witness at the trial of the case. Provide a summary of all opinions plaintiff expects to introduce at trial from all expert witnesses identified.

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

6. Set forth all facts and/or circumstances known by the plaintiff to support the following allegations contained in the Amended Complaint filed June 14, 2013:

(a) Paragraph 3

(b) Paragraph 4

(c) Paragraph 7

(d) Paragraph 8

(e) Paragraph 10

(f) Paragraph 11

(g) Paragraph 12

(h) Paragraph 13

(i) Paragraph 16

(j) Paragraph 17

(k) Paragraph 18

(l) Paragraph 19

(m) Paragraph 22

(n) Paragraph 23.

7. Set forth a detailed itemization of all damages claimed by the plaintiff in the Amended Complaint filed June 14, 2013, including a summary explaining any calculations the plaintiff conducted in reaching all numbers included in the damages itemization, as alleged in:

(a) Paragraphs 14

(b) Paragraph 20

(c) Paragraph 24

8. Provide a detailed explanation of how Landgraff caused the plaintiff to sustain all damages itemized in response to Interrogatory No. 8.

9. Regarding any person (including the plaintiff), insurance company or other entity who has paid any sums (i.e. bills, expenses, fees, costs, etc.) as a result of the allegations in the Amended Complaint filed June 14, 2013, identify:

(a) Who paid said bills or expenses;

(b) The amount paid by each person/entity; and

(c) Identify the bills and expenses paid.

10. Regarding any other claims for personal injuries the plaintiff has ever made against any person or entity, identify:

(a) Each such person or entity claimed against;

(b) The circumstances underlying such claim (i.e., injuries alleged, the date when such claim was made);

(c) The identifying information for any litigation (i.e., name, court, docket number); and

(d) The result of such claim (i.e. verdict, settlement, date of result).

11. In relation to the injuries the plaintiff allegedly sustained from the conduct the plaintiff attributes to any defendant, has the plaintiff been admitted to or treated by any health professional (e.g., physicians, mental health professionals, etc.) or at any hospital or health-related institution, whether as an in-patient or out-patient, or received any treatment for such injuries, related illnesses, or related conditions, from any physician or health personnel? If so, identify:

(a) The contact information of any such health professional, hospital, and health-related institution;

(b) The circumstances of the treatment or admission (i.e., type of injury, illness or condition, the nature of the treatment, and dates);

(c) A statement of all medical costs involved.

12. List the contact information of each physician, psychologist and/or other mental or physical care provider who has professionally seen or treated the plaintiff during the time beginning January 1, 2004 until the most recent date.

13. Identify all materials (whether documents, photographs, recordings, or other materials) which:

(a) Are possible exhibits or evidence at any deposition, hearing or trial in this case;

(b) The plaintiff intends to introduce as exhibits or evidence at any deposition, hearing or trial in this case.

14. Regarding each and every criminal charge, investigation, or other proceeding (felony or misdemeanor), attorney disciplinary proceeding, or civil action to which the plaintiff has been a party or in which the plaintiff has been involved as a witness, or where the plaintiff received a "target letter" (regardless of whether pretrial intervention or expungement occurred), identify:

(a) The identifying information for the case (i.e., name, court, docket number, law enforcement agency(ies) or other entities);

(b) The circumstances (i.e., claims asserted and dates); and

(c) The outcome of the case (i.e., verdict, sentence, sanction) including the terms and date of any settlement.

15. For any prescription and/or non-prescription drug(s) the plaintiff is currently taking or has taken since January 1, 2004, identify:

(a) The drug (i.e. name and type);

(b) The dosage (i.e. amount and frequency);

(c) Reason prescribed and/or taken; and

(d) How procured (i.e. prescriber and location of purchase).

16. Regarding the plaintiff's participation in the purchasing or consumption of marijuana, cocaine, or any drug of that nature (prescription or otherwise), identify:

(a) The dates participated in such activities; and

(b) The amount consumed on each occasion.

17. Regarding any person, male or female, with whom the plaintiff has participated in any sexual activities of any kind (including, but not limited to, use of sex "toys", sexual intercourse, oral sex, petting, fondling, or kissing) since January 1, 2004, identify:

(a) The name and address of each such person(s); and

(b) The circumstances (i.e. date(s) and place(s) of such activity).

18. List every e-mail address (also provide name of internet service provider) and mobile phone number (also provide name of carrier) which the plaintiff has used since January 1, 2004.

19. Provide the name, address and dates of employment of the professional engaged "to do a thorough background check on [the plaintiff]" as referenced on Page 9 of the Memorandum in Opposition to Defendant's Motion to Set Aside or Modify Order dated November 11, 2013.

20. Provide all facts supporting the statement that the presentation by Lane Davis at the November 12, 2013 hearing was "in varying degrees, incomplete, misleading or false" as stated on Page 3 of the Memorandum in Support of Plaintiff's Motion to Amend Order filed April 28, 2014.

21. If the plaintiff has ever sought the service of a private detective, provide the contact information of such person.

22. Has the plaintiff or anyone at the plaintiff's direction, intercepted and/or recorded any of Landgraff's conversations, telephone calls (whether landline, portable, or mobile), MMS/SMS/text messages, e-mails, or other communications? If so, identify:

(a) The circumstances of the interception and/or recording (i.e. nature and method, dates);

(b) The name of the person who so intercepted and/or recorded; and

(c) The custodian of said recordings and/or transcriptions thereof.

NELSON MULLINS RILEY & SCARBOROUGH LLP

By:_____

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Attorneys for Frank A. Landgraff

Greenville, South Carolina
_____, 2014

STATE OF SOUTH CAROLINA	)	THIRTEENTH JUDICIAL CIRCUIT
	)	COURT OF COMMON PLEAS
COUNTY OF GREENVILLE	)	C.A. No. 2013-CP-23-01762
	)	
Jane Doe,	)	
	)	
Plaintiff,	)	**FRANK A. LANDGRAFF'S FIRST REQUESTS FOR PRODUCTION TO PLAINTIFF**
	)	
v.	)	
	)	
Frank A. Landgraff, Carol Sutton, Carol Sutton & Associates – Investigations, Inc.	)	
	)	
Defendants.	)	
	)	

TO: PLAINTIFF, THROUGH COUNSEL OF RECORD WILLIAM G. MAYER

Defendant Frank A. Landgraff ("Landgraff"), pursuant to Rules 26 and 34 of the South Carolina Rules of Civil Procedure, hereby requests that the plaintiff produce the documents identified below within thirty (30) days at the offices of Nelson Mullins Riley & Scarborough LLP, Poinsett Plaza, 9th Floor, 104 South Main Street, Greenville, South Carolina, 29601, or at such other time and place as shall be mutually agreed upon by the parties. These requests shall be continuing in nature so that any documents requested herein must be produced prior to the trial of this case, even if a document is not in existence at the time of the plaintiff's initial response.

DEFINITIONS

1. "DOCUMENT" includes any form of writing, communication or other means by which information may be transferred or recorded, whether by paper, film, audio, video, photograph, slides, microfilm, microfiche, computer printout, disc, magnetic tape, computer disk, computer code, electronic file, flash drive, flash card, or other form, including, but not limited to, notes, letters, reports, records, minutes, memoranda, correspondence, telegrams, schedules,

bulletins, data sheets, work sheets, orders, drafts, printouts, binders, notes, articles, cassette tapes, laser or computer disks, manuals, agreements, contracts, test results, analysis, carbon copies, lists, indices, bibliographies, newspapers, circulars, notebooks, periodicals, journals, diaries, calendars, appointment books, charts, tables, papers, agreements, contracts, books, invoices, budgets, payrolls, check stubs, canceled checks, analyses, projections, transcriptions, minutes of meetings of any kind, instructions, announcements, bills of lading, shipping orders, freight bills, advertisements, brochures, pamphlets, binders, institutions, price lists, instructions, announcements, and mechanical or electrical sound recordings or transcripts thereof, electronic mail and any other forms of information preservation. DOCUMENT also includes all copies which are not identical to the originals, such as those bearing marginal comments, alterations, notes or other notations not present on the original document as originally written, typed or otherwise prepared.

2. "COMMUNICATIONS" shall mean any statement made by one person to another or any DOCUMENT delivered or sent from one person to another.

3. "And" and "or" shall be construed conjunctively or disjunctively as necessary to make the request inclusive rather than exclusive. The use of the words "include(s)" and "including" shall be construed to mean "without limitation".

4. Use of the term "control" when referring to documents or other tangible or intangible things shall include those items actually in the plaintiff's possession or under the plaintiff's control. "Control" shall also include those items (either by original or copy thereof) the plaintiff has the right to secure from another person or entity (who is under the plaintiff's direction, supervision, or acts as the plaintiff's agent) which has actual possession thereof.

5. If any document or other tangible thing is responsive to any request stated herein, but is not in the plaintiff's custody, possession, or control, identify the person or entity with possession or custody with sufficient particularity to allow Landgraff to issue a subpoena to obtain or inspect the documents or things.

6. If any document was, but is no longer in the plaintiff's possession, custody, or control, state what disposition was made of it, including but limited to whether it was destroyed or disposed of, by whom, and the date or dates or approximate date or dates on which such disposition was made and why.

INSTRUCTIONS

1. All documents covered in this request shall be produced in an orderly manner (and with appropriate markings or other identification) so that Landgraff and counsel will be able to identify the source of the document and the number of the request to which it responds.

2. As to all documents or things withheld on the basis of privilege, furnish a description of the item, the dates the item was transmitted (if applicable), the recipients of such transmission identifying any attorney recipients, a description of the contents of the withheld item, and a brief explanation of the privilege(s) invoked sufficient to permit Landgraff to evaluate the propriety of the same.

DOCUMENTS TO BE PRODUCED

1. Any and all documents the plaintiff, or any entity in which the plaintiff has a controlling interest, has ever received from any law enforcement agency, prosecutor, or disciplinary authority providing the plaintiff or such entity notice of an investigation or inquiry into the plaintiff's conduct and/or the conduct of such entity. This request specifically includes, but is not limited to, any "target letter", subpoena, notice of disciplinary complaints

or proceedings, or other communication or correspondence the plaintiff and/or Carol Simpson Law Offices have received from any federal, state, or local law enforcement agency; any federal, state, or local prosecutor; and/or any state disciplinary authority.

2. Any and all documents the plaintiff, or any entity in which the plaintiff has a controlling interest, assembled and/or provided in response to a document covered by Request No. 1.

3. Any and all documents or materials relating to the alleged actions and/or conduct as referenced in the Amended Complaint filed June 14, 2013, including but not limited to:

(a) Paragraph 3

(b) Paragraph 4

(c) Paragraph 7

(d) Paragraph 8

(e) Paragraph 10

(f) Paragraph 16

(g) Paragraph 17

(h) Paragraph 18

(i) Paragraph 22

(j) Paragraph 23.

4. Any and all documents or materials relating to any intent and/or state of mind of any defendant as referenced in the Amended Complaint filed June 14, 2013, including but not limited to:

(a) Paragraph 4

(b) Paragraph 7

(c) Paragraph 8

(d) Paragraph 13

(e) Paragraph 16

(f) Paragraph 22

(g) Paragraph 23.

5. Any and all documents or materials relating to any damage of any kind as referenced in the Amended Complaint filed June 14, 2013, including but not limited to:

(a) Paragraph 14

(b) Paragraph 20

(c) Paragraph 24.

6. Any and all documents or materials relating to any distress as referenced in the Amended Complaint filed June 14, 2013, including but not limited to:

(a) Paragraph 16

(b) Paragraph 18

(c) Paragraph 19

(d) Paragraph 20.

7. All documents, whether transcription or otherwise, reflecting or relating to statements (written or oral), reports or accounts of any witnesses or parties to the action relating to the allegations in the Amended Complaint filed June 14, 2013.

8. All documents reflecting or relating to any reports, memoranda, letters, notes or summaries of any oral statements relating to the claims asserted in the Amended Complaint filed June 14, 2013.

9. All photographs and/or video relating to the allegations in the Amended Complaint, or relating to injuries the plaintiff claims she received as a result of the supposed conduct underlying the allegations in the Amended Complaint filed June 14, 2013.

10. Any diaries, journals, calendars, and/or similar records kept or maintained by the plaintiff or at the plaintiff's direction for the period January 1, 2004 through present.

11. Any and all documents which the plaintiff intends to introduce as an exhibit at any deposition, hearing, and/or at the trial of this case, and any other document upon which the plaintiff relies or intends to rely at any deposition, hearing, and/or trial.

12. Any and all recordings (audio, photo and/or video, whether in hard copy, negative, electronic file, videotape, or otherwise) in the plaintiff's possession or custody.

13. Any and all recordings (audio, photo and/or video, whether in hard copy, negative, electronic file, videotape, or otherwise) in the plaintiff's possession, custody, or control of the plaintiff, and/or which the plaintiff shared with, provided to, or made available to Lynn W Mulligan f/k/a Lynn Landgraff ("Mulligan"), and/or to Attorney Chace D. Campbell (and/or any employee of Chace Campbell, PA).

14. Any and all recordings (audio, photo and/or video, whether in hard copy, negative, electronic file, videotape, or otherwise) in the plaintiff's possession, custody, or control of Landgraff which the plaintiff intends to use at any deposition, hearing, or trial.

15. Any and all correspondence or communications (no matter how delivered, including but not limited to cards, notes, letters, text messages and/or e-mails) (including any and all attachments/enclosures) <u>to</u> Landgraff <u>from</u> the plaintiff.

16. Any and all correspondence or communications (no matter how delivered, including but not limited to cards, notes, letters, text messages and/or e-mails) (including any and all attachments/enclosures) **from** Landgraff **to** the plaintiff.

17. Any and all correspondence or communications (no matter how delivered, including but not limited to cards, notes, letters, text messages and/or e-mails) (including any and all attachments/enclosures) **to** Mulligan **from** the plaintiff.

18. Any and all correspondence or communications (no matter how delivered, including but not limited to cards, notes, letters, text messages and/or e-mails) (including any and all attachments/enclosures) **from** Mulligan **to** the plaintiff.

19. Any and all correspondence or communications (no matter how delivered, including but not limited to cards, notes, letters, text messages and/or e-mails) (including any and all attachments/enclosures) **to** Chace D. Campbell and/or any employee of Chace Campbell, PA **from** the plaintiff, regarding or relating to (a) any allegation or claim the plaintiff asserts in this case, (b) Mulligan, and/or (c) Landgraff.

20. Any and all correspondence or communications (no matter how delivered, including but not limited to cards, notes, letters, text messages and/or e-mails) (including any and all attachments/enclosures) **from** Chace D. Campbell and/or any employee of Chace Campbell, PA to the plaintiff, regarding or relating to (a) any allegation or claim the plaintiff asserts in this case, (b) Mulligan, and/or (c) Landgraff.

21. Any and all correspondence or communications (no matter how delivered, including but not limited to cards, notes, letters, text messages and/or e-mails) (including any and all attachments/enclosures) **to** the solicitor of any judicial circuit in South Carolina and/or any

employee of any such solicitor **from** the plaintiff, regarding or relating to (a) any allegation or claim the plaintiff asserts in this case, (b) Mulligan, and/or (c) Landgraff.

22. Any and all correspondence or communications (no matter how delivered, including but not limited to cards, notes, letters, text messages and/or e-mails) (including any and all attachments/enclosures) **from** the solicitor of any judicial circuit in South Carolina and/or any employee of any such solicitor **to** the plaintiff regarding or relating to (a) any allegation or claim the plaintiff asserts in this case, (b) Mulligan, and/or (c) Landgraff.

23. Any and all correspondence or communications (no matter how delivered, including but not limited to cards, notes, letters, text messages and/or e-mails) (including any and all attachments/enclosures) **to** the Attorney General of South Carolina and/or any employee of the Attorney General's office **from** the plaintiff, regarding or relating to (a) any allegation or claim the plaintiff asserts in this case, (b) Mulligan, and/or (c) Landgraff.

24. Any and all correspondence (no matter how delivered, including but not limited to cards, notes, letters, text messages and/or e-mails) (including any and all attachments/enclosures) **from** the Attorney General of South Carolina and/or any employee of the Attorney General's office **to** the plaintiff, regarding or relating to (a) any allegation or claim the plaintiff asserts in this case, (b) Mulligan, and/or (c) Landgraff.

25. Any and all correspondence or communications (no matter how delivered, including but not limited to cards, notes, letters, text messages and/or e-mails) (including any and all attachments/enclosures) **to** the Office of the United States Attorney for the District of South Carolina and/or any employee of the United States Attorney's office **from** the plaintiff, regarding or relating to (a) any allegation or claim the plaintiff asserts in this case, (b) Mulligan, and/or (c) Landgraff.

26. Any and all correspondence (no matter how delivered, including but not limited to cards, notes, letters, text messages and/or e-mails) (including any and all attachments/enclosures) from the Office of the United States Attorney for the District of South Carolina and/or any employee of the United States Attorney's office to the plaintiff, regarding or relating to (a) any allegation or claim the plaintiff asserts in this case, (b) Mulligan, and/or (c) Landgraff.

27. Any documents and/or records relating to meals, lodging, trips, gifts, mementos, sexual paraphernalia, and/or other similar matter the plaintiff has ever received from Mulligan.

28. Any documents evidencing any meals, lodging, trips, gifts, mementos, sexual paraphernalia, and/or other similar matter purchased by the plaintiff for (a) Mulligan, or (b) the plaintiff, in conjunction with the plaintiff's relationship with Mulligan.

29. Any and all gifts given to the plaintiff by Mulligan.

30. Any and all gifts the plaintiff has given to Mulligan.

31. Any and all monthly mobile telephone statements for the plaintiff personally, or any accounts the plaintiff has access to, utilized, purchased, or are liable for (including but not limited to mobile phones with carrier contracts, prepaid phones, "pay as you go" phones, tracfones, or related), during the past four (4) years preceding this request. These statements should detail calls and texts, detailing those sent and those received. If the plaintiff responds that any mobile telephone the plaintiff has access to, purchased, or is liable for does not provide monthly statements, or that the statements are not in the plaintiff's possession, custody, or control, provide the carrier and the phone number for each such line.

32. If the plaintiff has or ever had any account(s) on Facebook.com in the plaintiff's name or in the plaintiff's control, provide the downloaded account data for all such accounts. After logging in to Facebook.com, data can be downloaded by the following clicks: (1) Gear icon

(top right of homepage), then (2) Account Settings, then (3) Download a copy of your Facebook data, then (4) Start My Archive and follow the prompts.

33. Regarding any website, blog, and/or Internet page(s) regarding the plaintiff, which the plaintiff prepared, or for which the plaintiff has log-in credentials (including but not limited to any social networking website such as Facebook, Twitter, LinkedIn, Match.com, eHarmony, Adult Friend Finder or similar sites), provide:

(a) A complete copy of such site, blog, and/or page; and

(b) Any information necessary to access in-full any such site, blog, or page if same is not fully accessible from the location/address provided. By responding to this request, the plaintiffs consent to full access of such site, blog, or page by Landgraff's counsel for purposes of this lawsuit.

34. Regarding any:

(a) Hard drive/static memory of any electronic device in the plaintiff's possession, custody, or control (including but not limited to computer, cell phone, prepaid phone, "pay as you go" phone, tracfone, tablet, iPad, iPod touch, smartphone, PDA, Blackberry, iPhone, Android, etc.); and

(b) Thumb drive/memory card/flash memory in the plaintiff's possession, custody, or control,

Provide the device and memory, or provide a date, time, and place that Landgraff's technology expert may mirror or image the device and memory.

35. Any documents, materials, or electronic information: provided or supplied to any expert whom the plaintiff expects to call as an expert witness at a deposition, hearing, and/or trial; reviewed by such expert(s); relied upon by such expert(s); considered but rejected

as a basis of any expert opinion(s) by such expert(s); discussed with such expert(s); prepared by such expert(s) (including but not limited to drafts and revisions, handwritten notes or drawings, e-mails or correspondence, journal entries, day-timer or calendar entries, billing records, invoices); photographs/videos (in digital format if they exist in that format) provided to or prepared by such expert(s); the dictation of such expert(s); and copies of any and all reports rendered by such expert(s).

36. Any and all private investigator's report(s), other surveillance logs, notes, and communications concerning Landgraff and/or the plaintiff's allegations in this case.

37. Any and all background check report(s) and communications by the professional engaged "to do a thorough background check on [the plaintiff]" as referenced on Page 9 of the Memorandum in Opposition to Defendant's Motion to Set Aside or Modify Order dated November 11, 2013.

38. All documents supporting the statement that the presentation by Lane Davis at the November 12, 2013 hearing was "in varying degrees, incomplete, misleading or false" as stated on Page 3 of the Memorandum in Support of Plaintiff's Motion to Amend Order filed April 28, 2014.

39. Copies of the plaintiff's Federal and State income tax returns for the years 2007 through the present, including copies of all W-2, 1099, K-1, or similar statements.

40. Copies of all bills and expenses which the plaintiff claims to have incurred as a result of the supposed conduct underlying the allegations in the Amended Complaint.

41. Copies of any and all medical records, reports, summaries, bills, or claims documentation relating to the plaintiff beginning January 1, 2004 and continuing through the trial of this matter.

(a) Break out those documents relating to injuries the plaintiff claims she received as a result of the supposed conduct underlying the allegations in the Amended Complaint.

43. Any and all documents upon which the plaintiff relies or intends to rely in preparing the plaintiff's responses to any Request.

44. A copy of any affidavit the plaintiff has ever executed. This Request excepts any affidavit executed by the plaintiff for a claim for attorneys fees and costs in a case in which the plaintiff was counsel of record to a litigant other than the plaintiff.

45. All records regarding any attorneys fees and/or costs you have paid in this action, and any attorneys fees and/or costs which you owe to your counsel or otherwise.

46. Any document relied upon, referred to, or identified in the plaintiff's answers to the Interrogatories served simultaneously herewith not otherwise covered by any Request.

NELSON MULLINS RILEY & SCARBOROUGH LLP

By: _____

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Attorneys for Frank A. Landgraff

Greenville, South Carolina

5/8, 2014

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	THIRTEENTH JUDICIAL CIRCUIT
COUNTY OF GREENVILLE	)	
	)	
Jane Doe	)	
Plaintiff,	)	**AFFIDAVIT OF MAILING**
	)	
vs.	)	
	)	
Frank A. Landgraff, Carol Sutton, Carol Sutton & Associates Investigations, Inc.	)	
Defendant.	)	Docket No. 2013-CP-23-1762

Personally appeared Katie M. Johnson who states that (s)he served the All Attorney with a copy of the Frank A. Landgraff's First Interrogatories to Plaintiff, Frank A. Landraff's First Request for Production to Plaintiff, and Frank A. Landgraff's First Request for Admission to Plaintiff by mailing:

(Check one)

- ☒ First class mail
- ☒ Certified mail
  - ☒ restricted delivery
  - ☒ return receipt requested

in the United States Mail, with proper postage attached and receipt attached (if applicable), on May 8, 2014 (date) addressed as follows:

William G. Mayer
118 West Main Street
Laurens, SC 29360

Sworn to before me this
8 day of May, 2014

Catherine G
Notary Public of South Carolina

My Commission expires: 9.27.2020

Affiant

SCCA 406 (12/2009)

STATE OF SOUTH CAROLINA	)	THIRTEENTH JUDICIAL CIRCUIT
	)	COURT OF COMMON PLEAS
COUNTY OF GREENVILLE	)	C.A. No. 2013-CP-23-01762
	)	
Jane Doe,	)	
	)	
Plaintiff,	)	FRANK A. LANDGRAFF'S
	)	FIRST REQUESTS FOR
v.	)	ADMISSION TO PLAINTIFF
	)	
Frank A. Landgraff, Carol Sutton,	)	
Carol Sutton & Associates – Investigations, Inc.	)	
	)	
Defendants.	)	
	)	

TO: PLAINTIFF, THROUGH COUNSEL OF RECORD WILLIAM G. MAYER

YOU WILL PLEASE TAKE NOTICE, that Defendant Frank A. Landgraff ("Landgraff"), by the undersigned attorney requests, pursuant to Rule 36, SCRCP, that Plaintiff above named respond to this Request for Admission within thirty (30) days of service. The response may be in the form of an admission, a specific denial, an objection (with reasons clearly stated), or a statement that the matter cannot be admitted or denied. You may not give lack of information or knowledge as a reason for failure to admit or deny unless you state that you have made reasonable inquiry and the information known or readily available to you was insufficient to enable you to admit or deny.

You are requested to admit the truth of the following:

1. The plaintiff participated in sexual activities (including, but not limited to, use of sex "toys", sexual intercourse and/or penetration, petting, or fondling) with Lynn W. Mulligan ("Mulligan") f/k/a Lynn Landgraff while Mulligan was married to Landgraff.

2. The conduct described in Request for Admission No. 1 above occurred at the following locations:

(a) Landgraff's master bedroom, 122 Antigua Way, Greer, South Carolina;

(b) 204 E. Park Avenue, Unit 401, Greenville, South Carolina;

(c) On a cruise ship;

(d) Washington, DC (including metro area); and

(e) Other locations.

3. The conduct identified in Request for Admission No. 1 above constitutes a criminal act in the State of South Carolina.

4. Had Plaintiff never entered Landgraff's master bedroom at 122 Antigua Way, Greer, South Carolina to engage in the conduct identified in Request for Admission No. 1 above, she would have not been captured on video footage as alleged in the Amended Complaint filed June 14, 2013.

5. Landgraff did not cause Plaintiff to sustain any damages.

6. Landgraff did not intrude on Plaintiff's private affairs.

7. Plaintiff intruded on Landgraff's relationship with his wife.

8. Plaintiff's sexual activities with Landgraff's wife in his master bedroom at 122 Antigua Way, Greer, South Carolina intruded on Landgraff's private affairs.

9. Landgraff sustained damages as a consequence of Plaintiff's sexual conduct with his wife.

10. Plaintiff sustained no emotional distress as a result of any act committed by Landgraff.

11. Landgraff's conduct was reasonable in light of the circumstances.

12. Criminal justice authorities (law enforcement and/or prosecutorial) investigated Plaintiff due to her participation in allegedly illegal land transactions.

13. Plaintiff incurred severe emotional distress due to the investigation of criminal justice authorities (law enforcement and/or prosecutorial) into her participation in allegedly illegal land transactions.

14. Plaintiff is a licensed attorney in the State of South Carolina.

15. Plaintiff reported Landgraff to criminal justice authorities (law enforcement and/or prosecutorial) because she was recorded engaging in sexual activities with Mulligan in Landgraff's master bedroom at 122 Antigua Way, Greer, South Carolina.

16. Plaintiff reported Landgraff to criminal justice authorities (law enforcement and/or prosecutorial) in an attempt to gain a tactical advantage in this lawsuit.

NELSON MULLINS RILEY & SCARBOROUGH LLP

By: _____

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Attorneys for Frank A. Landgraff

Greenville, South Carolina

5/8, 2014

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	THIRTEENTH JUDICIAL CIRCUIT
COUNTY OF GREENVILLE	)	
	)	
Jane Doe	)	
Plaintiff,	)	**AFFIDAVIT OF MAILING**
	)	
vs.	)	
	)	
Frank A. Landgraff, Carol Sutton, Carol Sutton & Associates Investigations, Inc.	)	
Defendant.	)	Docket No. 2013-CP-23-1762

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(Check one)

- ☒ First class mail
- ☒ Certified mail
  - ☒ restricted delivery
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in the United States Mail, with proper postage attached and receipt attached (if applicable), on May 8, 2014 (date) addressed as follows:

William G. Mayer
118 West Main Street
Laurens, SC 29360

Sworn to before me this
8 day of May, 2014

Notary Public of South Carolina

My Commission expires: 9.27.2020

Affiant

SCCA 406 (12/2009)

EXHIBIT 2

STATE OF SOUTH CAROLINA COUNTY OF GREENVILLE Jane Doe, Plaintiff, v. Frank A. Landgraff, Carol Sutton, Carol Sutton & Associates - Investigations, Inc. Defendants.	IN THE COURT OF COMMON PLEAS C.A. 2013-CP-23-01762 PLAINTIFF'S RESPONSE TO FRANK A. LANDGRAFF'S FIRST INTERROGATORIES

Plaintiff responds to Frank A. Landgraff's First Interrogatories as follows:

GENERAL RESPONSES AND OBJECTIONS

1. Plaintiff objects to the entirety of Landgraff's discovery because the total number of requests together with their subparts exceeds the maximum allowable number under the South Carolina Rules of Civil Procedure.

2. Plaintiff's investigation and development of all facts and circumstances relating to this action is ongoing. The following responses reflect plaintiff's current knowledge, understanding and belief respecting matters about which inquiry has been made. Plaintiff expressly reserves the right to supplement, clarify, revise, or correct any or all of the responses and objections herein, and to assert additional objections or privileges, in one or more subsequent supplemental responses. These responses and objections are made without prejudice to, are not a waiver of, and Plaintiff expressly reserves the right to rely on, at any time, including trial, subsequently discovered documents and/or materials.

3. Plaintiff objects to a request for all responses without appropriate limitation as to time, place, or subject matter as overbroad and amounting to a fishing expedition. Plaintiff objects to providing responses outside the time period May 14, 2007 (date that Frank A. Landgraff began his friendship with Plaintiff) to the present (the "relevant period"), on the grounds that requests for responses and information outside the relevant period are overbroad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence.

4. Plaintiff objects to the requests in their entirety to the extent that they are overbroad or purport to impose obligations upon her that exceed those set forth in South Carolina Rules Civil of Procedure, statutes, case law, and/or court rules.

5. Plaintiff objects to any to the extent the discovery sought is obtainable from some other source that is more convenient, less burdensome, or less expensive, such as

a. Publicly available information and/or documents including, but not limited to, newspaper clippings, court papers, and documents available on the Internet which may be accessed and obtained by Landgraff with less burden than the plaintiff identifying and providing requested information;

b. Information and/or documents already in Landgraff's possession, equally in Landgraff's possession, custody or control, or otherwise readily available to Landgraff; and

c. Information and/or documents solely in the possession, custody, or control of third parties.

6. Plaintiff objects to the requests in their entirety to the extent that they are not reasonably calculated to lead to the discovery of admissible evidence in that the information sought would not be admissible pursuant to South Carolina Rules of Evidence.

7. Plaintiff objects to the requests in their entirety to the extent that they purport to call for the disclosure of information or the production of documents, that are (a) subject to the attorney work product protection including, but not limited to, the mental impressions, conclusions, opinions or legal theories of Plaintiff's counsel; (b) protected by the attorney-client privilege; (c) composed of information constituting or containing information prepared in anticipation of or as a result of litigation; or (d) subject to any other applicable privilege or protection.

8. If Plaintiff inadvertently provides information or documents containing information protected from discovery by the attorney-client privilege, work product doctrine or any other applicable privilege, such provision shall not constitute a waiver of such privileges with respect to that information or those or any other documents. Should such inadvertent production occurs, Defendants shall return all inadvertently produced documents to Plaintiff upon request, and/or shall make no use of the contents of such information or documents nor premise any further discovery on information learned therefrom.

9. Plaintiff objects to these interrogatories to the extent that they are overly broad, unduly burdensome, vague, ambiguous, confusing, require speculation to determine their meaning, use imprecise specifications of the information sought, or use terms whose meaning may be contrary to their plain meaning.

10. By responding to these requests, Plaintiff does not hereby admit, adopt or acquiesce in any factual or legal contention, presumption, assertion or characterization and does not in any way adopt Landgraff's purported definitions of words and phrases contained in the requests. Plaintiff objects to those definitions to the extent they are inconsistent with either (a) the definitions set forth by Plaintiff in its answers, or (b) the ordinary and customary meaning of such words and phrases. Similarly, Plaintiff objects to Defendants' purported definitions to the extent they attempt to impose upon Plaintiff any obligations broader than, or inconsistent with, applicable discovery rules or common law.

Plaintiff objects to any request that uses the terms, "each and every" "any and all" "all" and/or "any" because such terms are global, overly broad, unduly burdensome, oppressive and harassing.

12. Plaintiff objects to any production request that subjects Plaintiff to an invasion of personal, constitutional, or property rights.

13. None of the objections or responses contained herein is an admission concerning the existence of any documents or materials, the relevance or admissibility of any documents, materials or information, or the truth or accuracy of any statement or characterization contained in Landgraff's requests. The plaintiffs' written responses are made without waiving, but, on the contrary, expressly reserving: (a) the right to object, on the grounds of competency, privilege, relevancy, materiality or any other proper grounds, to the use of the information provided herein, in whole or in part, in any subsequent proceeding in this action or any other action; (b) the right to object on any and all grounds, at any time, to other discovery requests involving or relating to the subject matter of these requests; and (c) the right at any time to revise, correct, add or clarify any of the responses provided herein.

14. Plaintiff objects to each request that seeks information that would violate her duty to her clients imposed by statute, case law, the Rules of Professional Conduct, including, but not limited to, attorney-client privilege and confidentiality.

15. Plaintiff incorporates by reference every general objection set forth above into each specific response set forth below. A specific response may repeat a general objection for emphasis or some other reason. The failure to include any general objection in any specific response does not waive any general objection to that request. Unless other indicated, Plaintiff will not provide information encompassed by her general responses and objections or by her specific objections set forth below.

16. Each response was prepared by and/or reviewed by Plaintiff and her attorney.

RESPONSES TO INTERROGATORIES

1. Give the names and addresses of persons known to the plaintiff or counsel to be witnesses concerning the facts of the case and indicate whether written or recorded statements have been taken from the witnesses and indicate who has possession of such statements.

   RESPONSE: Plaintiff is the only known witness at this time. No written or recorded statements have been taken other than those prepared by or for law enforcement.

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

RESPONSE: Plaintiff has affidavits and other documents filed in prior court cases.

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

RESPONSE: Plaintiff objects to this request in that it requires her to usurp the authority of the jury to determine the damages and amount of the damages for the intrusion into private affairs claim. Plaintiff also objects to this request in that it exceeds the scope of discovery by seeking information that will be determined by experts. Without waiving these objections, Landgraff admits that damages are more than $25,000 by propounding more than standard interrogatories. Landgraff valued his fair compensation from Mulligan at $250,000 if she assisted Plaintiff in an action against him for his actions that are the subject of this lawsuit. Punitive damages would be based on Landgraff's ability to pay and he has represented to another court that he had a net worth of approximately $12,000,000.

4. List the names and addresses of any expert witnesses whom the plaintiff proposes to use as a witness at the trial of the case. Provide a summary of all opinions plaintiff expects to introduce at trial from all expert witnesses identified.

RESPONSE: At this time, plaintiff has not identified anyone she intends to call as an expert. She is considering experts in family law, criminal law, victims of adult sexual abuse, emotional damages, and re-victimization.

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

RESPONSE: See response to Request 1.

6. Set forth all facts and/or circumstances known by the plaintiff to support the following allegations contained in the Amended Complaint filed June 14, 2013:

a. Paragraph 3
b. Paragraph 4
c. Paragraph 7
d. Paragraph 8
e. Paragraph 10
f. Paragraph 11
g. Paragraph 12
h. Paragraph 13

i. Paragraph 16
j. Paragraph 17
k. Paragraph 18
l. Paragraph 19
m. Paragraph 22
n. Paragraph 23

RESPONSE: Plaintiff objects to this request to the extent it seeks the legal reasoning and theories of plaintiff's contentions. Plaintiff is not required to prepare Landgraff's case or perform legal research for him. Without waiving these objections, Plaintiff will supplement her responses when appropriate.

7. Set forth a detailed itemization of all damages claimed by the plaintiff in the Amended Complaint filed June 14, 2013, including a summary explaining any calculations the plaintiff conducted in reaching all numbers included in the damages itemization, as alleged in:
   a. Paragraph 14
   b. Paragraph 20
   c. Paragraph 24

   RESPONSE: See response to Request 3.

8. Provide a detailed explanation of how Landgraff caused the plaintiff to sustain all damages itemized in response to Interrogatory 8.

   RESPONSE: This Interrogatory 8. Assuming, Landgraff meant to reference Interrogatory 7, Plaintiff objects to this request to the extent it seeks the legal reasoning and theories of plaintiff's contentions. Plaintiff is not required to prepare Landgraff's case or perform legal research for him. Without waiving these objections, Plaintiff will supplement this response as required after consultation with experts.

9. Regarding any person (including the plaintiff), insurance company or other entity who has paid any sums (i.e. bills, expenses, fees, costs, etc.) as a result of the allegations I the Amended Complaint filed June 14, 2013, identify:
   a. Who paid said bills or expenses;
   b. The amount paid by each person/entity; and
   c. Identify the bills and expenses paid.

   RESPONSE: South Carolina State Office of Victim Assistance and Plaintiff have both paid for Plaintiff's counseling.

10. Regarding any other claims for personal injuries the plaintiff has ever made against any person or entity, identify:
    a. Each such person or entity claimed against;
    b. The circumstances underlying such claim (i.e., injuries alleged, the date when such claim was made);
    c. The identifying information for any litigation (i.e. name, court, docket number); and
    d. The result of such claim (i.e. verdict, settlement, date of result).

    RESPONSE: Plaintiff filed a negligence action and Keys Title and Abstract Company in Key West, Florida for its handling of a real estate matter. While the exact terms are confidential, the case settled on terms favorable to Plaintiff. Plaintiff did not retain the files, but Landgraff should be able to find the name, court, etc. on the county's public website.

11. In relation to the injuries the plaintiff allegedly sustained from the conduct the plaintiff attributes to any defendant, has the plaintiff been admitted to or treated by any health professional (e.g. physicians, mental health professionals, etc.) or at any hospital or health-related institution, whether as an in-patient or out-patient, or received any treatment for such injuries, related illnesses, or related conditions, from any physician or health personnel? If so, identify:
    a. The contract information of any such health professional, hospital, and health-related institution;
    b. The circumstances of the treatment or admission (i.e., type of injury, illness or condition, the nature of the treatment, and dates);
    c. A statement of all medical costs involved.

    RESPONSE: Due to her status as crime victim, State Office of Victim Assistance paid for sessions with Gretta McCall, a counselor recommended by Julie Valentine Center. Ms. McCall's phone number is 864-270-9324.

12. List the contact information of each physician, psychologist and/or other mental or physical care provider who has professionally seen or treated the plaintiff during the time beginning January 1, 2004 until the most recent date.

    RESPONSE: Plaintiff objects to this request as overbroad and clearly irrelevant to the subject matter of this action in that Plaintiff makes no claim that she suffered physical damages.

13. Identify all materials (whether documents, photographs, recordings, or other materials) which:
    a. Are possible exhibits or evidence at any deposition, hearing or trial in this case;

b. The plaintiff intends to introduce as exhibits or evidence at any deposition, hearing or trial in this case.

RESPONSE: Plaintiff has not yet made these decisions.

14. Regarding each and every criminal charge, investigation, or other proceeding (felony or misdemeanor), attorney disciplinary proceeding, or civil action to which the plaintiff has been a party or in which the plaintiff has been involved as a witness, or where the plaintiff received a "target letter" (regardless of whether pretrial intervention or expungement occurred), identify:
   a. The identifying information for the case (i.e., name, court, docket number, law enforcement agency(ies) or other entities);
   b. The circumstances (i.e., claims asserted and dates); and
   c. The outcome of the case (i.e., verdict, sentence, sanction) including the terms and date of any settlement.

RESPONSE: Plaintiff was an unpaid expert witness in Family Court, but has no records of the case and does not know the outcome of the case. Plaintiff was a party in two adversary proceedings in the United States Bankruptcy Court for the District of South Carolina pursuant to real estate investments in Key Largo, Florida (Case No. 06-1888-hb, Adversary No. 08-80034-hb and 09-80085-hb). Plaintiff also brought two actions in Florida essentially for the recovery of funds. Both settled on terms favorable to her. The appeal period for all cases has long since expired. Plaintiff did not retain the files, but Landgraff should be able to find the name, court, etc. on the public websites.

15. For any prescriptions and/or non-prescription drug(s) the plaintiff is currently taking or has taken since January 1, 2004, identify:
   a. The drug (i.e. name and type);
   b. The dosage (i.e. amount and frequency);
   c. Reason prescribed and/or taken; and
   d. How procured (i.e. prescriber and location of purchase).

RESPONSE: Plaintiff objects to this request as overbroad. Without waiving her objection, Plaintiff is not currently taking any prescription drugs. She takes no non-prescription drugs other than ibuprophen and/or aspirin. Plaintiff has no record of the names and dosages of prescription drugs taken, but has taken antibiotics, appetite suppressants, drugs to prepare for a colonoscopy, pain medication after elective surgery. Plaintiff procures her prescriptions from Walmart and/or Walgreens.

16. Regarding the plaintiff's participation in the purchasing or consumption of marijuana, cocaine, or any drug of that nature (prescription or otherwise), identify:
   a. The dates participated in such activities; and
   b. The amount consumed on each occasion.

RESPONSE: Plaintiff objects to this request as phrased as argumentative. It requires the assumption that plaintiff has ever participated in the purchase or consumption of marijuana, cocaine, or any drug of that nature which is false and improper. Without waiving the objection and without adopting Landgraff's assumption, Plaintiff has never participated in such activities or consumed any such drugs.

17. Regarding any person, male or female, with whom the plaintiff has participated in any sexual activities of any kind (including, but not limited to, use of sex "toys", sexual intercourse, oral sex, petting, fondling, or kissing) since January 1, 2004, identify:
    a. The name and address of each such person(s); and
    b. The circumstances (i.e.. date(s) and place(s) of such activity.

    RESPONSE: Plaintiff objects to this request for responses and information outside the relevant period are overbroad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence. This request as phrased is argumentative. It requires the adoption of a definition which is improper. Without waiving the objection and without adopting Landgraff's definition of sexual activities in any responses, Plaintiff admits to engaging in sexual conduct with Frank Landgraff and Lynn W Mulligan as fully described in answers to other requests.

18. List every e-mail address (also provide the name of internet provider) and mobile phone number (also provide name of carrier) which the plaintiff has used since January 1, 2004.

    RESPONSE: Plaintiff objects to this request for information outside the relevant period as overbroad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence. Plaintiff objects to this request on the advice of the South Carolina State Bar in that her emails and mobile phone is used to email and text her clients so that a response would provide information that would violate the attorney-client privilege and Code of Professional Conduct. Plaintiff also objects to this request as overbroad and essentially a fishing expedition. Without waiving these objections and to prevent any appearance of hiding information, Plaintiff has no emails that she does not use to communicate with clients, other attorneys, and/or her attorney.

19. Provide the name, address and dates of employment of the professional engaged "to do a thorough background check on [the plaintiff]" as referenced on Page 9 of the Memorandum in Opposition to Defendant's Motion to Set Aside or Modify Order dated November 11, 2013.

    RESPONSE – The professional is forwarding her resume. Once it is received, this response will be supplemented.

20. Provide all facts supporting the statement that the presentation by Lane Davis at the November 12, 2013 hearing was "in varying degrees, incomplete, misleading or false" as stated on Page 3 of the Memorandum in Support of Plaintiff's Motion to Amend Order filed April 28, 2014.

RESPONSE: Without waiving her objection to the word "all", Plaintiff provides the following facts:

a. Plaintiff did not even know about Landgraff's intrusion into her private affairs at the time she wrote her affidavit so nothing in it refers to his intrusion;
b. Plaintiff did not present the affidavit in an open courtroom, but in a locked courtroom at Family Court;
c. Lane Davis failed to inform the judge that Landgraff, not Plaintiff, presented the affidavit to the Court of Common Pleas;
d. Lane Davis did not explain the circumstances that forced Plaintiff to provide the affidavit, but categorized her actions as voluntary;
e. Lane Davis failed to mention that the affidavit stayed in the judge's chambers rather than in the clerk's file room so it was not available for anyone's inspection;
f. Lane Davis failed to mention that a motion for an emergency hearing was granted on the Motion to Seal the Family Court file to protect the Plaintiff;
g. Lane Davis failed to mention that Landgraff joined in the Motion to Seal the Family Court file;
h. Lane Davis failed to mention that the file containing Plaintiff's affidavit was sealed;
i. Lane Davis failed to mention that the case in which Landgraff presented the affidavit was for claims of defamation and publicizing of private affairs and had nothing to do with the facts of the intrusion claim; and
j. Lane Davis failed to mention that Plaintiff was not a party to that action.

21. If the plaintiff has ever sought the service of a private detective, provide the contact information of such person.

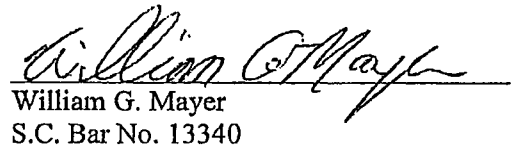
RESPONSE: Excepting her representation of her clients, Plaintiff has not sought the services of a private detective.

22. Has the plaintiff or anyone at the plaintiff's direction, intercepted and/or recorded any of Landgraff's conversations, telephone calls (whether landline, portable, or mobile), MMS/SMS/text messages, e-mails, or other communications? If so identify:

a. The circumstances of the interception and/or recording (i.e. nature and method, dates);
b. The name of the person who so intercepted and/or recorded; and
c. The custodian of said recordings and/or transcriptions thereof.

RESPONSE: No.

Respectfully submitted,



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STATE OF SOUTH CAROLINA COUNTY OF GREENVILLE Jane Doe, Plaintiff, v. Frank A. Landgraff, Carol Sutton, Carol Sutton & Associates - Investigations, Inc. Defendants.	IN THE COURT OF COMMON PLEAS C.A. 2013-CP-23-01762 PLAINTIFF'S RESPONSE TO FRANK A. LANDGRAFF'S FIRST REQUESTS FOR PRODUCTION TO PLAINTIFF

Plaintiff responds to Frank A. Landgraff's First Requests for Production to Plaintiff as follows:

GENERAL RESPONSES AND OBJECTIONS

1. Plaintiff objects to the entirety of Landgraff's discovery because the total number of requests together with their subparts exceeds the maximum allowable number under the South Carolina Rules of Civil Procedure.

2. Plaintiff's investigation and development of all facts and circumstances relating to this action is ongoing. The following responses reflect plaintiff's current knowledge, understanding and belief respecting matters about which inquiry has been made. Plaintiff expressly reserves the right to supplement, clarify, revise, or correct any or all of the responses and objections herein, and to assert additional objections or privileges, in one or more subsequent supplemental responses. These responses and objections are made without prejudice to, are not a waiver of, and Plaintiff expressly reserves the right to rely on, at any time, including trial, subsequently discovered documents and/or materials.

3. Plaintiff objects to a request for all responses without appropriate limitation as to time, place, or subject matter as overbroad and amounting to a fishing expedition. Plaintiff objects to providing responses outside the time period May 14, 2007 (date that Frank A. Landgraff began his friendship with Plaintiff) to the present (the "relevant period"), on the grounds that requests for responses and information outside the relevant period are overbroad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence.

4. Plaintiff objects to the requests in their entirety to the extent that they are overbroad or purport to impose obligations upon her that exceed those set forth in South Carolina Rules Civil of Procedure, statutes, case law, and/or court rules.

5. Plaintiff objects to any to the extent the discovery sought is obtainable from some other source that is more convenient, less burdensome, or less expensive, such as

a. Publicly available information and/or documents including, but not limited to, newspaper clippings, court papers, and documents available on the Internet which may be accessed and obtained by Landgraff with less burden than the plaintiff identifying and providing requested information;
b. Information and/or documents already in Landgraff's possession, equally in Landgraff's possession, custody or control, or otherwise readily available to Landgraff; and
c. Information and/or documents solely in the possession, custody, or control of third parties.

6. Plaintiff objects to the requests in their entirety to the extent that they are not reasonably calculated to lead to the discovery of admissible evidence in that the information sought would not be admissible pursuant to South Carolina Rules of Evidence.

7. Plaintiff objects to the requests in their entirety to the extent that they purport to require the production of documents that are not in its possession, custody, or control. Thus, Plaintiff shall produce only documents in her possession, custody, or control which does not include any constructive possession that may be conferred by Plaintiff's right or power to compel the production of documents or information from third parties.

8. Plaintiff objects to any production request that requires her to create a document not in existence. A document that does not exist is not within plaintiff's "possession, custody, or control."

9. Plaintiff objects to the requests in their entirety to the extent that they purport to call for the disclosure of information or the production of documents, that are (a) subject to the attorney work product protection including, but not limited to, the mental impressions, conclusions, opinions or legal theories of Plaintiff's counsel; (b) protected by the attorney-client privilege; (c) composed of information constituting or containing information prepared in anticipation of or as a result of litigation; or (d) subject to any other applicable privilege or protection.

10. If Plaintiff inadvertently provides information or documents containing information protected from discovery by the attorney-client privilege, work product doctrine or any other applicable privilege, such provision shall not constitute a waiver of such privileges with respect to that information or those or any other documents. Should such inadvertent production occurs, Defendants shall return all inadvertently produced documents to Plaintiff upon request, and/or shall make no use of the contents of such information or documents nor premise any further discovery on information learned therefrom.

11. Plaintiff objects to these interrogatories to the extent that they are overly broad, unduly burdensome, vague, ambiguous, confusing, require speculation to determine their meaning, use imprecise specifications of the information sought, or use terms whose meaning may be contrary to their plain meaning.

12. By responding to these requests, Plaintiff does not hereby admit, adopt or acquiesce in any factual or legal contention, presumption, assertion or characterization and does not in any way adopt Landgraff's purported definitions of words and phrases contained in the requests. Plaintiff objects to those definitions to the extent they are inconsistent with either (a) the definitions set forth by Plaintiff in its answers, or (b) the ordinary and customary meaning of such words and phrases. Similarly, Plaintiff objects to Defendants' purported definitions to the extent they attempt to impose upon Plaintiff any obligations broader than, or inconsistent with, applicable discovery rules or common law.

13. Plaintiff objects to any request that uses the terms, "each and every" "any and all" "all" and/or "any" because such terms are global, overly broad, unduly burdensome, oppressive and harassing.

14. Plaintiff objects to any production request that subjects Plaintiff to an invasion of personal, constitutional, or property rights.

15. None of the objections or responses contained herein is an admission concerning the existence of any documents or materials, the relevance or admissibility of any documents, materials or information, or the truth or accuracy of any statement or characterization contained in Landgraff's requests. The plaintiffs' written responses are made without waiving, but, on the contrary, expressly reserving: (a) the right to object, on the grounds of competency, privilege, relevancy, materiality or any other proper grounds, to the use of the information provided herein, in whole or in part, in any subsequent proceeding in this action or any other action; (b) the right to object on any and all grounds, at any time, to other discovery requests involving or relating to the subject matter of these requests; and (c) the right at any time to revise, correct, add or clarify any of the responses provided herein.

16. Plaintiff objects to each document requests that seeks information that would violate her duty to her clients imposed by statute, case law, the Rules of Professional Conduct, including, but not limited to, attorney-client privilege and confidentiality.

17. Plaintiff incorporates by reference every general objection set forth above into each specific response set forth below. A specific response may repeat a general objection for emphasis or some other reason. The failure to include any general objection in any specific response does not waive any general objection to that request. Unless other indicated, Plaintiff will not provide information encompassed by her general responses and objections or by her specific objections set forth below.

18. Each response was prepared by and/or reviewed by Plaintiff and her attorney.

RESPONSES TO REQUESTS FOR PRODUCTION

1. Any and all documents the plaintiff, or any entity in which the plaintiff has a controlling interest, has ever received from any law enforcement agency, prosecutor, or disciplinary authority providing the plaintiff or such entity notice of an investigation or inquiry into

the plaintiff's conduct and the conduct of such entity. This request specifically includes, but is not limited to, any "target letter", subpoena, notice of disciplinary complaints or proceedings, or other communications or correspondence the plaintiff and/or Carol Simpson Law Offices have received from any federal, state, or local law enforcement agency; any federal, state, or local prosecutor; and/or state disciplinary authority.

RESPONSE: Over the years, Plaintiff has received several subpoenas requesting copies of her client files, but did not retain copies of them. She has not been the subject of any disciplinary proceedings, so no such documents exist. If she has ever received a "target letter", she does not have a copy of it.

2. Any and all documents the plaintiff, or any entity in which the plaintiff has a controlling interest, assembled and/or provided in response to a document covered by Request No. 1.

RESPONSE: Without copies of the subpoenas, Plaintiff cannot recall which client files she produced. However, if she could, she would object to producing any client files in response to this request.

3. Any and all documents or materials relating to the alleged actions and/or conduct as referenced in the Amended Complaint filed June 14, 2013, including but not limited to:
   a. Paragraph 3
   b. Paragraph 4
   c. Paragraph 7
   d. Paragraph 8
   e. Paragraph 10
   f. Paragraph 16
   g. Paragraph 18
   h. Paragraph 22
   i. Paragraph 23

RESPONSE: At this time, Plaintiff only has affidavits and other court documents that are already in Landgraff's possession so she has no additional documents to produce in response to this request.

4. Any and all documents or materials relating to any intent and/or state of mind of any defendant as referenced in the Amended Complaint filed June 14, 2013, including but not limited to:
   a. Paragraph 4
   b. Paragraph 7
   c. Paragraph 8
   d. Paragraph 13
   e. Paragraph 16
   f. Paragraph 22

g. Paragraph 23

RESPONSE: At this time, Plaintiff only has affidavits and other court documents that are already in Landgraff's possession so she has no additional documents to produce in response to this request.

5. Any and all documents or materials relating to any damage of any kind as referenced in the Amended Complaint filed June 14, 2013, including but not limited to:
   a. Paragraph 14
   b. Paragraph 20
   c. Paragraph 24

RESPONSE: Plaintiff has case law, scholarly articles, and other public information regarding damages. She also has documents relating to Landgraff's net worth evidencing his ability to pay damages and for the jury to consider in awarding punitive damages. These documents are equally available to or already in Landgraff's possession so Plaintiff has no documents to produce in response to this request.

6. Any and all documents or materials relating to any distress as referenced in the Amended Complaint filed June 14, 2013.
   a. Paragraph 16
   b. Paragraph 18
   c. Paragraph 19
   d. Paragraph 20

RESPONSE: Plaintiff has case law, scholarly articles, and other public information regarding damages. These documents are equally available to or already in Landgraff's possession so Plaintiff has no additional documents to produce in response to this request.

7. All documents, whether transcription or otherwise, reflecting or relating to statements (written or oral), reports or accounts of any witnesses or parties to the action relating to the allegations in the Amended Complaint filed June 14, 2013.

RESPONSE: See Exhibit A for incident reports and related documents. Excepting any such documents, Plaintiff only has affidavits and other court documents that are already in Landgraff's possession so she has no additional documents to produce in response to this request.

8. All documents reflecting or relating to any reports, memoranda, letters, notes or summaries of any oral statements relating to the claims asserted in the Amended Complaint filed June 14, 2013.

RESPONSE: Plaintiff objects to this request as duplicative. All such documents have been addressed in answers to other requests.

9. All photographs and/or video relating to the allegations in the Amended Complaint, or relating to injuries the plaintiff claims she received as a result of the supposed conduct underlying the allegations in the Amended Complaint filed June 1, 2013.

RESPONSE: Documents responsive to this request have been attached to affidavits or other documents equally available to or already in Landgraff's possession so Plaintiff has no additional documents to produce in response to this request.

10. Any diaries, journals, calendars, and/or similar records kept or maintained by the plaintiff or at the plaintiff's direction for the period January 1, 2004 through present.

RESPONSE: See attached Exhibit B that covers the relevant period as defined herein.

11. Any and all documents which the plaintiff intends to introduce as an exhibit at any deposition, hearing, and/or at the trial of this case, and any other document upon which the plaintiff relies or intends to rely at any deposition, hearing, and/or trial.

RESPONSE: Plaintiff has not made these decisions at this time so she has no documents to produce in response to this request.

12. Any and all recordings (audio, photo, and/or video, whether hard copy, negative, electronic file, videotape, or otherwise) in the plaintiff's possession or custody.

RESPONSE: Plaintiff objects to this request as so broad, undefined, and unlimited as to time and scope as to be an unwarranted annoyance and an undue burden.

13. Any and all recordings (audio, photo, and/or video, whether hard copy, negative, electronic file, videotape, or otherwise) in the plaintiff's possession or custody, or control of the plaintiff, and/or which the plaintiff shared with, provided to, or made available to Lynn W Mulligan f/k/a Lynn Landgraff ("Mulligan"), and/or to Attorney Chace D. Campbell (and/or any employee of Chace Campbell, PA).

RESPONSE: Plaintiff objects to this request as overbroad to the extent it requests protected information in that Plaintiff has provided legal services to and with Chace D. Campbell and Chace Campbell, PA. Exempting that information, Plaintiff provided affidavits equally available to or already in Landgraff's possession so Plaintiff has no additional documents to produce in response to this request.

14. Any and all recordings (audio, photo, and/or video, whether hard copy, negative, electronic file, videotape, or otherwise) in the plaintiff's possession or custody, or control of Landgraff which the plaintiff intends to use at any deposition, hearing, or trial.

RESPONSE: Plaintiff has not made these decisions at this time so she has no documents to produce in response to this request.

15. Any and all correspondence or communications (no matter how delivered, including but not limited to cards, notes, letters, text messages and/or e-mails) (including any and all attachments/enclosures) to Landgraff from the plaintiff.

RESPONSE: Plaintiff has no documents to produce in response to this request.

16. Any and all correspondence or communications (no matter how delivered, including but not limited to cards, notes, letters, text messages and/or e-mails) (including any and all attachments/enclosures) from Landgraff to the plaintiff.

RESPONSE: Plaintiff has no documents to produce in response to this request.

17. Any and all correspondence or communications (no matter how delivered, including but not limited to cards, notes, letters, text messages and/or e-mails) (including any and all attachments/enclosures) to Mulligan from the plaintiff.

RESPONSE: Plaintiff has no documents to produce in response to this request.

18. Any and all correspondence or communications (no matter how delivered, including but not limited to cards, notes, letters, text messages and/or e-mails) (including any and all attachments/enclosures) from Mulligan to the plaintiff.

RESPONSE: Plaintiff has no documents to produce in response to this request.

19. Any and all correspondence or communications (no matter how delivered, including but not limited to cards, notes, letters, text messages and/or e-mails) (including any and all attachments/enclosures) to Chace D. Campbell and/or any employee of Chace Campbell, PA from the plaintiff, regarding or relating to (a) any allegations or claim the plaintiff asserts in this case, (b) Mulligan, and/or (c) Landgraff.

RESPONSE: Except as disclosed in other requests, Plaintiff has no documents to produce in response to this request.

20. Any and all correspondence or communications (no matter how delivered, including but not limited to cards, notes, letters, text messages and/or e-mails) (including any and all attachments/enclosures) from Chace D. Campbell and/or any employee of Chace Campbell, PA to the plaintiff, regarding or relating to (a) any allegations or claim the plaintiff asserts in this case, (b) Mulligan, and/or (c) Landgraff.

RESPONSE: Plaintiff has received case law, scholarly articles, and court documents. These documents are equally available to or already in Landgraff's possession so Plaintiff has no additional documents to produce in response to this request.

21. Any and all correspondence or communications (no matter how delivered, including but not limited to cards, notes, letters, text messages and/or e-mails) (including any and all attachments/enclosures) to the solicitor of any judicial circuit in South Carolina and/or any employee of such solicitor from the plaintiff, regarding or relating to (a) any allegations or claim the plaintiff asserts in this case, (b) Mulligan, and/or (c) Landgraff.

RESPONSE: Plaintiff has no documents to produce in response to this request.

22. Any and all correspondence or communications (no matter how delivered, including but not limited to cards, notes, letters, text messages and/or e-mails) (including any and all attachments/enclosures) from the solicitor of any judicial circuit in South Carolina and/or any employee of such solicitor to the plaintiff, regarding or relating to (a) any allegations or claim the plaintiff asserts in this case, (b) Mulligan, and/or (c) Landgraff.

RESPONSE: Plaintiff has no documents to produce in response to this request.

23. Any and all correspondence or communications (no matter how delivered, including but not limited to cards, notes, letters, text messages and/or e-mails) (including any and all attachments/enclosures) to the Attorney General of South Carolina and/or any employee of the Attorney General's office from the plaintiff, regarding or relating to (a) any allegations or claim the plaintiff asserts in this case, (b) Mulligan, and/or (c) Landgraff.

RESPONSE: Plaintiff has no documents to produce in response to this request.

24. Any and all correspondence or communications (no matter how delivered, including but not limited to cards, notes, letters, text messages and/or e-mails) (including any and all attachments/enclosures) from the Attorney General of South Carolina and/or any employee of the Attorney General's office to the plaintiff, regarding or relating to (a) any allegations or claim the plaintiff asserts in this case, (b) Mulligan, and/or (c) Landgraff.

RESPONSE: Plaintiff has no documents to produce in response to this request.

25. Any and all correspondence or communications (no matter how delivered, including but not limited to cards, notes, letters, text messages and/or e-mails) (including any and all attachments/enclosures) to the Office of the United States Attorney for the District of South Carolina and/or any employee of the Office of the United States Attorney for the District of South Carolina from the plaintiff, regarding or relating to (a) any allegations or claim the plaintiff asserts in this case, (b) Mulligan, and/or (c) Landgraff.

RESPONSE: Plaintiff has no documents to produce in response to this request.

26. Any and all correspondence or communications (no matter how delivered, including but not limited to cards, notes, letters, text messages and/or e-mails) (including any and all attachments/enclosures) from the Office of the United States Attorney for the District of South Carolina and/or any employee of the Office of the United States Attorney for the District of South Carolina to the plaintiff, regarding or relating to (a) any allegations or claim the plaintiff asserts in this case, (b) Mulligan, and/or (c) Landgraff.

RESPONSE: Plaintiff has no documents to produce in response to this request.

27. Any documents and/or records relating to meals, lodging, trips, gifts, mementos, sexual paraphernalia, and/or similar matter the plaintiff has ever received from Mulligan.

RESPONSE: Plaintiff has no documents to produce in response to this request.

28. Any documents evidencing any meals, lodging, trips, gifts, mementos, sexual paraphernalia, and/or other similar matter purchased by the plaintiff for (a) Mulligan, or (b) the plaintiff, in conjunction with the plaintiff's relationship with Mulligan.

RESPONSE: Plaintiff has no documents to produce in response to this request.

29. Any and all gifts given to plaintiff by Mulligan.

RESPONSE: Plaintiff has no documents to produce in response to this request. She is not sure how to respond because it is a request to produce, not an interrogatory. Assuming Landgraff would possibly like to photograph said gifts, Plaintiff identifies (1) that Plaintiff received an iPod before Mulligan and Landgraff left for their trip to Italy; (2) that Landgraff gave Plaintiff an expensive silk scarf from his trip to Italy; (3) Landgraff purchased two shirts for Plaintiff at Costco; (4) Landgraff and Mulligan purchased an electric toothbrush for Plaintiff for Christmas; (5) Landgraff and Mulligan purchased several wall art pieces with candles for Plaintiff for her birthday; and (6) Mulligan purchased a Waterford crystal cross for Plaintiff for her birthday.

30. Any and all gifts the plaintiff has given to Mulligan.

RESPONSE: Plaintiff has no documents to produce in response to this request. She is not sure how to respond because it is a request to produce, not an interrogatory. Assuming Landgraff would possibly like a photograph of said gifts, Plaintiff identifies that she gave Landgraff and Mulligan a carnival style popcorn popper purchased at Bed, Bath & Beyond. It was later returned and Plaintiff believes Mulligan received the refund.

31. Any and all monthly mobile telephone statements for the plaintiff personally, or any accounts the plaintiff has access to, utilized, purchased, or are liable for (including but not limited to mobile phones with carrier contracts, prepaid phones, "pay as you go" phones, tracfones, or related) during the past four (4) years preceding this request. These statements should detail calls and texts, detailing those sent and those received. If the plaintiff responds that any mobile telephone the plaintiff has access to, purchased, or is liable for does not provide monthly statements, or that the statements are not in the plaintiff's possession, custody, or control, provide the carrier and the phone number for each line.

RESPONSE: Plaintiff objects to this request on the advice of the South Carolina State Bar in that her mobile phone is used to email and text her clients so that a response would provide information that would violate the attorney-client privilege and Code of Professional Conduct. Plaintiff also objects to this request as overbroad and essentially a fishing expedition.

32. If the plaintiff has or ever had any account(s) on Facebook.com in the plaintiff's name or in the plaintiff's control, provide the downloaded account data for all such accounts. After logging in to Facebook.com, data can be downloaded by the following clicks: (1) Gear icon (top right of homepage), then (2) Account Settings, then (3) Download a copy of your Facebook, data, then (4) Start My Archive and follow the prompts.

RESPONSE: Plaintiff objects to this request in that it requests a document not in existence and, therefore not in Plaintiff's "possession, custody, or control." Without waiving this objection and to show that Plaintiff has nothing to hide, Plaintiff has provided Exhibit C which is a copy of her Facebook data with information such as her IP address redacted so that she would not inadvertently provide access to prohibited information.

33. Regarding any website, blog, and/or Internet page(s) regarding the plaintiff, which the plaintiff prepared, or for which the plaintiff has log-in credentials (including but not limited to any social networking website such as Facebook, Twitter, LinkedIn, Match.com, eHarmony, Adult Friend Finder or similar sites), provide:

(a) A complete copy of such site, blog, and/or page; and

(b) Any information necessary to access in-full any such site, blog, or page if same is not fully accessible from the location/address provided. By responding to this request, the plaintiffs consent to full access of such site, blog, or page by Landgraff's counsel for purposes of this lawsuit.

RESPONSE: Plaintiff objects to this request in that it requests a document not in existence and, therefore not in Plaintiff's "possession, custody, or control." Plaintiff also objects to this request as overbroad and essentially a fishing expedition.

34. Regarding any:
    a. Hard drive/static memory of any electronic device in the plaintiff's possession, custody, or control (including but not limited to computer, cell phone, prepaid phone, "pay as you go" phone, tracfone, tablet, iPad, iPod touch, smartphone, PDA, Blackberry, iPhone, Android, etc.); and
    b. Thumb drive/memory card/flash memory in the plaintiff's possession, custody, or control,

    Provide the device memory, or provide a date, time, and place that Landgraff's technology expert may mirror or image the device and memory.

RESPONSE: See response to Request 31.

35. Any documents, materials, or electronic information: provided or supplied to any expert whom the plaintiff expect to call as an expert witness at a deposition, hearing, and/or trial; reviewed by such expert(s); relied upon by such expert(s); considered but rejected as a basis of any expert opinion(s) by such expert(s); discussed with such expert(s); prepared by such expert(s) (including but not limited to drafts and revisions, handwritten notes or drawings, e-mails or correspondence, journal entries, day-timer or calendar entries, billing records, invoices); photographs/videos (in digital format if they exist in that format) provided to or prepared by such expert(s); the dictation of such expert(s); and copies of any and all reports rendered by such expert(s).

RESPONSE: Plaintiff has no documents to produce in response to this request.

36. Any and all private investigator's report(s) other surveillance logs, notes, and communications concerning Landgraff and/or the plaintiff's allegations in this case.

RESPONSE: Plaintiff only has documents that are already in Landgraff's possession so she has no additional documents to produce in response to this request.

37. Any and all background check report(s) and communications by the professional engaged "to do a thorough background check on [the plaintiff]" as referenced on Page 9 of the

Memorandum in Opposition to Defendant's Motion to Set Aside or Modify Order dated November 11, 2013.

RESPONSE: Plaintiff has no documents to produce in response to this request.

38. All documents supporting the statement that the presentation by Lane Davis at the November 12, 2013 hearing was "in varying degrees, incomplete, misleading or false" as stated on Page 3 of the Memorandum in Support of Plaintiff's Motion to Amend Order filed April 28, 2014.

RESPONSE: See Exhibit D attached with includes the Motion to Seal that Landgraff joined in Mulligan's request to seal the Family Court file and Mulligan's Amended Complaint which outlines Landgraff's actions that Lane Davis did not disclose. Plaintiff also has affidavits and other court documents that are already in Landgraff's possession so she has no additional documents to produce in response to this request.

39. Copies of the plaintiff's Federal and State income tax returns for the years 2007 through the present, including copies of all W-2, 1099, K-1, or similar statements.

RESPONSE: Plaintiff objects to this request as it requests privileged information.

40. Copies of all bills and expenses which the plaintiff claims to have incurred as a result of the supposed conduct underlying the allegations in the Amended Complaint.

RESPONSE: Plaintiff has no documents to produce in response to this request.

41. Copies of any and all medical records, reports, summaries, bills, or claims documentation relating to the plaintiff beginning January 1, 2004 and continuing through the trial of this matter.

(a) Break out those documents relating to injuries the plaintiff claims she received as a result of the supposed conduct underlying the allegations in the Amended Complaint.

RESPONSE: Plaintiff objects to this request as overbroad and clearly irrelevant to the subject matter of this action in that Plaintiff makes no claim that she suffered physical damages.

43. Any and all documents upon which the plaintiff relies or intends to rely in preparing the plaintiff's response to any Request.

RESPONSE: Plaintiff has no documents to produce in response to this request.

44. A copy of any affidavit the plaintiff has ever executed. This Request excepts any affidavit executed by the plaintiff for a claim for attorneys fees and costs in a case in which the plaintiff was counsel of record to a litigant other than the plaintiff.

RESPONSE: See attached Exhibit E. Plaintiff also executed affidavits in the cases identified in her answers to Interrogatories, but she does not a have copies of any of them.

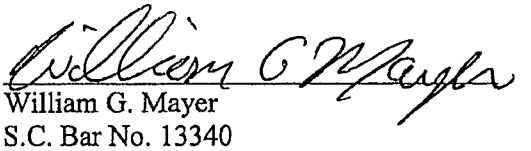
45. All records regarding any attorneys fees and/or costs you have paid in this action, and any attorneys fees and/or costs which you owe to your counsel or otherwise.

RESPONSE: Plaintiff has no documents to produce in response to this request.

46. Any document relied upon, referred to, or identified in the plaintiff's answers to the Interrogatories served simultaneously herewith not otherwise covered by any Request.

RESPONSE: Plaintiff has no documents to produce in response to this request.

Respectfully submitted,



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STATE OF SOUTH CAROLINA COUNTY OF GREENVILLE Jane Doe, Plaintiff, v. Frank A. Landgraff, Carol Sutton, Carol Sutton & Associates - Investigations, Inc. Defendants.	IN THE COURT OF COMMON PLEAS C.A. 2013-CP-23-01762 PLAINTIFF'S RESPONSE TO FRANK A. LANDGRAFF'S FIRST REQUESTS FOR ADMISSION

Plaintiff responds to Frank A. Landgraff's First Requests for Admission as follows:

GENERAL RESPONSES AND OBJECTIONS

1. Plaintiff's investigation and development of all facts and circumstances relating to this action is ongoing. The following responses reflect plaintiff's current knowledge, understanding and belief respecting matters about which inquiry has been made. Plaintiff expressly reserves the right to supplement, clarify, revise, or correct any or all of the responses and objections herein, and to assert additional objections or privileges, in one or more subsequent supplemental responses. These responses and objections are made without prejudice to, are not a waiver of, and Plaintiff expressly reserves the right to rely on, at any time, including trial, subsequently discovered documents and/or materials.

2. Plaintiff objects to a request for all responses without appropriate limitation as to time, place, or subject matter as overbroad and amounting to a fishing expedition. Plaintiff objects to providing responses outside the time period May 14, 2007 (date that Frank A. Landgraff began his friendship with Plaintiff) to the present (the "relevant period"), on the grounds that requests for responses and information outside the relevant period are overbroad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence.

3. Plaintiff objects to the requests in their entirety to the extent that they are overbroad or purport to impose obligations upon her that exceed those set forth in South Carolina Rules Civil of Procedure, statutes, case law, and/or court rules.

4. Plaintiff objects to any to the extent the discovery sought is obtainable from some other source that is more convenient, less burdensome, or less expensive, such as
   a. Publicly available information and/or documents including, but not limited to, newspaper clippings, court papers, and documents available on the Internet which may be accessed and obtained by Landgraff with less burden than the plaintiff identifying and providing requested information;

b. Information and/or documents already in Landgraff's possession, equally in Landgraff's possession, custody or control, or otherwise readily available to Landgraff; and

c. Information and/or documents solely in the possession, custody, or control of third parties.

5. Plaintiff objects to the requests in their entirety to the extent that they are not reasonably calculated to lead to the discovery of admissible evidence in that the information sought would not be admissible pursuant to South Carolina Rules of Evidence.

6. Plaintiff objects to the requests in their entirety to the extent that they purport to call for the disclosure of information, or the production of documents, that are (a) subject to the attorney work product protection including, but not limited to, the mental impressions, conclusions, opinions or legal theories of Plaintiff's counsel; (b) protected by the attorney-client privilege; (c) composed of information constituting or containing information prepared in anticipation of or as a result of litigation; or (d) subject to any other applicable privilege or protection.

7. If Plaintiff inadvertently provides information or documents containing information protected from discovery by the attorney-client privilege, work product doctrine or any other applicable privilege, such provision shall not constitute a waiver of such privileges with respect to that information or those or any other documents. Should such inadvertent production occurs, Defendants shall return all inadvertently produced documents to Plaintiff upon request, and/or shall make no use of the contents of such information or documents nor premise any further discovery on information learned therefrom.

8. Plaintiff objects to these interrogatories to the extent that they are overly broad, unduly burdensome, vague, ambiguous, confusing, require speculation to determine their meaning, use imprecise specifications of the information sought, or use terms whose meaning may be contrary to their plain meaning.

9. By responding to these requests, Plaintiff does not hereby admit, adopt or acquiesce in any factual or legal contention, presumption, assertion or characterization and does not in any way adopt Landgraff's purported definitions of words and phrases contained in the requests. Plaintiff objects to those definitions to the extent they are inconsistent with either (a) the definitions set forth by Plaintiff in its answers, or (b) the ordinary and customary meaning of such words and phrases. Similarly, Plaintiff objects to Defendants' purported definitions to the extent they attempt to impose upon Plaintiff any obligations broader than, or inconsistent with, applicable discovery rules or common law.

10. Plaintiff objects to any request that uses the terms, "each and every" "any and all" "all" and/or "any" because such terms are global, overly broad, unduly burdensome, oppressive and harassing.

11. Plaintiff objects to any production request that subjects Plaintiff to an invasion of personal, constitutional, or property rights.

12. None of the objections or responses contained herein is an admission concerning the existence of any documents or materials, the relevance or admissibility of any documents, materials or information, or the truth or accuracy of any statement or characterization contained in Landgraff's requests. The plaintiffs' written responses are made without waiving, but, on the contrary, expressly reserving: (a) the right to object, on the grounds of competency, privilege, relevancy, materiality or any other proper grounds, to the use of the information provided herein, in whole or in part, in any subsequent proceeding in this action or any other action; (b) the right to object on any and all grounds, at any time, to other discovery requests involving or relating to the subject matter of these requests; and (c) the right at any time to revise, correct, add or clarify any of the responses provided herein.

13. Plaintiff objects to each requests that seeks information that would violate her duty to her clients imposed by statute, case law, the Rules of Professional Conduct, including, but not limited to, attorney-client privilege and confidentiality.

14. Plaintiff incorporates by reference every general objection set forth above into each specific response set forth below. A specific response may repeat a general objection for emphasis or some other reason. The failure to include any general objection in any specific response does not waive any general objection to that request. Unless other indicated, Plaintiff will not provide information encompassed by her general responses and objections or by her specific objections set forth below.

15. Each response was prepared by and/or reviewed by Plaintiff and her attorney.

RESPONSES TO REQUESTS FOR ADMISSION

1. The plaintiff participated in sexual activities (including, but not limited to, use of sex "toys", sexual intercourse and/or penetration, petting, or fondling) with Lynn W Mulligan ("Mulligan") f/k/a Lynn Landgraff while Mulligan was married to Landgraff.

   Plaintiff objects to this request as phrased as argumentative. It requires the adoption of a definition which is improper. Without waiving the objection and without adopting Landgraff's definition of sexual activities in any responses, Plaintiff admits to engaging in sexual conduct with Frank Landgraff ("Landgraff") without Mulligan's knowledge or consent; with Mulligan at Landgraff's consent, request, encouragement, and knowledge; and with Landgraff and Mulligan together.

2. The conduct described in Request for Admission No. 1 above occurred at the following locations:

   a. Landgraff's master bedroom, 122 Antigua Way, Greer, South Carolina;

Plaintiff objects to this request as phrased as argumentative. It requires the adoption of a definition which is improper. The master bedroom is not "Landgraff's master bedroom" but the master bedroom of Landgraff and Mulligan. Without waiving the objection, Plaintiff's admits to sexual conduct with Landgraff and Mulligan together in their master bedroom on multiple occasions and with Mulligan on one occasion with Landgraff's consent, request, encouragement, and knowledge.

b. 204 E. Park Avenue, Unit 401, Greenville, South Carolina;

Plaintiff admits to engaging in sexual conduct with Landgraff at this location without Mulligan's knowledge or consent.

c. On a cruise ship;

This request to admit is denied.

d. Washington, DC (including metro area); and

This request to admit is denied.

e. Other locations.

i. Automobile in parking lot of Rendevous on Pelham Road

Plaintiff admits to engaging in sexual conduct with Landgraff at this location without Mulligan's knowledge or consent.

ii. Office Building

Plaintiff admits to engaging in sexual conduct with Landgraff at this location without Mulligan's knowledge or consent.

iii. Mariner's Club, Key Largo Florida

Plaintiff admits to engaging in sexual conduct with Landgraff and Mulligan together in this location on multiple occasions.

iv. Hot tub and other locations at 122 Antiqua Way

Plaintiff admits to engaging in sexual conduct with Landgraff and Mulligan together in these locations on multiple occasions.

3. The conduct identified in Request for Admission No. 1 above constitutes a criminal act in the State of South Carolina.

The request to admit is denied because Plaintiff knows of no crime she has committed and Landgraff did not identify what crime he contends she has been committed.

The only possible crimes that have arisen in discussion of Landgraff's actions are adultery and fornication. Fornication is inapplicable since Landgraff and Mulligan were married. Section 16-15-70 of the SC Code provides that "'Adultery' is the living together and carnal intercourse with each other or habitual carnal intercourse with each other without living together of a man and woman when either is lawfully married to some other person."

The crime of adultery involves conduct between a man and a woman. Thus, any conduct between Mulligan and Plaintiff is not a crime. Landgraff presented himself as impotent so that no conduct between him and Plaintiff falls in the category of "carnal intercourse".

4. Had Plaintiff never entered Landgraff's master bedroom at 122 Antigua Way, Greer, South Carolina to engage in the conduct identified in Admission No. 1 above, she would not have been captured on video footage as alleged in the Amended Complaint filed June 14, 2013.

   Plaintiff objects to this request as phrased as argumentative. It requires the adoption of a definition which is improper. The master bedroom is not "Landgraff's master bedroom" but the master bedroom of Landgraff and Mulligan. Without waiving the objection, this request to admit is denied.

   Plaintiff would have been captured on video regardless of why she entered the master bedroom of Landgraff and Mulligan. She could have walked into the room to change her clothes or throw her coat on the bed and Landgraff's actions would have still intruded into her private affairs.

5. Landgraff did not cause Plaintiff to sustain any damages.

   This request to admit is denied.

6. Landgraff did not intrude on Plaintiff's private affairs.

   This request to admit is denied.

7. Plaintiff intruded on Landgraff's relationship with his wife.

   This request to admit is denied.

In fact, the exact opposite is true. Landgraff introduced Plaintiff to his wife. When Plaintiff informed Landgraff that she would not have an adulterous affair with him, Plaintiff asked Mulligan to take Plaintiff to their beach house while he was out of town. His subsequent actions to foster a friendship between Plaintiff and Mulligan led Plaintiff to believe that he truly desired to have two "wives".

8. Plaintiff's sexual activities with Landgraff's wife in his master bedroom at 122 Antiqua Way, Greer, South Carolina intruded on Landgraff's affairs.

Plaintiff objects to this request as phrased as argumentative. It requires the adoption of a definition which is improper. The master bedroom is not "Landgraff's master bedroom" but the master bedroom of Landgraff and Mulligan. Without waiving the objection, this request to admit is denied.

This is not a case of an intrusion, but of an inclusion. Landgraff included Plaintiff in his "affairs" which court records show have included several other women, pornography, frequenting exotic places of adult entertainment, and regular trip to the all-nude resort Hedonism.

From his words and actions, Landgraff demonstrates that he profited from Plaintiff's actions. He fulfilled his fantasies of being with two women and his fantasy of having a "homemade" videotape of two women together. In addition, he used the videotape to gain a tactical advantage, or more explicitly, for blackmail in his divorce from Mulligan.

9. Landgraff sustained damages as a consequence of Plaintiff's sexual conduct with his wife.

Plaintiff knows of no damages and Landgraff has identified none. This request to admit is denied.

10. Plaintiff sustained no emotional distress as a result of any act committed by Landgraff.

This request to admit is denied.

11. Landgraff's conduct was reasonable in light of the circumstances.

Plaintiff objects to this request as overbroad in that it does not identify Landgraff's conduct. Assuming the conduct is that identified in Plaintiff's complaint, this request to admit is denied.

12. Criminal justice authorities (law enforcement and/or prosecutorial) investigated Plaintiff due to her participation in allegedly illegal land transactions.

Plaintiff objects to this request as phrased as argumentative. It requires the adoption of a false assumption that Plaintiff in any way participated in any allegedly illegal land transactions. Without waiving the objection, this request to admit is denied.

Plaintiff has never participated in any illegal land transactions. Several individuals were indicted for their actions prior to Plaintiff's representation of them. With the knowledge of the Office of the United States Attorney, Plaintiff represented these individuals in real estate transfers. She cooperated fully with any review of those transactions.

However, she had no knowledge that SHE was being investigated by any criminal justice authorities. In fact, after reviewing one file involving a double closing, the Secret Service asked, "Why is Plaintiff the only attorney in town who knows how to do these right?"

13. Plaintiff incurred severe emotional distress due to the investigation of criminal justice authorities (law enforcement and/or prosecutorial) into her participation in allegedly illegal land transactions.

Plaintiff objects to this request as phrased as argumentative. It requires the adoption of a false assumption that Plaintiff in any way participated in any allegedly illegal land transactions. Without waiving the objection, this request to admit is denied.

Because Plaintiff had no knowledge she was being investigated, she suffered no emotional distress.

14. Plaintiff is a licensed attorney in the State of South Carolina.

This request to admit is admitted.

15. Plaintiff reported Landgraff to criminal justice authorities (law enforcement and/or prosecutorial) because she was recorded engaging in sexual activities with Mulligan in Landgraff's master bedroom at 122 Antigua Way, Greer, South Carolina.

Plaintiff objects to this request as phrased as argumentative. It requires the adoption of a definition which is improper. The master bedroom is not "Landgraff's master bedroom" but the master bedroom of Landgraff and Mulligan. Without waiving the objection, this request to admit is denied.

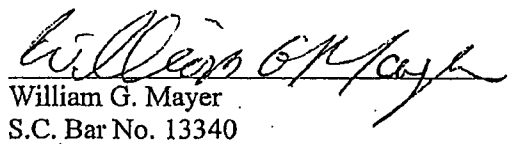
Plaintiff reported Landgraff to criminal justice authorities because she believed and still believes that she was the victim of a crime. Refusing the request of deputies and the

sheriff and, despite his own admission that a statute had been violated, the 13th Circuit Solicitor refused to prosecute. The State Office of Victim Assistance determined that Plaintiff met the eligibility standards pursuant to South Carolina Laws to receive victim assistance from the Crime Victim's Compensation Fund.

16. Plaintiff reported Landgraff to criminal justice authorities (law enforcement and/or prosecutorial) in an attempt to gain a tactical advantage in this lawsuit.

To the contrary, had the State prosecuted the crime Landgraff committed, there would be no civil action. Because of its declining to prosecute for whatever reason, the civil court was the only form of redress. Plaintiff waited as long as the law allowed before filing this lawsuit.

Respectfully submitted,



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STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENVILLE)
)
Carol Simpson)
Plaintiff,)
vs.)
)
Frank A. Landgraff, et al.,)
Defendant.)

IN THE COURT OF COMMON PLEAS
THIRTEENTH JUDICIAL CIRCUIT

CASE NO.: 2013-CP-23-01762

MOTION AND ORDER INFORMATION FORM AND COVERSHEET

Plaintiff's Attorney:	Defendant's Attorney:
William G. Mayer, Bar No. 13340 Address: 118 W. Main St., Laurens, SC 29360 Phone: 8649849202Fax 8647150496 E-mail: mrmayersoffice@aol.com Other:	Lane W. Davis, Bar No. 68796 Address: PO Box 10084, Greenville, SC 29603 Phone: 8642502300 Fax8642322929 E-mail: lane.davis@nelsonmullins.comOther:

FILED-CLERK OF COURT GREENVILLE CO. S.C. PAUL R. MATTHEWS 2014 AUG 28 PM 3 45

☒ **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 to Compel
Estimated Time Needed: 30 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.

Signature of Attorney for ☐ Plaintiff / ☒ Defendant — 8/28/14 Date submitted

SECTION III: Motion Fee

☒ PAID – AMOUNT: $ _____
☐ 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

Collected by: DJ Date Filed: _____
☒ MOTION FEE COLLECTED: $ 25.00 767175 Nelson
☐ CONTESTED – AMOUNT DUE: $ _____

SCCA 233 (11/2003)

STATE OF SOUTH CAROLINA

COUNTY OF GREENVILLE

Carol Simpson,

Plaintiff,

v.

Frank A. Landgraff, Carol Sutton, Carol Sutton & Associates - Investigations, Inc.

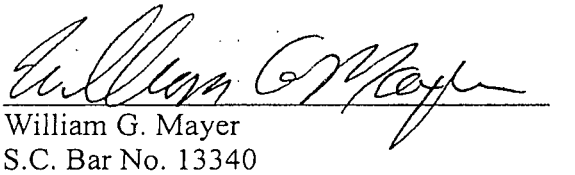
Defendants.

IN THE COURT OF COMMON PLEAS
C.A. 2013-CP-23-01762

PLAINTIFF'S MOTION TO STRIKE

FILED-CLERK OF COURT
GREENVILLE CO. S.C.
PAUL B. WICKENSIMER
2014 OCT 13 PM 4 07

Pursuant to SCRCP Rule 12(f), Plaintiff respectfully moves the Court for an order striking the Defendants' enumerated defenses because they failed to provide any factual support showing that the defenses are facially plausible. Specifically, Plaintiff requests that the First, Second, Third, Fourth, Fifth, Sixth, Seventh and Tenth Affirmative Defenses of Defendant Landgraff be stricken and that the Second, Third, Fourth, Sixth, Seventh, Eighth, Ninth, Tenth, Eleventh, and Twelfth Defenses of Defendants Carol Sutton and Carol Sutton & Associates-Investigations, Inc. be stricken.



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October 13, 2014
Greenville, SC

STATE OF SOUTH CAROLINA

COUNTY OF GREENVILLE

Carol Simpson,

Plaintiff,

v.

Frank A. Landgraff, Carol Sutton, Carol Sutton & Associates - Investigations, Inc.

Defendants.

IN THE COURT OF COMMON PLEAS
C.A. 2013-CP-23-01762

PLAINTIFF'S ANSWER TO MOTION TO COMPEL

FILED-CLERK OF COURT
GREENVILLE CO. S.C.
PAUL E. WICKENSIMER
2014 OCT 30 PM 4 43

Defendant Frank A. Landgraff ("Landgraff") took a shotgun approach in his discovery by requesting virtually all the information concerning Plaintiff. Plaintiff fully answered his relevant questions as well as giving information he did not request. When Landgraff's counsel orally objected to her responses, Plaintiff's counsel requested specifics. Instead of responding, Landgraff filed a shotgun Motion to Compel claiming that Plaintiff interposed improper objections or failed to fully respond to certain requests. Unfortunately, Landgraff gave Plaintiff no guidance as to what was improper or to what she failed to respond.

Perhaps Landgraff's counsel should have checked with their associates in the Columbia office to learn what the South Carolina Supreme Court said about similar behavior:[1]

> Our willingness to review a discovery order by way of a writ of certiorari will be as rare as the proverbial 'hen's tooth.' We have no desire to micromanage discovery orders. It is our hope that in resolving this matter, we will speak to trial courts generally. While discovery serves as an important tool in the truth-seeking function of our legal system, we are concerned that 'discovery practice' has become a cottage industry and the merits of a claim are being relegated to a secondary status.

[1] *Oncology and Hematology Assoc. of S.C., LLC v. SC Dept. of Health and Environ. Control*, 387 S.C. 380, 692 S.E. 2d 920 (2010). Nelson, Mullins, Riley & Scarborough represented Respondents in this case.

In evaluating Landgraff's Motion to Compel, Plaintiff asks the Court to apply the same standard as the Supreme Court did:[2]

> [T]he trial court must make an effort to impose reasonable discovery limits. The trial court abuses its discretion by ordering discovery that exceeds that permitted by the rules of procedure. . . . . Although the scope of discovery is broad, requests must show a reasonable expectation of obtaining information that will aid the dispute's resolution. Thus, discovery requests must be 'reasonably tailored' to include only relevant matters.

Plaintiff has filed a Motion to Strike to clean up the pleadings and avoid unnecessary forays into immaterial matters. She respectfully asks the Court to rule on that motion as a threshold matter to determine what issues remain to be litigated and, thus, what information is relevant and discoverable.

SUMMARY OF RESPONSES

Plaintiff has responded in detail, *infra*, to each of Landgraff's allegations that she interposed improper objections or failed to fully respond to his Requests. However, his shotgun protest gives the false impression that he may be correct. Plaintiff supplies this summary to show that she has responded completely and in good faith.

Full Responses Given

Requests for Production -- 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 37

Admissions – 1, 4, 12, 15

Interrogatories – 9, 10, 14, 15, 17, 19

Responses Given with Recognition of Duty to Supplement Pursuant to SCRCP 26(e)

Requests for Production – 5

Interrogatories – 3, 6, 11

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[2] *Id.* at 924.

Requests Denied for Irrelevant Information that Would Reveal Privileged Information

Requests for Production – 10, 31

Interrogatories – 18

Requests Denied for Irrelevant Information

Requests for Production – 39, 41

Interrogatories -- 12

Request Denied that Require Plaintiff to Create a Document Not in Existence

Production – 33

Requests Denied as Ridiculous Overbroad

Production -- 12

DETAILED RESPONSES

While a phone call to Plaintiff's counsel would have saved significant time and attorney's fees, Plaintiff responds to Defendant Frank A. Landgraff's ("Landgraff") Motion to compel as follows. These responses incorporate supplemental responses provided to Landgraff.

Privilege Log

Landgraff complains that Plaintiff did not provide a privilege log. SCRCP 26(b)(5) requires a party to provide a privilege log "without revealing the information itself privileged or protected." Plaintiff has fully complied with this provision.

Plaintiff only claimed a privilege for those documents and information that would violate her duty to preserve the attorney-client privilege for her clients and the Code of Professional Conduct if produced. Identifying her clients by listing them in a privilege log would also result in a violation.

Responses to Requests for Production

Even though Landgraff provides little substantive guidance, Plaintiff offers the following information regarding the Request for Production.

No. 5 – Materials Relating to Damages

If Landgraff wants case law, scholarly articles, and other public information regarding proving damages for invasion of privacy, intentional infliction of emotional distress, and civil conspiracy, he should conduct his own research. Plaintiff has no responsibility to conduct research to assist Landgraff in preparing his case. Plaintiff is well aware of SCRCP 26(e) and will supplement this response if she obtains documents that are not available through Casemaker or some other legal research engine or through Google or some other Internet browser. Landgraff presumably has his own financial statements and Plaintiff assumes he does not want them attached to this response. Plaintiff will supplement Request No. 14 if she plans to use any of the financial statements.

No. 10 – Diaries, Journals, Calendars, Etc.

Plaintiff has fully complied with this request with the sole exception of producing the calendar that is maintained primarily by her staff that reflects the names of her clients, their appointments, and their court hearings. Plaintiff's office calendar is irrelevant to this action and should not be compelled for the following reasons:

a. Its Content is Irrelevant -- Plaintiff does not document any hearings or meetings relevant to this case on her office calendar with the exception of the date and time of FUTURE meetings with her attorney and therapist. Plaintiff will gladly provide the date and time of those meetings if Landgraff is really interested. However, she makes no assurance that they will not change. Past meetings are

deleted because they are only added to the calendar to prevent double booking by Plaintiff's staff.

b. Its Backups are Irrelevant -- Plaintiff only retains the office calendar for approximately 12 prior months so there are no entries dealing with prior litigation between Landgraff and Mulligan. Plaintiff did an electronic search for "Mulligan" and "Landgraff" to confirm this statement. Due to Microsoft's discontinuance of its operating systems and server software, Plaintiff was forced to replace her server and desktop computer so no prior entries are recoverable.

c. Its Production Is Not Required by Rule 26 – As shown above, producing the calendar will produce no relevant information to this litigation so Rule 26 does not require Plaintiff to produce it.

d. Its Production Would Violate the Rules – The South Carolina Bar advised Plaintiff not to produce the office calendar because producing the calendar would violate the Code of Professional Conduct and the attorney-client privilege that Plaintiff owes to her clients. On this basis, Plaintiff objects to its production.

e. Its Production Could Be a Significant Burden – Plaintiff asks the Court to consider the possible expense and/or negative impact that producing the irrelevant Plaintiff's practice.

No. 12 – "Any and all recordings . . . in the plaintiff's possession or custody."

Plaintiff has no idea of how to comply with this remarkable request and cannot imagine how it would lead to any admissible evidence. Plaintiff could comply by packing up the movies and music collection that she inherited from her mother earlier this year and allowing Landgraff to come to her office to look through those and her very limited music collection. However,

Plaintiff requests the Court to require Landgraff to identify how this exercise would lead to relevant and/or admissible evidence.

No. 13 – Recordings from Plaintiff to Mulligan or Campbell
No. 14 – Recordings of Landgraff
No. 15 – Correspondence from Plaintiff to Landgraff
No. 16 – Correspondence from Landgraff to Plaintiff
No. 17 – Correspondence from Plaintiff to Mulligan
No. 18 – Correspondence from Mulligan to Plaintiff
No. 19 – Correspondence from Plaintiff to Campbell
No. 20 – Correspondence from Campbell to Plaintiff
No. 21 – Correspondence Plaintiff to Solicitor
No. 22 – Correspondence from Solicitor to Plaintiff
No. 23 – Correspondence from Plaintiff to Attorney General
No. 24 – Correspondence from Attorney General to Plaintiff
No. 25 – Correspondence from Plaintiff to US Attorney
No. 26 – Correspondence from US Attorney to Plaintiff
No. 37 – Background Check

Without objection, Plaintiff responded that she "has no documents to produce in response to this request." Giving him the benefit of the doubt, Plaintiff assumes that Landgraff thinks Plaintiff is withholding documents based on a general objection. She is not; she has NO documents for the Court to compel her to produce.

No. 31 – Mobile Phone Statements

Plaintiff only has one mobile telephone. She uses the telephone in her law practice to communicate with clients through phone calls and texts. Based on the advice of the South Carolina State Bar, she cannot produce the requested information without violating the attorney-client privilege and the Code of Professional Conduct. Should the Court compel a response, Plaintiff asks that the Court to require Landgraff to identify what he is fishing for to prevent an overbroad violation and to narrowly tailor the order to require production of only relevant information.

No. 33 – Websites

Plaintiff has no responsibility to create documents for Landgraff. The website for her law office, her Linked In account, and her Facebook account are all public and Landgraff can inspect them at any time. Plaintiff has no idea what Adult Friend Finder or similar sites are so she definitely has nothing to produce regarding such sites.

No. 39 – Tax Returns

Plaintiff has made no demand for loss of income or any related financial loss. Thus, Plaintiff renews her objection that her tax returns are not relevant and are an unnecessary invasion of her privacy.

No. 41— Medical Records

Plaintiff renews her objection that her medical records are not relevant and are an unnecessary invasion of her privacy. Her claim is for intentional infliction of emotional distress, not for any physical injuries. In addition, the only medical expenses she has identified as damages are for mental therapy. That said, if the Court disagrees, Plaintiff asks that the Court clarify if Landgraff is entitled to the records concerning her annual eye exam, semi-annual dental cleanings, her annual gynecological exams, and/or her elective cosmetic surgery.

Requests for Admission

Plaintiff offers the following information regarding the Requests for Admission that Landgraff has challenged.

No. 1 – Participation

Plaintiff made an objection and then provided a complete response. She has no further information for the Court to compel. To the contrary, Plaintiff admitted to more behavior than Defendant requested.

No. 4 – Entering Bedroom

Plaintiff denied this request. She then explained her denial as required by SCRCP 36. Upon reviewing her answer, Plaintiff would also add the following. Because Landgraff secretly videotaped Plaintiff, she has no knowledge of where all he may have placed cameras. Thus, she may also have been videotaped in other parts of the house. She has no further information for the Court to compel.

No. 12 – Criminal Investigations

Plaintiff denied this request. She then explained her denial as required by SCRCP 36. She has no further information for the Court to compel.

No. 15 – Reporting Crime

Plaintiff denied this request. She then explained her denial. Upon reviewing her answer, Plaintiff would also add that the content of the videotape could be irrelevant as to whether or not Landgraff had committed the crime Plaintiff believes was committed. She has no further information for the Court to compel.

Responses to Interrogatories

Plaintiff offers the following information regarding the Interrogatories challenged by Landgraff.

No. 3 – Itemized Statement of All Damages

Plaintiff is in the process of identifying her damages. Plaintiff is well aware of SCRCP 26(e) and will supplement this response when she identifies all of her damages. At present, there is no itemized statement of "all" of her damages for the Court to compel.

No. 6 – Supporting Facts

Plaintiff is well aware of SCRCP 26(e) and will supplement this response when appropriate.

No. 9 – Who Paid Bills
No. 10 – Claims for Personal Injury
No. 14 – Criminal and Civil Actions
No. 15 – Prescription Drugs
No. 17 – Sexual Activities
No. 19 – Background Check

Plaintiff fully responded to these Interrogatories and has NO other information for the Court to compel.

No. 11 – Health Professionals

Plaintiff fully responded to this request assuming that she correctly assumed Landgraff meant "contact" in subsection a and not "contract." If Landgraff meant "contract", Plaintiff supplements this response that she has no contract with any provider. She also supplements this response with new information by providing the name of a new provider, Dr. Deborah Leporowski. Her phone number is 864-752-7577. Plaintiff consulted Dr. Leporowski for psychotherapy for her increased damages resulting from Landgraff's demand that Plaintiff be identified in the public record.

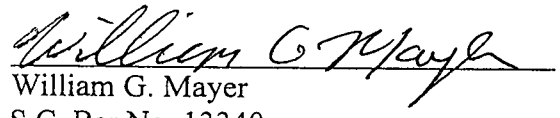
No. 12 – Contact Information Health Professionals

Plaintiff has fully responded to the mental health component of this Interrogatory in Interrogatories 9 and 11. Plaintiff renews her objection that her medical records are not relevant and are an unnecessary invasion of her privacy. Her claim is for intentional infliction of emotional distress, not for any physical injuries. That said, if the Court disagrees, Plaintiff asks that the Court clarify if Landgraff is entitled to the records concerning her annual eye exam,

semi-annual dental cleanings, her annual gynecological exams, and/or her elective cosmetic surgery.

No. 18 – Email and Phone Numbers

Plaintiff renews her objection to this Interrogatory based on the advice of the South Carolina Bar. She has fully addressed the mobile phone number in Request to Produce No. 31. Assuming that Landgraff does not still have the phone number he regularly called, it is 864-238-4900. Plaintiff's public email which Landgraff also should know is or could easily get from Plaintiff's website is carol@carolsimpsonlaw.com. Plaintiff hosted the email on an internal server. Due to Microsoft's discontinuance of its operating systems and server software, Plaintiff was forced to replace her server so no prior entries are available. As a result, no information relevant to this litigation is available. Providing access to Plaintiff's email revealing information about her clients and their cases would come at the high price of causing Plaintiff to violate the Code of Professional Conduct and to violate the attorney-client privilege that Plaintiff owes to her clients. A price that the South Carolina Bar has advised Plaintiff not to pay. Should the Court compel a response, Plaintiff asks the Court to require Landgraff to identify what he is fishing for to prevent an overbroad violation and to narrowly tailor the order to require production of only relevant information.



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October 30, 2014
Greenville, SC

STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS

FILED-CLERK OF COURT
GREENVILLE CO. S.C.
PAUL B. WICKENSHER

COUNTY OF GREENVILLE) Civil Action No. 2013-CP-23-01762

2014 NOV 7 PM 3 57

Carol Simpson, Plaintiff,	)	
vs.	)	**MOTION FOR SUMMARY JUDGMENT**
Frank A. Landgraff, Carol Sutton, Carol Sutton & Associates-Investigations, Inc., Defendants.	)	

Pursuant to Rule 56, SCRCP, Frank A. Landgraff ("Landgraff") moves the Court for an Order granting summary judgment in his favor. The following grounds support Landgraff's Motion:

1. The Court should dismiss this case pursuant to Rule 56, SCRCP. No issue of material fact exists as to any element of any claim asserted by Plaintiff and Landgraff is entitled to a judgment as a matter of law. *See Baughman v. At&T*, 306 S.C. 101, 115 (S.C. 1991).

2. Separate and apart from Landgraff's first ground, Plaintiff's wrongful intrusion claim fails for a second reason. Even if Plaintiff could otherwise demonstrate an "intrusion" into her privacy occurred, which she cannot, all such allegations fail to constitute a "substantial and unreasonable" intrusion so as to sustain relief. "Whether the conduct in question meets this test is, in the first instance, a question of law for the court." *Snakenberg v. Hartford Casualty Ins. Co.*, 299 S.C. 164, 172 (Ct. App. 1989).

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Here, Plaintiff complains because a video camera in Landgraff's house and in Landgraff's bedroom caught Plaintiff having unlawful relations with Landgraff's wife, while Landgraff was out of town. Plaintiff had no lawful right to be in Landgraff's bedroom engaging in an unlawful physical relationship with Landgraff's wife. (*Id.*) As a matter of law, then, the Court should find any "intrusion" Plaintiff did experience proves neither "substantial" nor "unreasonable" since but-for her unlawful conduct, Plaintiff would not have appeared on the video committing unlawful acts.

3. Plaintiff's claim for intentional infliction of emotional distress likewise fails for a second reason. Whether the conduct alleged by Plaintiff constitutes "extreme and outrageous" conduct is a threshold legal issue for the Court to decide. *Hainer v. American Medical Int'l*, 320 S.C. 316, 324 (Ct. App. 1995) ("Initially, the trial court determines whether the defendant's conduct was extreme and outrageous enough to permit recovery. The judge should submit the issue to the jury only where reasonable persons might differ on this issue.")

   Plaintiff cannot claim Landgraff's installation of a video camera in his own home and in his own bedroom constitutes "extreme and outrageous" behavior as a matter of law. Only because Plaintiff was somewhere she had no lawful right engaging in acts she had no legal right to do was she caught on video committing the unlawful acts.

4. Plaintiff's claim for civil conspiracy fails to allege special damages with sufficient particularity, as required by Rule 9(g), SCRCP; nor does Plaintiff have any evidence supporting her claim of special damages as caused by an alleged civil conspiracy.

5. All of Plaintiff's claims are barred by the doctrine of *ex turpi causa.* Plaintiff's physical relationship with Landgraff's wife was unlawful. Absent Plaintiff's unlawful conduct, none of the issues about which she complains could or would have occurred.

Under South Carolina law, Plaintiff cannot acquire a right of action resulting from her own unlawful actions. In the decision of *Jackson v. BI-LO*, the Court of Appeals held:

> It is a well founded policy of law that no person be permitted to acquire a right of action from their own unlawful act and one who participates in an unlawful act cannot recover damages for the consequence of that act. 86 C.J.S. *Torts* § 12 (1954). This rule applies at both law and in equity and whether the cause of action is in contract or in tort. 1A C.J.S. *Actions* § 29 (1985). *See also Graham v. Graham,* 276 S.C. 341, 278 S.E.2d 345 (1981); *Nelson v. Bryant,* 265 S.C. 558, 220 S.E.2d 647 (1975); *Rountree v. Ingle,* 94 S.C. 231, 77 S.E. 931 (1913); Restatement (Second) of Torts § 774 (1977).

Jackson v. Bi-Lo Stores, 313 S.C. 272, 276 (S.C. Ct. App. 1993). Accordingly, the Court should grant Landgraff's Motion for Summary Judgment.

NELSON MULLINS RILEY & SCARBOROUGH LLP

By: _____

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Attorneys for Frank A. Landgraff

Greenville, South Carolina

November 7th, 2014

STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS

COUNTY OF GREENVILLE)

Carol Simpson) Civil Action No.: 2013-CP-23-01762

Plaintiff,

v.) **MOTION FOR SUMMARY JUDGMENT**

Frank A. LandGraff, Carol Sutton and Carol Sutton & Associates – Investigations, Inc.,

Defendants.

FILED-CLERK OF COURT GREENVILLE CO. S.C. PAUL B. WICKENSIMER 2015 FEB 12 AM 10 05

TO: WILLIAM G. MAYER, COUNSEL FOR THE PLAINTIFF:

YOU WILL PLEASE TAKE NOTICE that Defendants Carol Sutton and Carol Sutton & Associates-Investigations, Inc., will move on the tenth day after service hereof, or as soon thereafter as counsel may be heard, for order granting summary judgment in their favor in this matter. The grounds for the motion are that no issue of material fact exists as to the claims asserted by the plaintiff, so that these defendants are entitled to judgment as a matter of law, pursuant to Rule 56, *South Carolina Rules of Civil Procedure*.

The defendants' motion will be supported by the arguments of counsel and the applicable precedents.

Respectfully Submitted,

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Attorney for Defendants

Greenville, South Carolina

January 28, 2015

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STATE OF SOUTH CAROLINA

COUNTY OF GREENVILLE

FILED-CLERK OF COURT
GREENVILLE CO. S.C.
PAUL B. WICKENSIMER
2015 FEB 12 PM 4 30

Carol Simpson,

Plaintiff,

v.

Frank A. Landgraff, Carol Sutton, Carol Sutton & Associates - Investigations, Inc.,

Defendants.

IN THE COURT OF COMMON PLEAS
C.A. 2013-CP-23-01762

PLAINTIFF'S MOTION FOR RECONSIDERATION

Plaintiff hereby moves pursuant to Rule 59(e) of the South Carolina Rules of Civil Procedure for reconsideration of the Order granting Defendant Landgraff's Motion for Summary Judgment and, by its silence, denying Plaintiff's Motion to Strike.

South Carolina Supreme Court articulated its standard for the propriety of a Rule 59(e):[1]

> [I]t is proper to view a Rule 59(e) motion not only as a vehicle to request the trial court "alter or amend the judgment," but also as a vehicle to seek "reconsideration" of issues and arguments. A motion under Rule 59(e) long has been viewed as "motion for reconsideration" despite the absence of those words from the rule. Consequently, a party usually is allowed to ask the court to reconsider its decision even if it means rehashing all or part of an argument previously presented.
>
> . . .
>
> There is nothing inherently unfair in allowing a party one final chance not only to call the court's attention to a possible misapprehension of an earlier argument, but also to revisit a previously raised argument. It is inherently unfair to disallow such an opportunity.

[1] *Elam v. SC Dept. of Transp.*, 361 S.C. 9, 21-22, 602 S.E. 2d 772 (S.C. 2004); *See, e.g., Arnold v. State*, 309 S.C. 157, 420 S.E.2d 834 (1992) ("purpose of Rule 59(e), SCRCP, to alter or amend the judgment is to request the judge to reconsider matters properly encompassed in a decision on the merits"); *Curcio v. Caterpillar, Inc.*, 355 S.C. 316, 585 S.E.2d 272 (2003) (an example of the many cases in which trial and appellate courts describe a Rule 59(e) motion as a "motion to reconsider" or "motion for reconsideration"); James Flanagan, *South Carolina Civil Procedure* 474-475 (2d ed. 1996).

Based on the Court's statement that it "prefers to resolve this dispute on the entire record," Plaintiff has based this Motion on facts from the pleadings,[2] answers to interrogatories,[3] admissions on file,[4] affidavits,[5] prior court orders, and other documents on file.[6] Because the Court referred it, Plaintiff has also referenced Plaintiff's Memorandum in Opposition to the Defendant's Proposed Order.

The Court Misstates Plaintiff Claim

Factual Error -- "Plaintiff brought this action claiming Defendant Frank A. Landgraff hired Defendant Carol Sutton and her private investigative agency to place a video camera in Landgraff's bedroom for the purpose of capturing evidence of her adultery with Landgraff's then-wife"

This statement is completely false and has absolutely no support in the record. First, Plaintiff's Complaint does not even contain the word "adultery." Second, Plaintiff has repeatedly pointed out that the tort of wrongful intrusion into private affairs rests on the intrusion, not the content of

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[2] The record contains an Amended Complaint filed June 14, 2013 with Answers filed by all three Defendants and a court-ordered Amended Complaint filed June 19, 2014 with an Answer filed by Frank A. Landgraff and an Answer filed by Sutton.

[3] Plaintiff's Response to Frank A. Landgraff's First Interrogatories is in the file attached to Landgraff's Motion to Compel. Plaintiff's First Supplemental Response to Frank A. Landgraff's First Interrogatories was filed on November 14, 2014. Plaintiff's First Set of Interrogatories to Defendant Carol Sutton and Carol Sutton & Associates – Investigations, Inc. was filed on January 26, 2015.

[4] Plaintiff's Response to Frank A. Landgraff's First Requests for Admission is in the file attached to Landgraff's Motion to Compel. Plaintiff's First Requests for Admissions to Defendant Carol Sutton and Carol Sutton & Associates – Investigations, Inc. was filed on January 26, 2015.

[5] Affidavits on file include the following: (1) The Amended Affidavit of William G. Mayer ("Mayer Affidavit"); (2) Sutton Affidavit attached to the Mayer Affidavit and Memoranda filed with the Court; (3) Landgraff Affidavit attached to the Mayer Affidavit and Memoranda filed with the Court; (4) Simpson Affidavit incorporated into the file by Court's Order filed January 6, 2014; (5) Affidavits referenced in Footnote 2 of the Proposed Order and in Footnote 2 of Landgraff's Supplemental Memorandum; and (6) Plaintiff's [Verified] Memorandum in Opposition to Defendant Frank A. Landgraff's Motion for Summary Judgment.

[6] Documents on file include the following: (1) Plaintiff's Response to Frank A. Landgraff's First Requests for Production; (2) Plaintiff's First Requests for Production to Defendant Carol Sutton and Carol Sutton & Associates – Investigations, Inc. filed on January 26, 2015; (3) Invoices from McCall Counseling & Therapy and Dr. Deborah Leporowski attached to Plaintiff's First Supplemental Response to Frank A. Landgraff's Requests for Production to Plaintiff; (4) Plaintiff's Motion to Seal File attached to Plaintiff's Memorandum in Support of Motion to Strike; and (5) prior orders of this Court.

the videotape. Third, Landgraff's condonation and, possible connivance, negates any value the evidence would have had in his Family Court case. Finally, Plaintiff has never wavered from her initial statement that Landgraff's actions were for his own sexual gratification.

Only One Defendant Moved for Summary Judgment

Court's Factual Error -- "Defendants now move for summary judgment."

Only one Defendant Frank A. Landgraff moved for summary judgment. The other two defendants, Carol Sutton, Carol Sutton & Associates - Investigations, Inc. (hereinafter collectively "Sutton") did not so move.

The United States Supreme Court has provided that a court can enter summary judgment *sua sponte*, "so long as the losing party was on notice that she had to come forward with all of her evidence.[7] Sutton had not even filed their answers at the time of the hearing. Since the hearing, Plaintiff has answered part of Sutton's discovery requests and served Sutton with requests for admissions, requests for production, and interrogatories. In short, Plaintiff and Sutton have proceeded in this case as if they were going to trial in less than two months as scheduled. Plaintiff had no indication from the hearings in this case, the Form 4 order, or the Proposed Order that the Court, or anyone else, was considering granting summary judgment in favor of Sutton.

In conclusion, Plaintiff asks the Court amend its Order so that any decision only applies to Landgraff. If the Court does not grant this request, Plaintiff requests that the Court set out all relevant facts and its legal analysis sufficient to give clear notice as to its rationale.[8]

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[7] *Celotex Corp. v. Catrett*, 477 U.S. 317, 326, 106 S.Ct. 2548, 91 L.Ed. 2d 264 (1986).

[8] *Froneberger v. Kirkland Dale Smith, etal*, 406 S.C. 37, 748 S.E.2d 625, 634 (S.C. App. 2013) ("'[A circuit] court's order on summary judgment must set out facts and accompanying legal analysis sufficient to permit meaningful appellate review.' 'Such an order must include those facts which the circuit court finds relevant, determinative of

The Order Shows that the Court Misinterpreted Its Duty

The Court's statement that "Inference need not produce ignorance," demonstrates that the Court may have misinterpreted its duty.

> It is the duty of the court, on motion for summary judgment, not to try issues of fact, but only to determine whether there are genuine issues to be tried; and once having found that triable issues exist, must leave those issues for determination at trial. We cannot say as a matter of law that respondents' defenses, if proven, would not constitute a legal defense. We find raised in them material issues rendering summary judgment inappropriate.
>
> A court considering summary judgment neither makes factual determinations nor considers the merits of competing testimony; however, summary judgment is completely appropriate when a properly supported motion sets forth facts that remain undisputed or are contested in a deficient manner.[9]
>
> On appeal from an order granting summary judgment, the appellate court will review all ambiguities, conclusions, and inferences arising in and from the evidence in a light most favorable to the non-moving party below.[10]

Regardless of how "selective" it thinks Plaintiff's account of the facts is, the Court is not to try the issue. The Court should not decide whether the facts are credible or whether it believes one party or the other. Rather, it is to leave the truth or falsity of the issue for determination at trial. The appellate court will view all ambiguities in a light most favorable to Plaintiff, the trial court should also.

Possibly, the Court did not review the Greenville County Sheriff's Incident Report ("the Incident Report") in the record that shows that the inference is not ignorant or illusory. To the contrary, it forms the basis for the Greenville County Sheriff himself asking the Solicitor to

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the issues and undisputed.'". The order should also 'provide clear notice to all parties and the reviewing court as to the rationale applied in granting ... summary judgment.'").

[9] *David v. McLeod Reg'l Med. Ctr.*, 367 S.C. 242, 250, 626 S.E.2d 1, 5 (2006).

[10] *Williams v. Chesterfield Lumber Co.*, 267 S.C. 607, 230 S.E.2d 447 (1976).

prosecute Landgraff and Sutton. In addition, based on the same evidence, the Office of the Governor determines that Plaintiff was the victim of the crime and qualified for financial help from the Crime Victims' Compensation Fund.[11]

The Court Erroneously Concludes that the Content of the Videotape, If it Still Exists or Who Has Seen It is Relevant

Court's Factual Error – "Nowhere in the record do we learn what is actually on the videotape, if it still exists, or whether its contents were shared with a third party. The absence of this evidence entitles Defendants to summary judgment.

The Court gives Plaintiff no insight into its rationale that not knowing what is on the videotape entitles Landgraff to summary judgment. As demonstrated below, the record is clear that the videotape captured images of Plaintiff. What is actually captured on the videotape is not the gravamen of the offense -- the intrusion was the spying and making the videotape.[12] Any further knowledge of the content of the videotape is irrelevant.

> Although the tape was not offered in evidence, we credit [Wife's] testimony that it recorded the 'comings and goings' from the bedroom she regularly used. Notwithstanding the unremarkable activities recorded on the tape, [Wife] suffered damage as a consequence of [Husband's] actions." "The wrongfulness of the conduct springs not from the specific nature of the recorded activities, but instead from the fact that [Wife's] activities were recorded without her knowledge and consent at a time and place and under circumstances in which she has a reasonable expectation of privacy. .[13]

The Court gives Plaintiff no insight into its rationale that as to why not knowing the videotape still exists entitles Landgraff to summary judgment. Even so, the record clearly shows

[11]See award letter from the State of South Carolina, Office of the Governor dated May 23, 2012.
[12] Snakenburg
[13] i.e., *In re Marriage of Tigges*, 758 N.W.2d 824 (Iowa 2008).

that two copies of the videotape exists – one is in the hands of law enforcement and the other one is the Family Court record which can be accessed by the attorneys in that case without a court order. In the discovery served on Defendants, but to date is unanswered, Plaintiff asks for the following:

> Set forth an inventory of all originals or copies of the videotape, of all portions of the videotape, and/or of all screen grabs made from the videotape, identifying who has each item inventoried and whether it is possible to copy any of the items.

By granting Landgraff's motion, the Court destroys Plaintiff's ability to get an answer to this question. In short, the Court grants the summary judgment motion due to the absence of evidence that the Court's decision prevents her from obtaining.

The Court gives Plaintiff no insight into its rationale as to why "whether the contents were shared with a third party" or not entitles Landgraff to summary judgment. This is an action for wrongful intrusion into private affairs, not wrongful publication of private affairs. Interesting, in a North Carolina criminal case, the Court had no trouble finding that a Defendant had made a videotape for his sexual gratification when there was no evidence that he, much less a third party, had ever viewed it. [14]

Based on the foregoing, Plaintiff asks that Court reconsider its ruling and deny Landgraff's summary judgment motion. If the Court does not grant this request, Plaintiff requests that the Court set out all relevant facts and its legal analysis sufficient to give clear notice as to its rationale.

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[14] "In *State v. McClees*, this Court held that the defendant's act of secretly videotaping an undressed child was for the purpose of arousing or gratifying sexual desire even though no evidence was presented showing that the defendant ever actually viewed the video." *State of North Carolina v McClary*, 679 S.E.2d 414, 418 (N.C. App. 2009)

The Court Missed the Evidence and Inferences that the Recordings Contain Images of Plaintiff

Court's Factual Error -- There is not a scintilla of proof that the recordings contain any images of Plaintiff, a condition all of her tort claims hinge upon."

The Court has obviously missed the copious proof in the record showing that this statement is false. The most conclusive is found in the Greenville County Sheriff's Incident Report ("the Incident Report") which is part of the file resulting from the investigation of Landgraff for the crime of video voyeurism.[15]

> I met with complainant (Simpson) and her attorney, Bill Mayer, in my office on 11/04/2010. Simpson advised me that suspect (Landgraff) had a hidden camera installed in the bedroom of the residence he shared with victim #2 (Mulligan) and did without knowledge or consent from either Simpson or Mulligan digitally video record Simpson and Mulligan . . . Simpson advised that the recording was done on 12/15/2009 and since that time Landgraff has caused the digital recording and still images from the digital recording to be distributed to attorneys and family and common pleas courts in private actions. . . . Since report date I have been provided with copies of affidavits from Private Investigator Carol Sutton, and a PI report from Sutton in reference to this incident . . . **I have been provided with copies of still shots from the digital recording, as well as a copy of the digital recording itself. . . .** Simpson prepared and provided me with a case statement. I provided Assistant Solicitor Howard Steinberg, and Sgt. S. Matheny with a copy of Simpson's case statement, and briefed them on our meeting. (Emphasis added).

The Court could also review the letter that the Office of the Governor of the State of South Carolina sent to Plaintiff. Based on the Incident Report, the letter informs Plaintiff that the "State Office of Victim Assistance (SOVA) has deemed that your claim [for assistance] meets

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[15] *Offense of Voyeurism* Section 16-17-470(B) provides a person commits the crime of voyeurism as follows: A person commits the crime of voyeurism if, for the purpose of arousing or gratifying sexual desire of any person, he or she knowingly views, photographs, audio records, video records, produces, or creates a digital electronic file, or films another person, without that person's knowledge and consent, while the person is in a place where he or she would have a reasonable expectation of privacy.

the eligibility standards pursuant to South Carolina Laws governing the Crime Victim's Compensation Fund."

The Court can certainly take judicial notice of the South Carolina Code of Laws:

> SECTION 16-3-1170. Basis for award.
>
> (A) No award may be made unless:
> (1) a crime was committed;
> (2) the crime directly resulted in physical or psychic trauma to the victim;
> (3) the crime was promptly reported to the proper authority and recorded in police records; and
> (4) the claimant or other award recipient has fully cooperated with all law enforcement agencies and with the South Carolina Victim's Compensation Fund.
>
> (B) For the purposes of item (3) of subsection (A), a crime reported more than forty-eight hours after its occurrence is not "promptly reported", absent a showing of special circumstances or causes which justify the delay.

In other words, SOVA determined that Plaintiff had been a victim of the Defendants' crime of video voyeurism. Logically, this would be impossible if the tape were blank or contained no images of Plaintiff.

If the Court is not yet convinced, the Case Statement referenced in the Incident Report that is part of the record contains the following statements [Suspect is Landgraff]:

> Case Statement
> Incident Type: Voyeurism
> Case #10-170454
>
> *Summary of the Facts*
>
> Suspect is married to Wife and had a personal relationship with Victim. Suspect introduced Victim to Wife and encouraged a friendship between them. Suspect then promoted a personal and physical relationship between himself, Wife, and Victim. Suspect became hostile when Suspect and Wife refused to continue a physical relationship with him.

Suspect hired Private Investigator to, in his words, "document the activities of my Wife." Private Investigator documented approximately 185 hours of activity between Victim and Wife with no indication of any improper relationship.

Suspect with cooperation of Private Investigator installed a covert camera in the marital residence. Suspect represented to Private Investigator that he wanted to install the covert camera to document Wife's affair. The camera was motion-activated and focused solely on the bed in the master bedroom.

Private Investigator's notes indicate that the camera was first installed in November. Private Investigator denies that the camera captured any activity of any kind. After this event, Suspect was once solicitous of time with Wife and Victim. All three socialized together and even had Christmas dinner together with their families. Suspect continuously commented on how much he missed physical contact with Wife and Friend. Suspect planned a trip and made clear to Wife that she should plan to spend the night at the house due to construction workers building a house next door. Suspect suggested that Victim stay with Wife while he was gone.

Before leaving town, Suspect and Private Investigator re-installed the covert camera. **This time camera filmed Wife and Victim.** Suspect did not confront Wife and continued to cohabit and have sexual contact with her. Suspect also attempted to renew a physical relationship between himself, Wife, and Victim.

Two months after having the video, Suspect demanded that Wife leave the marital home. Suspect, nor Wife, filed for divorce. However, Suspect did allege adultery in answer to Wife's action for separate maintenance and support. Thus, Suspect did not use the videotape offensively as he alleged.

. . .

Suspect and Private Investigator have also signed affidavits describing the contents of videotape. Affiants must have personal knowledge of the information their affidavits contain. In addition, Private Investigator attached still shots made from the videotape as an exhibit to her affidavit. Thus, both have also viewed the video.

. . .

Even with the videotape, the Judge at the Temporary Hearing did not deny alimony to the Wife. He stated that Wife may have a defense of connivance. While the Judge did not mention the defense of condonation, Suspect's sexual conduct and cohabitation with Wife for two months after his knowledge of the videotape arguably constitute condonation. Thus, his actions prior to and after recording the videotape belie his stated purpose of making the videotape to document adultery.

. . .

Victim had to been to the Suspect's house on many occasions. She and Wife often went into Wife's dressing room to change clothes. Suspect assured Victim that the area was secluded. The residence has an alarm that chimes if any door is opened. On the evening of the videotaping, Victim and Wife believed Suspect was not at home. No one else was believed to be in the home and no security cameras were in the home. Victim states that she believed that she could disrobe in private without being seen by anyone but Wife and without being videotaped by anyone.

. . .

Without further investigation, it is unknown to whom Suspect or Private Investigator has distributed the videotape. However, at a minimum, Suspect and/or Private Investigator has given a copy to Suspect's attorneys, Wife's attorneys, and the Family Court.

Due to the defenses of connivance and condonation and the excessive nature of this evidence, courts could find that no legitimate reason existed to give the videotape of the Wife to the attorneys or the Court. Suspect had no right to videotape Victim to further his domestic case. Barring such a ruling, evidence gathered from Suspect and Private Investigator may document other distribution.

Wife stated that Suspect has a large library of pornographic videos and adult magazines. Records of his visits to the Hedonism resort should be available. He reportedly acquired a laptop computer which may contain evidence of his viewing of the videotape and/or pornography. The viewing of the videotape is also voyeurism and viewing of pornography confirms his prurient interest in the videotape.

Information in Private Investigator's files may give more evidence of the purpose of making the videotape. The files should also contain information regarding distribution. At the very least,

> they should contain complete information regarding the videotaping. For instance, Private Investigator responded to a subpoena by alleging that nothing was recorded during the first installation of the covert camera. In addition, the files should explain the irregular gaps in a videotape made by a motion-activated device that was recording continuous activity. . . . (Emphasis added).

Plaintiff also directs the Court's attention to Landgraff's ex-wife's Motion to Seal File in their Family Court case.[16]

> Defendant Frank A. Landgraff ("Husband") has filed several motions and affidavits in this [family court] case alleging the Plaintiff's involvement with a third party [Plaintiff in this case] and mentioning the name of a third party ("the third party"). He has also secretly videotaped the Plaintiff [in the family court case] and the third party. **His filings have included still pictures and videotape of the Plaintiff and of the third party** . . . .
>
> Recently, Wife attended a business meeting in Charlotte at which she was told that Husband has told so many people about the sensitive material that executives in the Raleigh corporate office have recently told executives in the Atlanta corporate office of the existence of the sensitive material. (Emphasis added).

Significantly, the Supplemental Order Sealing the File states that "Wife had previously moved for an order sealing the Court's file in this matter, and Husband joined in Wife's request."[17]

The wording of Landgraff's Requests for Admission assumes the existence of the videotape and that it contains images of Plaintiff.[18] Surely, the Court can make the reasonable

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[16] Plaintiff attached this Motion to Seal File which was filed in Landgraff's family court case to her Motion to Strike in this lawsuit.

[17] To use the Court's words, it "is neither here nor there," but this is the order that the court references when it states "even though no such order has been presented."

[18] Request for Admission #4 -- Plaintiff never entered Landgraff's master bedroom at 122 Antigua Way, Greer, South Carolina to engage in the conduct identified in Admission No. 1 above, she would not have been captured on video footage as alleged in the Amended Complaint filed June 14, 2013.
Request to Admit #15 -- Plaintiff reported Landgraff to criminal justice authorities (law enforcement and/or prosecutorial) because she was recorded engaging in sexual activities with Mulligan in Landgraff's master bedroom at 122 Antigua Way, Greer, South Carolina.

inference that Plaintiff would not go through the ridicule, time, expense, and embarrassment to file and prosecute her claims if there were no videotape and she was not captured on it.

Based on this information in the record, Plaintiff asks that Court reconsider its finding that "no proof that any images of Plaintiff exist due to Defendant's conduct" and deny Landgraff's summary judgment motion. If the Court does not grant this request, Plaintiff requests that the Court set out all relevant facts and its legal analysis sufficient to give clear notice as to its rationale.

The Court Erred in Finding that South Carolina Has Recognized a Wrongful Conduct Bar

The Court is urged to reconsider its ruling that the South Carolina recognizes the principle called a "wrongful conduct bar." The Court cites three treatises and relies on cases from other states to define the principle. While the wrongful conduct bar may have been "long part of American law," South Carolina and the Fourth Circuit have chosen to define and articulate three separate doctrines -- the illegality doctrine, the *ex turpi causa* doctrine, and the *in pari dilecto* doctrine – all of which are inapplicable to this case, but discussed below.

The first treatise is The Plaintiff's Illegal Act as a Defense in Actions of Tort.[19] A careful search of the entire article and its footnotes reveals that the treatise cites no South Carolina or Fourth Circuit case.

The second treatise is Outlaws and Outlier Doctrines: The Serious Misconduct Bar in Tort Law.[20] A careful search of the entire article and its footnotes reveals that the treatise cites no Fourth Circuit case. It does cite one South Carolina case that involves legal malpractice cases involving criminal prosecutions that is directly on point. "The Court recognized the applicability

[19] Davis, 18 Harv. L. Rev. 505.
[20] King, 43 Wm. & Mary L. Rev. 1011 (2002).

of the serious conduct bar in principle, but refused to apply it on the merits in the instant case because it believed that adultery did not rise to the level of a 'serious crime.'"'"[21]

As in this case, the Defendant moved for summary judgment motion "on the premise that the plaintiff should not be permitted to recover for injuries that arose from adultery."[22] The court found that adultery – which is a misdemeanor in South Carolina as it is in New York -- does not rise to the level of a "serious crime."[23] In addition, "[r]esearch has not disclosed any cases which hold adultery to be so serious a crime that recovery is precluded in a civil suit."[24]

The third treatise is The Nature of the Judicial Process.[25] A careful search of the entire article and its footnotes also reveals that the treatise cites no South Carolina or Fourth Circuit case.

In addition, none of the cases cited by the Court from other jurisdictions are applicable to any of Plaintiff's conduct:

1. In the *Greenwald* case, the plaintiff "has admitted to conduct that constitutes a serious felony, and such conduct has a direct causal connection to his alleged injuries."[26] In the instant case, Plaintiff has not engaged in or admitted to any conduct that constitutes a crime, much less a felony.
2. The *Ryan* case involves a convicted felon.[27] The record is clear that Plaintiff has not been convicted (nor can she be) and the only crime alleged by Landgraff or the Court is a

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[21] *Id.* at 1030.
[22] *Hernandez v. Yoon*, 661 N.Y.S. 753, 754, (Sup. Ct. 1997).
[23] *Id.*
[24] *Id.*, "Cases where recovery has been barred or would be barred because the plaintiff was engaged in criminal activity at the time of injury frequently involve conduct dangerous to physical well-being." (See, e.g., *Barker v. Kallash, supra* [plaintiff injured while constructing a pipe bomb]; *Symone T. v. Lieber*, 205 A.D.2d 609, 613 N.Y.S.2d 404 [plaintiff allegedly injured by malpractice committed during illegal late-term abortion]; *LaPage v. Smith*, 166 A.D.2d 831, 563 N.Y.S.2d 174 [estate of plaintiff's decedent who died as a consequence of operating his vehicle in excess of speed limit while intoxicated denied recovery].)
[25] Cardozo, 41 (Yale Univ. Press 1921).
[26] *Greenwald v. Van Handel*, 311 Conn. 370, 88 A.3d 467, 474.
[27] *Ryan v. Hughes-Ortiz*, 959 N.E.2d 1000 (Mass. App. 2012).

misdemeanor.

3. In the *Price* case, the Court failed to respond to summary judgment motions alleging crimes of fraud and subterfuge, so "the trial judge took these motions as confessed."[28] Plaintiff has not engaged in or confessed to any crime.

4. The *Correll* case addressed the "culpability exception" to the wrongful conduct bar.[29] Thus, it doesn't even address Plaintiff's conduct.

5. In the *Barker* case, the Court found that "the Plaintiff's grievous criminal conduct – the construction of a 'pipe bomb' was a proximate cause of the injuries suffered and was so plainly violative of paramount public safety concerns . . . "[30] Plaintiff has not engaged in any grievous criminal conduct that raises public safety concerns.

6. In the *Everet* case also known as *The Highwayman's Case*, one accomplice sued the other accomplice demanding a bigger share of the profit from their crime.[31] Plaintiff was not an accomplice of any defendant so the law leaving "the quarreling accomplices where it finds them" is inapplicable to this case.

More significantly, a search of the Fastcase database reveals that no case in South Carolina or the Fourth Circuit contains the words "wrongful conduct bar," "wrongful conduct rule," or "wrongful conduct exception." Based on the foregoing, Plaintiff asks that the Court abandon its position that there is a wrongful conduct bar in South Carolina and focus on South Carolina jurisprudence. If the Court does not grant this request, Plaintiff requests that the Court set out all relevant facts and its legal analysis sufficient to give clear notice as to its rationale as to why a principle not recognized by South Carolina courts should be controlling in this case.

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[28] *Price v. Purdue Pharma Co.*, 920 So.2d 479 (Miss. 2006).
[29] *Correll v. St. John's Hospital-Macomb Center*, 2002 WL 226935 (Mich. App. 2002).
[30] *Barker v. Kallash*, 63 N.Y.2d 19, 468 N.E.2d 39 (1984).
[31] *Everet v. Williams*, 9 L.Q. Rev. 197 (1893).

The Court Erred in Barring Plaintiff's Claims Based on the Illegality Defense

While South Carolina does recognize the principle stated in *Jackson v. Bi-Lo Stores, Inc.*,[32] the defense is not "known as *in pari delicto*."[33]

In the *Jackson* case, the parties entered into an illegal contract so they were obviously in privity. Because they then sought damages for lost profits pursuant to the illegal contract, the Court barred their recovery. This led to the Court's discussion of the illegality doctrine, not the *in pari delicto* doctrine:[34]

> The illegality doctrine has also been recognized by the United States Supreme Court which, in *McMullen v. Hoffman*, 174 U.S. 639, 19 S.Ct. 839, 43 L.Ed. 1117 (1899), held illegality is a defense to a contract action:
>
> The authorities from the earliest time to the present unanimously hold that no court will lend its assistance in any way towards carrying out the terms of an illegal contract. In case any action is brought which it is necessary to prove the illegal contract in order to maintain the action, courts will not enforce it, *nor will they enforce any alleged rights directly springing from such contract.*

In short, because the parties had entered into an illegal contract, the "well founded policy of law that no person be permitted to acquire a right of action from their own unlawful act and one who participates in an unlawful act cannot recover damages for the consequence of that act . . . The authorities from the earliest time to the present unanimously hold that no court will lend its assistance in any way towards carrying out the terms of an illegal contract."[35] Plaintiff and Landgraff did not enter into a contract. Thus, the illegality defense is not applicable to this case.

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[32] 313 S.C. 272, 437 S.E.2d 168, 170 (S.C. App. 1993).

[33] The Court cites two other cases that it incorrectly propounds the doctrine. *Proctor v. Whitlark & Whitlark, Inc.*[33] does not translate the *in pari delicto* doctrine, but the phrase "in pari delicto potior est condition defendentis" as "in cases of equal or mutual fault, the position of the defending party is the better one." In *White v. Commercial & Farmers' Bank*,[33] Lord Mansfield was not addressing the *in pari delicto* doctrine, but, as the full text of his quotation shows, he was addressing an illegal contract and the *ex turpi causa* doctrine.

[34] The Court in this case erroneously labels the defense as the *in pari delicto* doctrine.

[35] Jackson, 313 S.C at 170.

As a result, Plaintiff asks that Court reconsider its order, identify any part of its ruling that is based on this defense, and deny Landgraff's summary judgment motion accordingly. If the Court does not grant this request, Plaintiff requests that the Court set out all relevant facts and its legal analysis sufficient to give clear notice as to its rationale.

The Court Erred in Barring Plaintiff's Claims Based on the *Ex Turpi Causa* Defense

Lord Mansfield's principle has formed the basis of seven South Carolina decisions, all of which concern illegal contracts -- a 1874 case involving an illegal bidding contract,[36] a 1895 case involving an illegal agreement between co-conspirators,[37] a 1902 case involving co-defendants in a tax scheme to defraud the government,[38] a 1903 case involving bank stock,[39] a 1913 case involving an illegal lottery ticket,[40] and a 1949 case involving a partnership to illegally operate a liquor store.[41] The full text of the principle stated by Lord Mansfield in Holman v. Johnson, 1 Cow-per, 343, and universally recognized is as follows

> The objection that a **contract is immoral or illegal**, as between the plaintiff and the defendant, sounds at all times very ill in the mouth of the defendant. It is not for his sake, however, that the objection is ever allowed; but it is founded in general principles of policy which the defendant has the advantage of, contrary to the real justice, as between him and the plaintiff, by accident, if I may say so. The principle of public policy is this: *Ex dolo malo non oritur actio* [an action does not arise from a fraud]. No court will lend its aid to a man who founds his cause upon an immoral or illegal act. **If, from, the plaintiff's own stating or otherwise, the cause of action appears to arise *ex turpi causa*, or the transgression of a positive law of this country, there the court says he has no right to be assisted**. It is upon that ground the court goes; not for the

[36] *Dudley v. Odom*, 5 S.C. 131, 134 (S.C. 1874)
[37] *Milhous v. Sally*, 43 S.C. 218, 21 S.E.2d 268, 270 (S.C. 1895).
[38] *Brown v. Newell*, 64 S.C. 27, 41 S.E. 835, 839 (S.C. 1902)
[39] *White v. Bank*, 66 S.C. 419, 45 S.E. 94, 101-2 (S.C. 1903).
[40] *Rountree v. Ingle*, 94 S.C. 231, 77 S.E. 931, 932 (S.C. 1913)
[41] *Pendarvis v. Berry*, 214 S.C. 363 52 S.E.2d 705, 707 (S.C. 1949).

> sake of the defendant, but because they will not aid the plaintiff. So, if the plaintiff and the defendant were to change places, and the defendant was to bring his action against the plaintiff, the latter would then have the advantage of it, for, **where both are equally in fault**, *potior est conditio defendentis* [Better is the condition of the defendant than that of the plaintiff}.

The parties in all these cases were equally at fault because they were parties to the same illegal contract. Lord Mansfield's principle would apply if Plaintiff's causes arose "*ex turpi causa*, or the transgression of a positive law of this country . . . .

The "positive law"[42] propounded by this Court appears to be adulterous conduct:

> Adultery is a criminal offense. S.C. Code § 16-15-60. While this statute is rarely enforced and regularly violated, it still represents our state's express public policy. Consequently, Plaintiff's adulterous conduct bars her claims.

Rather than parse the statute and citing facts, the Court makes a bare legal conclusion. The Court refers Plaintiff's "adulterous conduct" rather than her alleged "adultery." This is understandable since there are no facts to support the elements of the crime.

S.C. Code § 16-15-60 which defines adultery as "the living together and carnal intercourse with each other or habitual carnal intercourse with each other without living together of a man and woman when either is lawfully married to some other person."[43] By definition (and Landgraff's admission), neither Plaintiff, nor Landgraff's ex-wife, is a man. As a result, any activity between them is not "adulterous."[44]

Plaintiff's second affidavit presents the additional fact that "Plaintiff has discussed the issue of whether her behavior was criminal or in violation of the law with both the Greenville County Solicitor and a deputy in the Greenville County Sheriff's office. Both indicated it was

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[42] Black's "Law actually and specifically enacted or adopted by the proper authority for the government of an organized jural society."
[43] South Carolina Code of Laws § 16-15-70.
[44] Merriam-Webster dictionary defines adulterous as "relating to, characterized by, or given to adultery." So the alternate syntax does not change the elements of the crime.

not."[45]

Thus, the *ex turpi casua* defense is not applicable to this case. As a result, Plaintiff asks that Court reconsider its order, identify any part of its ruling that is based on this defense, and deny Landgraff's summary judgment motion accordingly. If the Court does not grant this request, Plaintiff requests that the Court set out all relevant facts and its legal analysis sufficient to give clear notice as to its rationale.

The Court Should Dismiss the In Pari Delicto Defense as Improperly Pled

In his Answer or Amended Answer, he raised the defense of *ex turpi causa* alleging that "[o]ne who participates in an unlawful act cannot recover damages for the consequences of that act." Plaintiff filed her Memorandum in Support of Plaintiff's Motion to Strike with a full analysis showing that she had not committed the statutory (or common law) crime of adultery. Afterwards, Landgraff filed a Supplemental Memorandum in which he pled the *in pari delicto* defense for this first time. This violates Rule 12(b).[46] Consequently, Plaintiff requests that the Court dismiss this defense and deny Landgraff's motion for summary judgment. If the Court does not grant this request, Plaintiff requests that the Court set out all relevant facts and its legal analysis sufficient to give clear notice as to its rationale as to how the defense was properly pled.

The Court Erred in Barring Plaintiff's Claims Based on *In Pari Delicto* Defense

In South Carolina, the doctrine of *in pari delicto* is "[t]he principle that a plaintiff who

[45] Plaintiff Memorandum in Opposition, ¶ 12.
[46] "Every defense, in law or fact, to a cause of action in any pleading, whether a claim, counterclaim, cross-claim, or third-party claim, shall be asserted in the responsive pleading thereto . . . . " SCRCP 12(b).

has participated in wrongdoing may not recover damages resulting from the wrongdoing."[47] In South Carolina, this doctrine precludes one joint tort-feasor from seeking indemnity from another.[48] Obviously, Plaintiff and Landgraff are not joint tortfeasors.

That should end the question since the doctrine is inapplicable. As a result, Plaintiff asks that Court reconsider its order and deny Landgraff's summary judgment motion accordingly. If the Court does not grant this request, Plaintiff requests that the Court set out all relevant facts and its legal analysis sufficient to give clear notice as to its rationale.

The Court Erred in Finding That Plaintiff and Defendant are Equally at Fault

The Court seems to think that *in pari delicto* doctrine is simply another way of saying "wrongdoers cannot recover." Not only is this an incorrect interpretation of the law, it is not true. The Court is open to criminals.

> The door of a court is not barred because the plaintiff has committed a crime. The confirmed criminal is as much entitled to redress as his most virtuous fellow citizen; no record of crime, however long, makes one an outlaw. The court's aid is denied only when he who seeks it has violated the law *in connection with the very transaction as to which he seeks legal redress.*[49]

> One is not barred from recovery for an interference with his legally protected interests *merely* because at the time of the interference he was committing a tort or a crime.[50]

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[47] *Myatt v. RHBT Fin. Corp.*, 370 S.C. 391, 395, 635 S.E.2d 545, 547 (Ct. App. 2006) (quoting Black's Law Dictionary 794 (7th ed. 1999)).
[48] *See Rock Hill Tel. Co. v. Globe Commc'ns, Inc.*, 363 S.C. 385, 389 n. 2, 611 S.E.2d 235, 237 n. 2 (2005) ("In general, there is no right to indemnity between joint tortfeasors."); *Atlantic Coast Line R. Co. v. Whetstone*, 243 S.C. 61, 68, 132 S.E.2d 172, 176 (1963) (holding that there generally is no right to indemnity between joint tortfeasors).
[49] (Emphasis added; footnote omitted.) *Olmstead v. United States,* 277 U.S. 438, 484, 48 S.Ct. 564, 72 L.Ed. 944 (1928).
[50] (Emphasis added) 4 Restatement (Second), Torts § 889 (1979).

Even so, excluding criminal adultery, the Court fails to identify any unlawful act in which Plaintiff allegedly engaged. She has not entered into any illegal contract or other illegal endeavor. She has not committed a crime, violated any public policy, or been a party to a tort.

The record contains a certified copy of a criminal records search that shows Plaintiff has no convictions in Greenville County. Although Landgraff repeatedly said that Plaintiff had no "lawful right to be present" at the residence, he never explains why or alleges she broke in, was a trespasser, etc. She has not committed a crime.

A careful review of all the Offenses Against Public Policy in South Carolina confirm that she has not violated any of them under any reading of the facts of this case.[51] In fact, before it became a statutory offense, adultery was "not an indictable offense in this state: nor can an indictment be maintained for living in adultery by charging it as an offense against public decency"[52]

"The primary source of the declaration of the public policy of the state is the General Assembly; the courts assume this prerogative only in the absence of legislative declaration."[53] A search of the S.C. Code of Laws for the words "public policy" reveals no prohibitions which

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[51] Chapter 17 of Title 16 of the South Carolina Code of Laws enumerates the "Offenses Against Public Policy" -- barratry; desecration or mutilation of flags; improper use of names; conspiracy; disturbing schools; unlawful communication; regulation of unsolicited consumer telephone calls; regulation of automatically dialed announcing device; refusal to relinquish party telephone line for emergency call; eavesdropping, peeping, voyeurism; contributing to the delinquency of a minor; custodial interference; sale or purchase of tobacco products or alternative nicotine products for minors; distribution of tobacco product or alternative nicotine product samples; cigarette packages violating certain federal laws; enticing enrolled child from attendance in school; disturbance of religious worship; wilfilly, knowingly or maliciously disturbing funeral service; public disorderly conduct; bribery with respect to agents, servants or employees; bribery of athletes and athletic officials; assault or intimidation on account of political opinions or exercise of civil rights; interference with fire and police alarm boxes; removing State line marks; destruction or desecration of human remains or repositories thereof; soliciting emigrants without licenses; blackmail; cockfighting; using dry wells for sewerage in towns of 500 or over; record shall be kept by dealers in crossties; secondary metals recycler permits to purchase, transport or sell nonferrous materials; fortunetelling for purpose of promoting another business; tattooing; resale of ticket to event; impersonating law enforcement officer; filing of false police reports; charges for political advertisements in newspapers; and sale or possession of "cigarette load".

[52] SC Digest, 1783-1886 Vol. 1, West Publishing Co. summarizing *State v. Brunson*, 2 Bailey 149.

[53] *Citizens' Bank v. Heyward*, 135 S.C. 190, 133 S.E. 709, 713 (1925).

apply to any of Plaintiff's actions.[54]

Plaintiff actions are not tortious. Significantly, South Carolina has abolished the torts of criminal conversation and alienation of affection as being against the public policy.[55]

> The public policy of this State is to foster and protect marriage, to make it a permanent and public institution, to encourage the parties to live together, and to prevent separation. We find, however, that the torts of criminal conversation and alienation of affections have outlived any usefulness they may have possessed in regard to preventing the dissolution of marriages. We discern that the public policy of this State is consistent with the modern course of the law moving away from "heart balm" causes of action. In fact, the legislature already has dispensed with causes of action for criminal conversation. S.C.Code Ann. § 15-3-150 (Supp.1991). We join the majority of states in abolishing the "heart balm" tort of alienation of affections for causes of action accruing after the date of filing of this opinion.

On the other hand, pursuant to the sheriff's investigation and SOVA inquiry, Landgraff has committed the crime of aggravated voyeurism which is a felony. In this action, he is a party to three torts. He is far more culpable than Plaintiff. In fact, his actions form the basis of culpability defense.

As a result, Plaintiff asks that Court reconsider its order and deny Landgraff's summary judgment motion accordingly. If the Court does not grant this request, Plaintiff requests that the Court set out all relevant facts and its legal analysis sufficient to give clear notice as to its rationale.

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[54] See Titles 1, 2, 5, 6, 8, 12, 15, 16, 17, 20, 26, 27, 29, 30, 33, 34, 38 39, 41, 43, 44, 48, 51, 56, 57, 58, 59, 62, and 63.

[55] Russo v. Sutton, 422 S.E.2d 750, 310 S.C. 200, 204-205 (S.C. 1992)

Even If Plaintiff Had Engaged in Any Wrongful Conduct It Was Not a Cause, Much Less a Concurring Cause of Her Injuries

Landgraff describes the camera he installed as motion-sensitive. Consequently, Plaintiff would have appeared on the video when she walked in front of the camera's trigger and would have continued to be videotaped as long as she moved in front of the motion sensor. As a result, the intrusion occurred, the tort was complete, and the damage suffered.

As a result, Plaintiff asks that Court reconsider its order and deny Landgraff's summary judgment motion accordingly. If the Court does not grant this request, Plaintiff requests that the Court set out all relevant facts and its legal analysis sufficient to give clear notice as to its rationale.

Plaintiff is Seeking Compensation for Her Injuries Not to Profit From Any Alleged Wrongdoing

Plaintiff is not seeking to profit from her acts, unlawful or otherwise. Even if she committed a crime, she is not seeking damages for the legal consequences of the alleged criminal acts. She was not damaged by any of her actions, but by Landgraff and Sutton actions.

She is simply seeking to be made whole. The basic purpose of tort law is to restore an Plaintiff to the position she would have been in if the wrong had not been committed." compensated for the damages that. They intruded on her privacy not to be videotaped without her consent. As long as Landgraff and Sutton secretly videotaped a private aspect of Plaintiff, her relationships, or communications, the content of the videotape is irrelevant. Significantly, the damages from the intentional infliction of emotional distress and civil conspiracy are solely a result of Defendants' actions. For this reason alone, the *in pari delicto* defense fails.

As a result, Plaintiff asks that Court reconsider its order and deny Landgraff's summary

judgment motion. If the Court does not grant this request, Plaintiff requests that the Court set out all relevant facts and its legal analysis sufficient to give clear notice as to its rationale.

The Court Failed to Rule on Discovery Issue Raised by Plaintiff

Numerous South Carolina courts have made it clear that because "summary judgment is a drastic remedy, it must not be granted until the opposing party has had a 'full and fair opportunity to complete discovery.'"[56] In other words, "summary judgment must not be granted until the opposing party has had a full and fair opportunity to complete discovery."[57] An "if appropriate" analysis could have led the Court to find that Plaintiff should have been given the opportunity to complete written discovery and take depositions to uncover further evidence.

Plaintiff responded to Landgraff's discovery. She then filed a Motion to Strike and Summary Judgment Motion. With a Form 4 Order, the Court denied Plaintiff's Motion for Summary Judgment on July 1, 2014 based on Defendant Landgraff's 56(f) affidavit. After the

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[56] *Dawkins v. Fields,* 354 S.C. 58, 69, 580 S.E.2d 433, 439 (2003); *Lanham,* 349 S.C. at 363; *Doe v. Batson,* 345 S.C. 316, 322, 548 S.E.2d 854, 857 (2001); *Baird v. Charleston County,* 333 S.C. 519, 529, 511 S.E.2d 69, 74 (1999); *Baughman,* 306 S.C. at 112; *Schmidt*, 357 S.C. at 319.

[57] *Baughman,*306 S.C. at 115 citing the following support: 10A Wright & Miller, Federal Practice and Procedure § 2741, p. 543 (1983); 6 Moore's Federal Practice p 56.02, p. 56-39 (2d ed. 1990); *see, e.g., First Chicago Int'l v. United Exchange Co.*, 836 F.2d 1375 (D.C.Cir.1988) ("[O]ther circuits have excused the absence of a Rule 56(f) filing on the ground that other documents filed by the plaintiff—such as opposing motions and outstanding discovery requests—sufficed to alert the district court of the need for further discovery and thus served as the functional equivalent of an affidavit."); *Gary Plastic Packaging Corp. v. Merrill Lynch, Pierce, Fenner & Smith, Inc.*, 756 F.2d 230 (2d Cir.1985) ("The harshness of the remedy is exacerbated when the trial court refuses to allow plaintiff to conduct discovery. Discovery serves important purposes, such as avoiding surprise, fully disclosing the nature and scope of the controversy, narrowing, simplifying, and framing the issues involved, and enabling parties to obtain the factual information needed to prepare for trial. . . . Dismissal of the case at that point, without further opportunity to conduct discovery, was an abuse of discretion."); *Tyler v. City of Enterprise*, 521 So.2d 951 (Ala.1988) ("That case held that summary judgment was improper where discovery was incomplete. A party is entitled to complete his or her discovery in order to be able to counter a motion for summary judgment."); *Gangadean v. Leumi Fin. Corp.*, 13 Ariz.App. 534, 478 P.2d 532 (1970) ("The trial judge should not order summary judgment until the opposing party has had time to discover essential facts."); *Commercial Bank of Kendall v. Heiman*, 322 So.2d 564 (Fla.Dist.Ct.App.1975) ("We reverse on the state of the record, as it was premature for the trial court to award the defendant a summary judgment when the plaintiff, through no fault of its own, had not completed discovery."); *Board of Education v. Van Buren & Firestone, Architects, Inc.*, 165 W.Va. 140, 267 S.E.2d 440 (1980) ("Thus, a decision for summary judgment before discovery has been completed must be viewed as precipitous."); *See also, Doe v. Batson*, 345 S.C. 316, 322, 548 S.E.2d 854 (S.C. 2001) ("This means, among other things, that summary judgment must not be granted until the opposing party has had a full and fair opportunity to complete discovery.").

holiday, Landgraff filed his Answer to the Amended Complaint. Sutton did not file an Answer until after the hearing on Landgraff's motion.

Plaintiff re-filed her Motion to Strike to narrow the issues so she could begin discovery. The Court heard that motion on the same day as this Motion for Summary Judgment. The following discovery had been served on Defendants, but remain unanswered.

1. Request for Entry Upon Land for Inspection and Other Purposes;
2. Plaintiff's First Requests for Production to Defendant Frank A. Landgraff;
3. Plaintiff's First Set of Interrogatories to Defendant Frank A. Landgraff;
4. Plaintiff's First Set of Interrogatories to Defendant Carol Sutton and Carol Sutton & Associates – Investigations, Inc.;
5. Plaintiff's First Requests for Admissions to Defendant Carol Sutton and Carol Sutton & Associates – Investigations, Inc.; and
6. Plaintiff's First Requests for Production to Defendant Carol Sutton and Carol Sutton & Associates – Investigations, Inc.

In short, the Court ruled pursuant to Landgraff's 56(f) affidavit that summary judgment was premature. Since that time, Defendants have not answered Plaintiff's discovery and no depositions have been taken.

Thus, Plaintiff asks the Court to reconsider its order and deny Landgraff's summary judgment motion since granting it is still premature because Plaintiff "has [not] had a full and fair opportunity to complete discovery." If the Court denies this request, Plaintiff requests that the Court set out all relevant facts and its legal analysis sufficient to give clear notice as to its rationale for its denial.

The Court Failed to Rule on Novel Issue Raised by Plaintiff

This case involves a motion-sensitive camera hidden to record a person who does not know she is being recorded. While several other states have found this to be an invasion of privacy, the issue is novel in South Carolina. This alone may make this case inappropriate for summary judgment. "We find it extremely troubling this case was resolved on a summary judgment basis, especially considering the injury to Schmidt and the *novel* issue involved in this case. No South Carolina cases discuss the issue of personal injury from the impact of errant golf shots."[58]

In a case involving errant golf shots, the Court was concerned about resolving the case on summary judgment. In this case, the issue involved whether it is an invasion of privacy to secretly make a video recording of someone in a private residence without the person's knowledge or consent. The law is well-settled that secretly make an audio recording of someone under the same circumstances is a crime. "It is true that secretly televising people (or taking still or moving pictures of them) while they are in what they think is a private place is an even greater intrusion on privacy than secretly recording their conversations." [59]

The law is well-settled that wiretapping is illegal. Technology has outpaced jurisprudence when it comes to video recording. Thus, Plaintiff asks the Court to reconsider its order and deny Landgraff's summary judgment motion by finding that granting the Summary Judgment is still not appropriate due to the novel issue presented in this case. If the Court denies

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[58] *Schmidt v. Courtney*, 357 S.C. 310, 318, 592 S.E.2d 326 (S.C. App. 2003).

[59] *United States v. Torres*, 751 F.2d 875, 878 (7th Cir. 1984) (Deciding whether the federal government had a right to videotape suspected terrorists in a federal building. Six other federal circuits have followed the Seventh Circuit's decision).

this request, Plaintiff requests that the Court set out all relevant facts and its legal analysis sufficient to give clear notice as to its rationale for its denial.

The Court Failed to Rule on the Issue of Why a Fuller Record is Not a Better Course

The United States Supreme Court recognized that there may be cases where there is no manifest material factual dispute, but the trial judge nevertheless "believe[s] that the better course would be to proceed to a full trial, presumably because in the circumstances of the case a fuller record might afford a more substantial basis for decision."[60] The Court's identification of facts that it doesn't know or, that may make a difference, indicate that a fuller record would be helpful.

The Court obviously has questions that need answers; so does Plaintiff. That is why she has served discovery asking, *inter alia*, for the following information:

1. Identify any and all persons and a summary of what Defendant told each person whom Defendant and/or his attorneys has told about the Videotape and/or its contents, that Plaintiff had an affair with Mulligan, and/or that Plaintiff and/or Mulligan is a lesbian.

2. Identify any and all persons with whom Defendant, Defendant's counsel or anyone else known by Defendant has discussed the existence and/or content of the videotape.

3. Set forth an inventory of all originals or copies of the Videotape, portions of the Videotape, and/or still shots made from the Videotape, including from whom Defendant received them, to whom he gave them, and the present location of each.

4. Any and all private investigator's report(s) or other surveillance logs, notes, and communications concerning Plaintiff, Defendant, Mulligan, and/or any allegations, claims, defenses or affirmative defense in this case.

[60] *Anderson* 477 U.S. at 255; See *Atchison, T. & S.F. Ry. v. Buell*, 480 U.S. 557, 567-71 (1987); *Anderson v. Hodel*, 899 F.2d 766, 770-71 19th Cir. 1990); *Veillon v. Exploration Servs*,876 F.2d 1197, 1200 (5th Cir. 1989).

5. Admit that before you installed the camera in the bedroom at 122 Antiqua Way, your surveillance produced no evidence of sexual activity or of more than a girlfriend, girlfriend relationship between Plaintiff and Mulligan.

6. Admit that you knew that installing the motion-activated camera and portable DVD player in the master bedroom at 122 Antigua Way could result in the recording of Plaintiff.

7. Describe, in detail and with specificity, all facts, theories, and supporting evidence and identify each document that you contend shows any incidents of affection between Plaintiff and Landgraff and between Plaintiff and Mulligan.

8. Set forth an inventory of all originals or copies of the videotape, of all portions of the videotape, and/or of all screen grabs made from the videotape, identifying who has each item inventoried and whether it is possible to copy any of the items.

9. Identify any and all persons with whom Defendant or anyone else known by Defendant has discussed the existence and/or content of the videotape or screen grabs, who has viewed the videotape or screen grabs, or to whom Defendant or anyone else known by Defendant has shown the videotape or screen grabs.

10. Describe, in detail and with specificity the substance of any and all communications concerning the camera installed at 122 Antigua Way, including why the camera was installed; who decided where and when the camera would be installed; all dates and times a camera was installed and removed; the content of any videotapes recorded in addition to the one that is the subject of this case; the legality of installing the camera; who was present when the camera was installed; who was present when the camera was removed; who knew the camera was going to be installed; who gave you permission to install the camera; and any other communications, discussion, and disagreements regarding any aspect of the installation.

Plaintiff asks the Court to reconsider its order and deny Landgraff's summary judgment motion based on this issue. If the Court denies this request, Plaintiff requests that the Court set out all relevant facts and its legal analysis sufficient to give clear notice as to its rationale for its denial.

The Court Failed to Rule on the Issue of Why a Further Inquiry into The Facts of This Case is Not Desirable to Clarify the Law

"Summary judgment is not appropriate where further inquiry into the facts of the case is desirable to clarify the application of the law." [61] The Court states that "the images may, as Plaintiff speculates, persist on some relatively permanent medium." Once Defendants answer the outstanding discovery, the Court will know. Similarly, the Court states "there is no evidence any Defendant has disclosed them to non-parties, and if there is such evidence the wrongful rule likely would not apply." By granting Landgraff's summary judgment, the Court cuts off further inquiry into the facts and Plaintiff's ability to gather such evidence that would likely eliminate the basis of the Court's decision.

Plaintiff asks the Court to reconsider its order and deny Landgraff's summary judgment motion based on this issue. If the Court denies this request, Plaintiff requests that the Court set out all relevant facts and its legal analysis sufficient to give clear notice as to its rationale for its denial.

The Court Failed to Rule on the Issue of Why Summary Judgment is Appropriate When a Dispute Exists over the Conclusion to be Drawn from the Facts

"Summary judgment should not be granted even when there is no dispute as to evidentiary facts if there is dispute as to the conclusion to be drawn from those facts."[62] The Court has clearly concluded that Plaintiff was having an ongoing an affair with Landgraff's wife. On the other hand, the Greenville County Sherriff and SOVA have clearly concluded that Plaintiff was the victim of video voyeurism committed by the Defendants. The conclusions are obviously in dispute.

---

[61] *Lanham,* 349 S.C. at 362.
[62] *Gilliland v. Elmwood Properties, Inc.,* 301 S.C. 295, 391 S.E.2d 577, 579 (1990).

Plaintiff asks the Court to reconsider its order and deny Landgraff's summary judgment motion based on this issue. If the Court denies this request, Plaintiff requests that the Court set out all relevant facts and its legal analysis sufficient to give clear notice as to its rationale for its denial.

The Court Failed to Address the Issues in Plaintiff's Motion to Strike Against Sutton

The Form 4 entered by the Court indicated that Plaintiff's Motion to Strike was rendered moot by the Court's grant of Defendant's Summary Judgment Motion. In the Order in question, the Court apparently denies the motion, but does not even mention it. Plaintiff requests that the Court set out all relevant facts and its legal analysis sufficient to give clear notice as to its rationale for denying the motion in its entirety.

The Court Should Dismiss Sutton's Fourth Defense

Sutton alleges that Plaintiff "failed to join parties who are indispensable to the just resolution of this matter." Who? Plaintiff is left to guess. Sutton gets the remedy wrong by saying the "matter must be dismissed for failure to join those parties, pursuant to Rule 12(b)(7) and Rule 19(a)." To the contrary, the proper remedy is that "the court shall order that he be made a party."[63] .

Since only Sutton knows the identity of said parties, Plaintiff asks the Court should order Sutton to reveal their identity and then order their joinder. If the Court denies this request, Plaintiff requests that the Court set out all relevant facts and its legal analysis sufficient to give clear notice as to its rationale for its denial.

The Court Should Dismiss Sutton's Sixth Defense

Sutton avers the defense of consent by alleging that Plaintiff "implicitly or explicitly

[63] SCRCP 19(a).

consented to the surveillance complained of . . . ." She makes the allegation with absolutely no factual support. What consent did Plaintiff give?

"Consent may be found where the evidence shows a voluntary agreement to do something proposed by another, and the party consenting possesses sufficient information and ability to make an intelligent choice."[64] Sutton never proposed to Plaintiff that she voluntarily agree to allow them to intrude on her private affairs, damage her emotionally, or conspire to damage her. Needless to say, Plaintiff never consented to her actions.

Plaintiff asks the Court to strike this defense as insufficient under Rule 8 pleading standards. If the Court denies this request, Plaintiff requests that the Court set out all relevant facts and its legal analysis sufficient to give clear notice as to its rationale for its denial.

The Court Should Dismiss Sutton's Seventh Defense

Sutton truly baffles Plaintiff with this defense – "Insofar as the plaintiff's complaint seeks punitive damages, such damages are violative of both the United States and South Carolina Constitutions and are therefore not recoverable in this cause." That's it -- no facts, no cases, no explanation.

Sutton offers no explanation of the specific provision for punitive damages in *Snakenburg*[65] case that recognized the claims for invasion of privacy in South Carolina. Sutton also ignores the chain of cases handed down by the U.S. Supreme Court that do not support this assertion. In addition, she ignores the statutory provision for punitive damages in SC Code of Laws §15-32-510.

Again, Sutton provides not one fact to inform Plaintiff what she did that precludes punitive damages "in this cause." Because this defense is insufficient under Rule 8 pleading

[64] *Hawkins By and Through Hawkins v. Multimedia, Inc.*, 344 S.E.2d 145, 288 S.C. 569 (S.C. 1986).
[65] *Snakenberg v. Hartford Casualty Ins. Co., Inc.*, 383 S.E.2d 2, 299 S.C. 164 (S.C. App. 1989).

standards and erroneous, Plaintiff requests that the Court strike it. If the Court denies this request, Plaintiff requests that the Court set out all relevant facts and its legal analysis sufficient to give clear notice as to its rationale for its denial.

The Court Should Dismiss Sutton's Eighth Defense

Sutton simply states that "by his or her conduct, the plaintiff assumed the risk of injury, if any . . . ." Sutton identifies no conduct or facts to support this statement. What risk did Plaintiff assume?

"Currently in South Carolina, there are four requirements to establishing the defense of assumption of risk: (1) the plaintiff must have knowledge of the facts constituting a dangerous condition; (2) the plaintiff must know the condition is dangerous; (3) the plaintiff must appreciate the nature and extent of the danger; and (4) the plaintiff must voluntarily expose himself to the danger."[66]

Sutton gives no fact that indicates that Plaintiff knew that the defendants were going to intrude on her private affairs, damage her emotionally, or conspire to damage her. Plaintiff could have no knowledge that Defendants were videotaping her. By their own admission, they installed a hidden, motion-activated camera. The concealment of which was their stated goal. Logically, Plaintiff cannot voluntarily expose herself to anything that she did not know about. This may explain Sutton's obvious omission of any facts supporting this defense.

Plaintiff has no notice of the facts constituting this defense. Because this Defense is implausible and insufficient under Rule 8(b) pleading standards, Plaintiff requests that the Court strike it. If the Court denies this request, Plaintiff requests that the Court set out all relevant facts and its legal analysis sufficient to give clear notice as to its rationale for its denial.

[66] *Senn v. Sun Printing Co.*, 295 S.C. 169, 367 S.E.2d 456 (Ct.App.1988).

The Court Should Dismiss Sutton's Ninth Defense

Sutton avers that the damages "must be plead [sic] with specificity" and that Plaintiff "failed to plead the elements of civil conspiracy, including but not limited to damages arising from a conspiracy different in nature or character from those arising from other acts or omission plead [sic] in the complaint." Sutton evidently missed Plaintiff's claim for special damages for the civil conspiracy which are "specific" and "different in nature or character" from those pled for the other two causes of actions.

Plaintiff requests that the Court strike this defense as patently erroneous, without factual support, and insufficient under Rule 8(b). If the Court denies this request, Plaintiff requests that the Court set out all relevant facts and its legal analysis sufficient to give clear notice as to its rationale for its denial.

The Court Should Dismiss Sutton's Tenth Defense

Sutton goes further to erroneously state that an "element of various causes of action alleged by the plaintiff is special damages . . . . [and] has failed to plead such damages."

Looking solely to the Amended Complaint, Plaintiff only alleged special damages in one cause of action – civil conspiracy. In that cause of action, Plaintiff specifically identified the special damages: "Defendants' combined actions caused Plaintiff to suffer special damages including, but not limited to loss of professional reputation, medical expenses, and future medical expenses." Thus, Plaintiff requests that the Court strike this defense as patently erroneous. If the Court denies this request, Plaintiff requests that the Court set out all relevant facts and its legal analysis sufficient to give clear notice as to its rationale for its denial.

The Court Should Dismiss Sutton's Eleventh Defense

Sutton alleges that Plaintiff "seeks to profit from his or her own unlawful acts" before

reciting her understanding of the doctrine of *ex turpi causa*. Sutton also does not identify any activities, the statutory or common law, or public policy. As discussed exhaustively above, Plaintiff has not committed any crime. Thus, requests that the Court strike this defense. If the Court denies this request, Plaintiff requests that the Court set out all relevant facts and its legal analysis sufficient to give clear notice as to its rationale for its denial.

The Court Should Dismiss Sutton's Twelth Defense

Sutton avers previous disclosure of "events or occurrences which give rise to his or her causes of action . . . ." Nothing could be further from the truth and Plaintiff urges Sutton to stop deceiving the Court about this issue.

This is an action for wrongful intrusion into private affairs, not wrongful publication of private affairs. The one affidavit that Plaintiff presented in a closed courtroom to a file that was sealed was presented before Plaintiff even knew a videotape existed. How could she disclose something of which she had no knowledge? The intrusion was the spying and making the videotape -- the content of the videotape is irrelevant.[67]

Plaintiff requests that the Court strike this defense. If the Court denies this request, Plaintiff requests that the Court set out all relevant facts and its legal analysis sufficient to give clear notice as to its rationale for its denial.

The Court Should Address the Issues in Plaintiff's Motion to Strike Against Landgraff

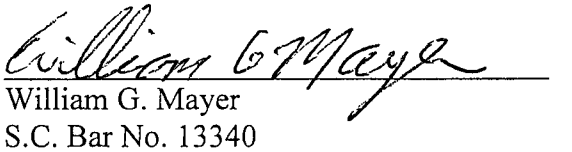
Should the Court reconsider and deny Landgraff's Motion of Summary judgment,

[67] i.e., *In re Marriage of Tigges*, 758 N.W.2d 824 (Iowa 2008) ("Although the tape was not offered in evidence, we credit [Wife's] testimony that it recorded the 'comings and goings' from the bedroom she regularly used. Notwithstanding the unremarkable activities recorded on the tape, [Wife] suffered damage as a consequence of [Husband's] actions." "The wrongfulness of the conduct springs not from the specific nature of the recorded activities, but instead from the fact that [Wife's] activities were recorded without her knowledge and consent at a time and place and under circumstances in which she has a reasonable expectation of privacy.")

Plaintiff requests that it also strike his affirmative defenses. If the Court denies this request, Plaintiff requests that the Court set out all relevant facts and its legal analysis sufficient to give clear notice as to its rationale for its denial.

Conclusion

Based on the foregoing, the Court should reconsider its Order, deny Landgraff's Motion for Summary Judgment, and strike the Defendant's defenses.



William G. Mayer
S.C. Bar No. 13340
Attorney for the Plaintiff
118 West Main Street
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864-984-9202 Telephone
864-715-0496 Facsimile

Greenville, South Carolina
February 12, 2015

STATE OF SOUTH CAROLINA

COUNTY OF GREENVILLE

Mary R. McCorvey,

Plaintiff,

v.

Jane Roe, Detectives, Inc. and John Doe,

Defendants.

IN THE COURT OF COMMON PLEAS
C.A. 2013-CP-23-01762

AFFIDAVIT OF WILLIAM G. MAYER

FILED IN THE OFFICE OF THE CLERK OF COURT GREENVILLE, S.C. 2013 OCT 12 AM 9:21

PERSONALLY APPEARED BEFORE ME, William G. Mayer, who after first being duly sworn testifies:

1. I am licensed to practice law in the state of South Carolina.
2. I am retained as counsel for Plaintiff Mary R. McCorvey (under pseudonym).
3. I have personally reviewed a report prepared by Detectives, Inc.
   a. The attached documents are taken from that report. The identifying information has been redacted to preserve Defendants' anonymity until the Court rules on their qualification to proceed under pseudonym.
   b. These documents are referencing the events involving Plaintiff.
   c. Upon request, I will present unredacted copies to the Court for its inspection.
4. I have also spent substantial time researching the facts of this case. I have determined the following to be true:
   a. Plaintiff was a guest in the home when the videotaping occurred;
   b. Plaintiff did not know Defendants had installed a hidden camera in a bedroom to secretly videotape her;

c. Plaintiff thought she could reasonably expect her privacy at the time of the videotaping;

d. Plaintiff did not consent to the secret videotaping;

e. On numerous occasions, Defendants have taken specific actions relating to the videotaping to embarrass and intimidate Plaintiff;

f. Based on their past actions, Defendants could escalate these actions if not enjoined.

5. I have witnessed Plaintiff's emotional distress and her efforts to repair the extensive damage Defendants' actions have caused her.

6. Plaintiff fears the attention and questions from the media, friends, co-workers, and the general community that public disclosure would inevitably bring.

7. Plaintiff has not told her family or close friends of the circumstances giving rise to or that she has filed this lawsuit. An extensive internet search revealed no postings regarding any aspect or the facts of this case. Plaintiff is not a public figure or a limited public figure so that the public would have a strong interest in knowing her identity.

8. Plaintiff said that she does not think she will proceed in this case if she is forced to make her real name public.

FURTHER AFFIANT SAYETH NOT.

William G. Mayer

SWORN TO BEFORE ME THIS
25th day of March, 2013.

Notary Public for South Carolina
My Commissions expires: 11-09-22

STATE OF SOUTH CAROLINA
COUNTY OF GREENVILLE

[redacted]

AFFIDAVIT OF SERVICE

I [redacted] HAVE CONTRACTED WITH [redacted] TO PERFORM AN INVESTIGATION [redacted]. AS PART OF THIS INVESTIGATION, I HAVE REQUESTED THAT A COVERT CAMERA BE INSTALLED IN THE [redacted] HOME THAT IS LOCATED AT [redacted]. THE LOCATION I REQUESTED THIS CAMERA TO BE INSTALLED WAS IN THE [redacted] BEDROOM THAT IS [redacted].

I FURTER STATE THAT THERE ARE NOT COURT ORDERS THAT PREVENT ME FROM RESIDING AT THIS LOCATION AND THAT THERE IS NO AGREEMENT BETWEEN [redacted] THAT WOULD LIMIT MY ACCESS TO THE [redacted] HOME OR THE [redacted] BEDROOM.

I WAS PRESENT AND APPROVED THE INSTALLATION OF THE COVERT CAMERA AND I AM RESPONSIBLE FOR ITS PRESENTS IN THE [redacted] BEDROOM.

SWORN TO BEFORE ME THIS THE

10TH DAY OF DECEMBER 2009

[redacted]

NOTARY PUBLIC FOR SOUTH CAROLINA
MY COMMISSION EXPIRES: 12/13/2012

[redacted]

Memo:

Re: [redacted]

To Who It May Concern,

As requested – The camera was installed in [redacted] in his presence on Monday, December 14th, 2009 and it was removed on Wednesday, December 16th, 2009.

[redacted]

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF GREENVILLE	)	Civil Action No. 2013-CP-23-01762

Jane Doe,

Plaintiff,

vs.

Frank A. Landgraff, Carol Sutton, Carol Sutton & Associates-Investigations, Inc.,

Defendants.

FILED-CLERK OF COURT
GREENVILLE CO. S.C.
PAUL F. WICKENSIMER
2014 JUN 23 PM 4:44

RULE 56(f) AFFIDAVIT OF LANE W. DAVIS

Personally appeared before me, the undersigned, who, being duly sworn, states as follows:

1. My name is Lane Davis.

2. I am over the age of eighteen (18) years old.

3. I am of a sound mind and competent to execute this affidavit.

4. I represent Frank Landgraff ("Landgraff")

5. Unless specifically indicated, the contents of this affidavit are made upon personal knowledge.

6. Due to delays caused by issues relating to Plaintiff's pleadings, discovery remains in its infancy in this case.

7. Landgraff has served written discovery upon Plaintiff but we only just recently received Plaintiff's responses. In my legal opinion, Plaintiff's responses are substantially incomplete, improper, and will require amended responses, either voluntarily or pursuant to a court order.

8. No depositions have been taken. No third-party subpoenas have been issued.

9. Plaintiff has alleged an intrusion of privacy claim against Landgraff. Until Plaintiff amended her Complaint, which in our view she still technically has not, Landgraff could not issue third-party subpoenas out of fear that Plaintiff would claim Landgraff had further intruded upon her privacy. No meaningful subpoenas could issue without using Plaintiff's real name.

10. At a minimum, Landgraff will need to depose Plaintiff and no less than four (4) fact witnesses.

11. Before Landgraff has the opportunity to complete such discovery, he cannot fully and fairly respond to Plaintiff's motion for partial summary judgment.

12. Plaintiff's motion is untimely and based upon multiple errors. Accordingly, we are asking the Court to deny the motion at this time.

FURTHER AFFIANT SAYETH NOT.

Lane W. Davis

Sworn to before me this 23rd
day of June, 2014.

Ann W. Pallas
Notary Public for South Carolina
My commission expires: 12-15-15

STATE OF SOUTH CAROLINA

COUNTY OF GREENVILLE

Carol Simpson,

Plaintiff,

v.

Frank A. Landgraff, Carol Sutton, Carol Sutton & Associates - Investigations, Inc.

Defendants.

IN THE COURT OF COMMON PLEAS
C.A. 2013-CP-23-01762

PLAINTIFF'S MEMORANDUM IN OPPOSITION TO DEFENDANT FRANK A. LANDGRAFF'S MOTION FOR SUMMARY JUDGMENT

FILED-CLERK OF COURT
GREENVILLE CO. S.C.
PAUL B. HICKENSIMER
2014 NOV 14 PM 4 30

Frank A. Landgraff's ("Landgraff") alleges that "[N]o issue of material facts exists as to any element of any claim asserted by Plaintiff . . . ." While it is difficult to respond to nothing but his unsupported statements, Plaintiff cites the following facts to contradict Landgraff's declarations. Plaintiff provides support for her statements summarized below in the Paragraphs indicated.

¶	**Landgraff's Allegations**	**Facts in a "light most favorable" to Plaintiff**
1	"Even if Plaintiff could otherwise demonstrate an 'intrusion' . . . which she cannot"	She actually does demonstrate his intrusion through Landgraff's affidavit and the existence of the videotape. Certainly, his intrusion was intentional.
2	Intrusion "into her privacy"	The correct legal standard is intrusion "into that which is private".
3	"all such allegations fail to constitute a 'substantial and unreasonable' intrusion so as to sustain relief"	How do they fail?
4	"Plaintiff complains because a video camera . . . caught Plaintiff . . . ."	Plaintiff denied this allegation in her discovery responses.
5	"unlawful relations"	There were no unlawful relations per U.S. Supreme Court, SC statutes, and SC case law.
6	"while Landgraff was out of town"	His affidavits indicate he may have been in town and his location is irrelevant.
7	"no lawful right to be in Landgraff's bedroom"	Plaintiff had a lawful right to be there.

ENTERED COMPUTER

8	"Plaintiff would not have appeared on the video committing unlawful acts"	Plaintiff would appear on the video by walking in the room.
9	"Plaintiff cannot claim Landgraff's installation of a video camera in his own home and in his own bedroom constitutes 'extreme and outrageous' behavior as a matter of law"	She doesn't.
10	"Fails to allege special damages with sufficient particularity"	What is insufficient?
11	"Nor does Plaintiff have any evidence supporting her claim of special damages."	While Plaintiff is not required to provide evidence in her Complaint to support the ultimate facts, the evidence is apparent.
12	"All of Plaintiff's claims are barred by the doctrine of *ex turpi causa.*"	Plaintiff is not guilty of any unlawful.
13	"Absent Plaintiff's unlawful conduct, none of the issues about which she complains could or would have occurred."	Tort exists even if no activity occurs.

1. Intruding is "watching, spying, prying, besetting, overhearing, or other similar conduct."[1] Landgraff admits that he used a motion-sensitive hidden camera to make a videotape of Plaintiff. Using the ordinary meaning of the words, this is certainly watching and spying. Thus, Plaintiff has demonstrated an intrusion.

2. Landgraff has misread the standard for a wrongful intrusion into private affairs. While this tort involves the right to privacy, it is significantly different than the other privacy torts.[2] The invasion is not into some expectation of "privacy", but an intrusion into what is "private" as opposed to public. The United States Supreme Court has stated that behavior such as Plaintiff's is private.[3]

3. Landgraff seems to think that his declaring something to be true makes it true. It does not. He must give some indication of how the allegation fails to be "substantial and unreasonable".

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[1] *Snakenberg v. Hartford Casualty Ins. Co., Inc.*, 383 S.E.2d 2, 299 S.C. 164 (S.C. App. 1989).
[2] *Id.* at 171.
[3] *Lawrence v. Texas*, 539 U.S. 558, 578 (2003) ("The case does involve two adults who, with full and mutual consent from each other, engaged in sexual practices common to a homosexual lifestyle. The petitioners are entitled to respect for their private lives. . . . The Texas statute furthers no legitimate state interest which can justify its intrusion into the personal and private life of the individual.)

Judging by the damage Plaintiff has suffered the intrusion was very substantial and completely unreasonable.

4. Plaintiff complains about Landgraff's intrusion. *His* trespass upon her solitude is the issue, not *her* behavior. The act of wiretapping is illegal, regardless of what is recorded.

5. In *Lawrence v. Texas*, the United States Supreme Court stated that "It is not until the 1970s that any State singled out same-sex relations for criminal prosecution, and only nine states have done so." According to the Court, South Carolina was not one of those states. Plaintiff fully addressed the issue of a crime under South Carolina statute and common law on pages 7-12 of her Memorandum in Support of Plaintiff's Motion to Strike. Landgraff's declaration is meaningless. Only a judge or jury can declare Plaintiff's actions unlawful.

6. Based on the timetable in Defendants' affidavits, Landgraff may not have been out of town.

7. Landgraff gives no indication of what was unlawful about Plaintiff's presence. She did not break into the house. To the contrary, Landgraff and his wife invited Plaintiff to be a guest in their home. Significantly, based on the attached affidavits, the Family Court made an initial finding that Landgraff may have connived to be certain that Plaintiff was present and engaging in the activity he intentionally videotaped.

8. Landgraff describes the camera he installed as motion-sensitive. Consequently, Plaintiff would have appeared on the video when she walked into the room and continued to be videotaped as long as she moved in front of the motion sensor. As a result, the intrusion results regardless of Plaintiff's acts.

9. Landgraff's installation of the video camera wrongfully intruded into that which was private. His actions in conniving to be certain that Plaintiff would be present to be recorded and his outrageous conduct after the intrusion comprise the basis for his intentionally inflicting of emotional distress on Plaintiff. For example, a reasonable person would know that Landgraff's actions in Family Court would cause Plaintiff distress. If he were truly just making the videotape in an attempt to prove adultery, revealing Plaintiff's name and printing still shots from the

videotape to enter into the record were legally unnecessary. If he thought such actions were legally necessary, he could have entered the evidence under seal to protect Plaintiff as a third party to that action.

10. As usual, Landgraff simply states that something is insufficient, but does not identify what. Dismissal of a civil conspiracy claim is only appropriate when "a plaintiff merely repeats the damages from another claim instead of specifically listing special damages as part of their civil conspiracy claim."[4] Plaintiff clearly lists "special damages including, but not limited to loss of professional reputation, medical expenses, and future medical expenses."

11. Simply identifying all of the judges and attorneys to whom Landgraff has chosen to disclose Plaintiff's identity for no bona fide legal reason proves these damages.

12. Landgraff stopped short of properly stating what the Court "held" in the *Jackson v. Bi-Lo* case. The Court stated that "South Carolina courts have reached similar conclusions refusing to aid plaintiffs who are themselves guilty of an illegal act." The attached certified criminal records search is conclusive evidence that Plaintiff is not guilty of an illegal act. In addition, Plaintiff has discussed the issue of whether her behavior was criminal or in violation of the law with both the Greenville County Solicitor and a deputy in the Greenville County Sheriff's office. Both indicated it was not.

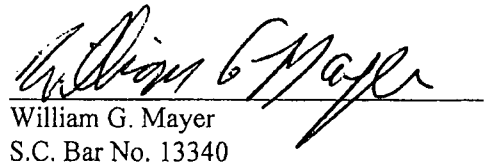
13. Plaintiff's conduct or lack thereof is irrelevant. When Landgraff installed the camera he was intentionally "watching, spying . . . ." What he was watching just had to be "that which is private" for his behavior to be actionable. The behavior of those he was watching is irrelevant.

[4] *Hackworth v. Greywood at Hammett, LLC*, 385 S.C. 110, 115, 682 S.E.2d 871, 874. (In this case, the parties admitted they had committed bribery.)

CONCLUSION

Based on the facts presented above, the Court should deny Landgraff's Motion for Summary Judgment.

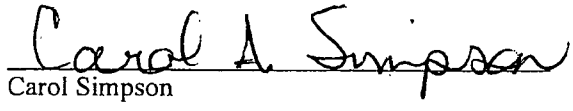
Respectfully submitted,



William G. Mayer
S.C. Bar No. 13340
Attorney for the Plaintiff
118 West Main Street
Laurens, SC 29360
864-984-9202 Telephone
864-715-0496 Facsimile

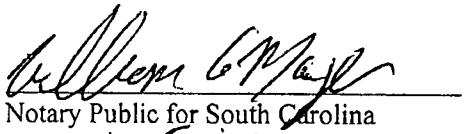
VERIFICATION

PERSONALLY appeared before me the undersigned who, after first being duly sworn, states: That she is the Plaintiff in the foregoing action; that she has read this PLAINTIFF'S MEMORANDUM IN OPPOSITION TO DEFENDANT FRANK A. LANDGRAFF'S MOTION FOR SUMMARY JUDGMENT and the same are true of her own knowledge.



Carol Simpson

SWORN TO BEFORE ME THIS
November 14, 2014



Notary Public for South Carolina
Commission Expires 3-26-18

STATE OF SOUTH CAROLINA

COUNTY OF GREENVILLE

Carol Simpson,

Plaintiff,

v.

Frank A. Landgraff, Carol Sutton, Sutton & Associates Investigations, Inc.

Defendants.

IN THE COURT OF COMMON PLEAS
C.A. 2013-CP-23-1762

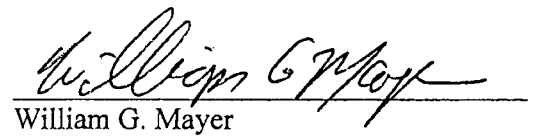
CERTIFICATE OF SERVICE

FILED-CLERK OF COURT
GREENVILLE CO. S.C.
PAUL B. WICKENSIMER
2014 NOV 14 PM 4 30

I HEREBY CERTIFY that hereby certify that I have served a copy of PLAINTIFF'S MEMORANDUM IN OPPOSITION TO DEFENDANT FRANK A. LANDGRAFF'S MOTION FOR SUMMARY JUDGMENT upon the individuals named below, by placing a copy in the United States Mail, postage prepaid and return address clearly indicated to the addresses below on this 14 th day of November, 2014:

Attorneys for Frank A. Landgraff
Reid T. Sherard
Timothy E. Madden
Lane Davis
Nelson Mullins Riley & Scarborough, LLP
P. O. Box 10084
Greenville, SC 29603-0084

Attorney for Carol Sutton, Sutton & Associates Investigations, Inc.
Joe Mooneyham
Mooneyham, Berry & Pope, LLC
1225 South Church Street
Greenville, SC 29605



William G. Mayer
S.C. Bar No. 13340
Attorney for the Plaintiff
118 West Main Street
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864-984-9202 Telephone
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County of Greenville

"...At Your Service"

John Vandermosten
Interim Assistant County Administrator
Department of Public Safety
Detention, Forensics and
Record Management Services
Phone: (864) 467-5082

11/13/2014

TO WHOM THIS MAY CONCERN:

This is to certify that a search of local law enforcement records was conducted by the Department of Public Safety, Criminal Justice Support Division, of Greenville, South Carolina. This search covers the past five (5) years and reveals there is no record of convictions against:

NO CONVICTIONS
GREENVILLE COUNTY
CRIMINAL JUSTICE SUPPORT

NAME: SIMPSON,CAROL ANNE

DATE OF BIRTH: 12/27/1957

An additional request must be made for a records search beyond the five (5) year period. Our records consist of information compiled by both the Greenville County Sheriff's Office and the Greenville City Police Department. This records check does not include traffic offenses.

This is certified to be a true document only if the raised seal of the Criminal Justice Support Division of Greenville County is affixed. Please feel free to call our Records Section for verbal verification of this letter.

Very truly yours,

Captain Jinny Moran

Records check completed by: Ernestine Smith-Newton
ERNESTINE SMITH-NEWTON

Purpose for records check: RESEARCH

4 McGee Street Greenville, SC 29601 Fax (864) 467-5113

STATE OF SOUTH CAROLINA	)	IN THE FAMILY COURT FOR THE THIRTEENTH JUDICIAL CIRCUIT
COUNTY OF GREENVILLE	)	
Lynn W Mulligan,	)	C.A. No. 2010-DR-23-1359
Plaintiff.	)	AFFIDAVIT OF JANN W FAIGA
v.	)	
Frank A. Landgraff	)	
Defendant.	)	

BEFORE ME, an Officer authorized to administer oaths in the State of Florida, personally appeared JANN W FAIGA, who being first duly sworn, deposes and says the following is true and correct based on her personal knowledge.

Lynn Landgraff is my twin sister. While we have never been able to see each other much since she has been involved with Frank Landgraff, we have talked, emailed, and texted regularly.

Unlike most people, I have known Frank to be two very different people. To the public, Frank is known as a prominent businessman. To our family, he is known as a controlling and condescending man.

When he came with Lynn to family gatherings, he made comments about our meager houses and old-fashioned ways. Our father is a retired Bob Jones minister, so we never had much money. Frank has criticized my son, who despite his disabilities, is doing well as a junior at Clemson University. Even though she just graduated from University of Florida with a 3.98 average and starts graduate school this month, my daughter doesn't rise to Frank's standards because she is considering a stint in the Peace Corp. We may never meet Frank's social standing, but we are a strong family with good standards.

Over the almost 22 years that Lynn has been involved with Frank, he has been in total control of her life. He never allowed her to visit my home without him. I was very hurt when they came to Florida, but Frank would not allow Lynn to leave the business meeting they were attending long enough to have lunch with me. Even worse, he has never allowed her to go to New York to see my brother and his wife without him, but he would not go with her.

On the other hand, Frank travelled to meetings in New York, Chicago, Atlanta, and even overseas without Lynn. He thought nothing of leaving her, but would not allow her to travel anywhere without him.

Also, during those 22 years, Frank has never allowed Lynn to have friend that was just hers. Frank and Lynn were very social together. However, they socialized mainly with couples Frank's age. Many were friends he made while married to one of his first two wives.

Lynn called me and told me Frank was encouraging her to become friends with a single female named Carol Simpson. Lynn said she liked Carol and that at least she was her age. Lynn wanted a friend and Frank seemed to be accepting of Carol and the time she and Lynn spent together. While I understood Lynn's need for a friend, I was skeptical of Carol, but I agreed to keep an open mind.

Over the last year when Frank was not around, I have been spent time with Lynn alone, with Carol alone, and with Carol and Lynn together. Carol earned my respect. Then, she earned my complete trust. I can now see why Lynn developed such a close friendship with Carol so quickly.

For example, my parents had their 59th wedding anniversary. I was in Florida, my brother was in New York, and Lynn was traveling overseas with Frank. Without being asked, Carol stepped in and made the day memorable for my parents. She bought a sugar-free cake (Mom is diabetic) and a dozen red roses for my father to give to my mother. Mom doesn't drive so Carol picked her up to meet Dad at their favorite restaurant for lunch. Carol took pictures on her phone and emailed them to all of us. She even paid the bill.

On another occasion, my daughter was visiting my son at Clemson. They met Carol, Frank, Lynn, and my parents for lunch. My son was having car problems. Carol knew of a repair shop open on Sunday and followed him there to leave the car while he visited his grandparents. A couple of months ago, Carol helped my son again when he moved out of his college apartment for the summer.

Carol is very smart. When my daughter was having a rough time in school taking a full load and working, I told her to call Carol to get help with a paper. Carol agreed to help and spent an entire evening reading and editing on my daughter's paper. I am not sure who did what, but they got an "A" and my daughter felt supported in a very rough time.

My husband is from South Africa. When we had a question about his green card, Carol offered to call her friend who works for the Immigration and Naturalization Service. She also answered questions about the legal process when my stepson had some issues we needed guidance on. Another time, I called her and she readily answered questions about my cousin's domestic situation.

Over the last year, Carol has been a constant support to my parents. As I mentioned earlier, my parents have never had much money. Carol works in the kitchen at her church on Wednesday nights. She then does "meals on wheels" and brings extra food to my parents. They call me every week to tell me what she brought and how many meals they can make out of it. In addition, Carol cooked homemade vegetable soup with no beef or salt so my mother could eat it. She keeps them well-stocked with soup and other heart-healthy dishes.

Carol also threw a birthday dinner for my mother. Lynn and Carol cooked a joint lunch for my mom and Carol's mom for Mother's Day. On Father's Day, they all went to lunch together. Lynn and Carol took both moms to Biltmore House for a girl's day and then asked Dad, Carol's stepdad, and Frank to join them for dinner. Frank declined and was upset that Lynn stayed for the dinner.

Carol has gone to the doctor with my parents and helped them determine which insurance supplement is best for them. She helped Lynn decorate their house for Christmas. She planted winter flowers in planters on their small deck and recently replaced them with flowers for the summer. Mom and Dad have become so comfortable with Carol that they even have a To Do List ready for Lynn and Carol when they drop by. Carol even kept Mom's fish over the July 4th weekend.

In short, Carol has not only become Lynn's friend, but she is a friend to our family. She is very accepting of all of us. We laugh together and have cried together. By her actions over the last year, she has proven herself to me.

I am fully aware of the details of Carol's relationship with Frank. I also know the details of the relationship between Lynn, Frank, and Carol. Even so, I am glad Carol is Lynn's friend.

I chose the word *friend* carefully. My husband and I have spent considerable time with Lynn and Carol together. We have discussed the issue of their supposed affair frequently. The respect they have for each other is amazing. They are practically the same age and have many of the same goals. Everyone would be lucky to have such a friendship.

To the contrary, Frank does not know how to have a relationship. My father summed it up best when he said that "Frank does not want to be called a son-in-law, an uncle, a grandfather, a brother-in-law, or a father. We all just call him Frank or Lanny." No wonder he can't understand how Lynn and Carol can just be friends.

FURTHER AFFIANT SAYETH NOT.

Jann W Faiga

Jann W Faiga

STATE OF FLORIDA)
COUNTY OF Brevard)

Sworn to and subscribed before me this 2 day of August, 2010, by Jann W Faiga who is personally known to me [✓] or who produced identification [ ] of the following kind _____, and who did take an oath before me that the contents of the foregoing affidavit are wholly true and accurate.

My Commission expires on:

Jill Hill

Notary Public

Notary Public State of Florida
Jill Hill
My Commission DD649282
Expires 04/01/2011

Jill Hill

Print Name

STATE OF SOUTH CAROLINA	)	IN THE FAMILY COURT FOR THE THIRTEENTH JUDICIAL CIRCUIT
COUNTY OF GREENVILLE	)	
Lynn W Mulligan,	)	C.A. No. 2010-DR-23-1359
Plaintiff.	)	
v.	)	AFFIDAVIT OF BOBBY THOMPSON
Frank A. Landgraff	)	
Defendant.	)	

BEFORE ME, an Officer authorized to administer oaths in the State of South Carolina, personally appeared BOBBY THOMPSON, who being first duly sworn, deposes and says the following is true and correct based on his personal knowledge.

I rent the office space next to Carol Simpson at Carol Simpson Law Offices. I am a personal trainer who meets clients by appointment only and I often work on Saturdays. Carol's office is closed on Saturdays, but she often works in the vegetable and flower gardens in front of the office on Saturdays during the summer.

She was working in the garden one Saturday in May 2009, when a man with solid gray hair drove up in a gray Mercedes. Carol and the man went into Carol's office and stayed for about 45 minutes. He left and Carol went back to work in the garden.

I remember the incident because I felt sorry for Carol because she had to stop gardening to meet with a client. I have now seen a picture of Frank Landgraff and recognize him as the man who came to see Carol and went into her office alone with her.

Beginning in September 2009, I began training Carol and Lynn Mulligan with weights. They had a standing appointment four times a week. We did not do abdominal exercises or cardiovascular exercises because they were walking and doing those early in the morning or at lunchtime.

FURTHER AFFIANT SAYETH NOT.

Bobby Thompson

Sworn to before me this 2nd day of August, 2010.

Notary Public for South Carolina
My Commission Expires: June 21, 2017

STATE OF SOUTH CAROLINA	)	IN THE FAMILY COURT FOR THE THIRTEENTH JUDICIAL CIRCUIT
COUNTY OF GREENVILLE	)	
Lynn W Mulligan,	)	C.A. No. 2010-DR-23-1359
Plaintiff.	)	
v.	)	AFFIDAVIT OF WILLIAM K. and SUZANNE HUNTER HANEY
Frank A. Landgraff	)	
Defendant.	)	

BEFORE ME, an Officer authorized to administer oaths in the State of South Carolina, personally appeared WILLIAM K. and SUZANNE HUNTER HANEY, who being first duly sworn, depose and say the following is true and correct based on their personal knowledge.

We have known Carol Simpson socially for many years. Suzanne worked for her on a part time basis. Carol and her father have celebrated Christmas in our home.

For several years, we would see Carol and her father out on Friday nights. He stopped going out on Fridays so Carol rarely came out alone. Several times, we saw Carol at Brick City Grille with an older man with gray hair and a female about Carol's age. We didn't know them, but recognized them from pictures as Frank Landgraff and Lynn Mulligan.

We were taken back to learn that the man and other woman were married. He always focused more on Carol than he did on Lynn. He and Carol talked to each other a lot, but ignored Lynn.

The night of the Christmas tree lighting at Bob Jones University, Carol came by. We learned that she was killing time because she was supposed to meet Frank and Lynn for dinner but Lynn was at the tree lighting. Carol was hesitant to meet Frank at his house alone. When the tree lighting was over, Carol left.

FURTHER AFFIANT SAYETH NOT.

William K. Haney

William K. Haney

Suzanne Hunter Haney

Suzanne Hunter Haney

Sworn to before me this 2nd day of August, 2010.

Robert T. Rawl

Notary Public for South Carolina
My Commission Expires: June 24, 2017

STATE OF SOUTH CAROLINA	)	IN THE FAMILY COURT FOR THE THIRTEENTH JUDICIAL CIRCUIT
COUNTY OF GREENVILLE	)	
Lynn W Mulligan,	)	C.A. No. 2010-DR-23-1359
Plaintiff.	)	
v.	)	AFFIDAVIT OF ANN HESTER BILLINGS
Frank A. Landgraff	)	
Defendant.	)	

BEFORE ME, an Officer authorized to administer oaths in the State of South Carolina, personally appeared ANN HESTER BILLINGS, who being first duly sworn, deposes and says the following is true and correct based on her personal knowledge:

I know Carol Simpson from conversations we have had when she and her father used to come to Brick City Grille on Friday nights. She has also done some legal work for me.

On several occasions, I saw Carol at Brick City with a couple. The male had grey hair and other female seemed to be closer to Carol's age and had short hair. He always seemed to be more interested in Carol than the other woman. I was surprised to learn that the man and other woman were married.

The night of the Christmas tree lighting at Bob Jones University, Carol came to Brick City. She had agreed to meet the couple for dinner after the wife went to the tree lighting. The husband had asked her to come by the house early to be with him while they waited on the wife. Because of his prior advances, Carol did not want to be alone with him.

After she met with someone at the restaurant, I bought her a drink and discussed some legal matters. We talked with other friends until the wife called to say she was ready to meet.

I recognize the couple from a picture. He is Frank Landgraff, and she is Lynn Mulligan.

FURTHER AFFIANT SAYETH NOT.

Ann Hester Billings

Ann Hester Billings

Sworn to before me this 2nd day of August, 2010.

Robert T. Crawford

Notary Public for South Carolina
My Commission Expires: June 21, 2017

STATE OF SOUTH CAROLINA	)	IN THE FAMILY COURT FOR THE THIRTEENTH JUDICIAL CIRCUIT
COUNTY OF GREENVILLE	)	
Lynn W Mulligan,	)	C.A. No. 2010-DR-23-1359
Plaintiff.	)	
v.	)	AFFIDAVIT OF SAREPTA P. WILSON
Frank A. Landgraff	)	
Defendant.	)	

BEFORE ME, an Officer authorized to administer oaths in the State of South Carolina, personally appeared SAREPTA P. WILSON, who being first duly sworn, deposes and says the following is true and correct based on her personal knowledge.

My name is Sarepta Wilson. Carol Simpson is my daughter. I understand that Frank Landgraff is saying many things about the relationship between his wife Lynn and my daughter. I have seen no evidence for his allegations. Here is what I know about Lynn.

At first, I was very jealous of Lynn. Before she and Carol became friends, Carol spent a lot of her time with me and her stepfather. We could always count on Carol to fix things at our house; cook for us; and plant flowers in our yard. I missed that closeness at first, but my 85-year old sister told me to let Carol have a friend. Now, I have Carol and Lynn to count on.

My sister is now deceased, but she was right about Lynn. In early December 2009, I passed out in church. I spent the day in the emergency room with Lynn by my side. Shortly after that, I had an outpatient procedure that ended in a hospital stay. For the next seven days, Carol, Lynn, or Lynn's mother took turns being with me 24 hours a day.

The same weekend that I was released from the hospital, Carol called to tell me that my oldest sister Betty was in the hospital and not expected to live. The night before we had had some bad weather and were not certain what the roads were like in Greenwood where Betty was in intensive care.

Lynn and Carol had already talked. Lynn drives a heavy car with four-wheel drive. She was already on her way to take care of our pet and then she was going by to get Carol to follow us to Greenwood. Carol told my husband and I to get on the road immediately and that they would be behind us should we have any trouble.

We arrived at the hospital in time to see my sister alive. Lynn spent her time getting us something to eat and doing anything to help. She was by my side while the doctor updated the family on Betty's condition. We all asked questions and said our good-byes before they took Betty off the respirator. She died within minutes. Lynn was visibly upset by the event, but she stayed with me to comfort me.

Two weeks later, I had to return to the hospital for carotid artery surgery. The surgery was scheduled for the same day that my daughter had to appear in federal court. Lynn took me to the hospital and stayed with me for 11 hours while I had surgery and recovered. Frank knew I was having surgery and that Lynn was with me. Even so, he handed her a letter accusing her of having an affair with Carol and demanded that she move out in six days or he would expose the affair.

I can only guess that Frank was trying to scare Lynn and Carol. Maybe, he thought he could drive a wedge between all of us. Instead, we all rallied around Lynn. Her life had proven to me and to my husband what type person she is. We joined her other friends in doing whatever we could to make things easier on her.

I couldn't be much help in the move or in helping Lynn set up her new home, but I could be there. Carol explained to me that Frank may continue to try to say that they were having an affair. Thus, it would be important for them to keep someone around them. As a result, I joined Lynn's mother, her father, my husband, and Lynn's sister as one of the "babysitters."

Disgusted at Frank's plan to divorce Lynn, we were all determined he would no longer be able to accuse them of having an affair. So we stayed with them all the time. Because my medical condition kept me from driving, the only hard part for me was transportation. I had to depend on them to pick me up or for my husband to transport me. My husband gladly provided the transportation since he is out-of-town a great deal (sometimes overnight) and was glad that I had company.

According to Carol, Lynn is my "favorite daughter." Lynn is special and we do treat her as one of the family. We have done a lot together -- visited Biltmore, celebrated Mother's Day, celebrated her mother's birthday, etc. For months, Lynn has attended church with me, my husband and Carol. Afterwards, we go to Stax's for brunch. I do treat her like a daughter.

But, my love for Lynn runs far deeper than all this. Throughout my life, I have relied heavily on my siblings for support. Carol had a brother, but he was killed in a car wreck. She knows a lot of people, but I have always worried who would support her after I die. She has many mentors, but not since high school has Carol had a close female friend.

I have said it often and repeat it now without a hint of exaggeration – "I can die in peace knowing that Carol has a friend like Lynn."

FURTHER AFFIANT SAYETH NOT.

Sarepta P. Wilson

Sarepta P. Wilson

Sworn to before me this 2nd day of August, 2010.

Robert Crawford

Notary Public for South Carolina
My Commission Expires: June 21, 2017

STATE OF SOUTH CAROLINA	)	IN THE FAMILY COURT FOR THE THIRTEENTH JUDICIAL CIRCUIT
COUNTY OF GREENVILLE	)	
Lynn W Mulligan,	)	C.A. No. 2010-DR-23-1359
Plaintiff.	)	
v.	)	AFFIDAVIT OF VAN WILSON
Frank A. Landgraff	)	
Defendant.	)	

BEFORE ME, an Officer authorized to administer oaths in the State of South Carolina, personally appeared VAN WILSON, who being first duly sworn, deposes and says the following is true and correct based on his personal knowledge.

I am married to Sarepta Wilson, and Carol Simpson is my stepdaughter. Besides being a friend to Carol, Lynn has been unbelievably supportive of my wife. She stood by my wife through almost three months of doctor's visits, hospital stays, and surgery. I trust her so completely that I gave Lynn a key to my house and added a code for her to our alarm system.

I first met Frank and Lynn before they separated. I talked to Frank on multiple occasions at the Commerce Club and he came to my house for a birthday party. Lynn started going to church with our family and sometimes joined us for brunch when Frank didn't mind. After they separated, Lynn has joined us for brunch almost every Sunday.

I always perceived Frank to be very controlling. I often commented that he just wanted to keep Lynn under his thumb. Even so, Lynn was unwavering in her commitment to never leave him.

Knowing Frank's allegations of an ongoing affair between Carol and Lynn, I encouraged my wife to "babysit" them on a continuing basis. While it may seem like a stupid exercise to most, we wanted to do our part to protect Lynn. She has been a faithful friend to me, my wife, and Carol.

FURTHER AFFIANT SAYETH NOT.

Van Wilson

Van Wilson

Sworn to before me this 2nd day of August, 2010.

Robert [illegible]

Notary Public for South Carolina
My Commission Expires: June 21, 2017

STATE OF SOUTH CAROLINA	)	IN THE FAMILY COURT FOR THE THIRTEENTH JUDICIAL CIRCUIT
COUNTY OF GREENVILLE	)	
Lynn W Mulligan,	)	C.A. No. 2010-DR-23-1359
Plaintiff.	)	
v.	)	AFFIDAVIT OF HAROLD LEFKOWITZ
Frank A. Landgraff	)	
Defendant.	)	

BEFORE ME, an Officer authorized to administer oaths in the State of South Carolina, personally appeared HAROLD LEFKOWITZ, who being first duly sworn, deposes and says the following is true and correct based on her personal knowledge.

I know Lynn Mulligan and Frank Landgraff from the Commerce Club and from social events with a common friend. As a divorced man, I know that there are always two sides to every story so I have tried to stay out of their personal matters.

I also know a woman named Jan Cancilla because she is a friend of a lady I dated for a while. On two occasions, I have seen Frank Landgraff and Jan together at social events. Once they were together on Thursday night at the Commerce Club. The other time, Frank brought Jan to the birthday party of a mutual friend.

Recently, Jan confirmed that she is dating Frank and invited me to her house for a party with her and Frank on August 8th.

FURTHER AFFIANT SAYETH NOT.

Harold Lefkowitz

Sworn to before me this 2nd day of July, 2010.
August

Notary Public for South Carolina
My Commission Expires: June 21, 2017

STATE OF SOUTH CAROLINA	)	IN THE FAMILY COURT FOR THE THIRTEENTH JUDICIAL CIRCUIT
COUNTY OF GREENVILLE	)	
Lynn W Mulligan,	)	C.A. No. 2010-DR-23-1359
Plaintiff.	)	
v.	)	AFFIDAVIT OF ANDREA GUM
Frank A. Landgraff	)	
Defendant.	)	

BEFORE ME, an Officer authorized to administer oaths in the State of South Carolina, personally appeared ANDREA GUM, who being first duly sworn, deposes and says the following is true and correct based on her personal knowledge.

On Friday, February 12, 2010, I learned that Lynn's husband had given her a letter the night before demanding that she be out of his house in six days. I immediately asked what I could do to help.

Lynn had to be at one of her McDonald's stores for an operations review. She could not leave the store or make calls until the representative from corporate McDonald's left. Due to weather, school was already out. My children were at home, but my husband told me to stay to help Lynn.

I rented a truck and got some tape and boxes. Lynn called about 3:00 to tell me to meet her at the house. By the time we started packing, the snow was already coming down -- hard.

Lynn instructed me to pack everything in her closet and in her bathroom. She was very specific that I was not to touch anything in the bedroom or in her husband's bathroom.

From conversations, I knew that Lynn and Frank were having problems. However, I could tell that she loved him and often heard her say that she was committed to never leaving him. Helping Lynn move was easy. Watching her cry continuously as we worked ripped my heart out.

FURTHER AFFIANT SAYETH NOT.

Andrea Gum

Andrea Gum

Sworn to before me this 2nd day of August, 2010.

Robert T. Ruff

Notary Public for South Carolina
My Commission Expires: June 21, 2017

STATE OF SOUTH CAROLINA COUNTY OF GREENVILLE Lynn W Mulligan, Plaintiff. v. Frank A. Landgraff Defendant.	IN THE FAMILY COURT FOR THE THIRTEENTH JUDICIAL CIRCUIT C.A. No. 2010-DR-23-1359 AFFIDAVIT OF LYNN W MULLIGAN

BEFORE ME, an Officer authorized to administer oaths in the State of South Carolina, personally appeared LYNN W MULLIGAN, who being first duly sworn, deposes and says the following is true and correct based on her personal knowledge.

Frank Landgraff and I have been in a relationship for almost 20 years the last 13 as husband and wife. I promised Frank that I would never leave him. About 5 months ago, Frank handed me a letter telling me to get out of his house in 6 days with just my clothes. He also said that if I continued to do my "job" in the family business that he would continue to pay my salary.

Frank and I dated for about a year before we began living together. In 1995, moved into the new home we built together and got married in Las Vegas, NV in 1996. Until two years ago, we were happy together – running the family business, entertaining in our home, socializing with friends, and traveling extensively overseas.

Frank is the majority owner of one of our companies that now owns two McDonald's restaurants. In 2001, the company owned 8 restaurants, but McDonald's "encouraged" Frank to sell 6 of them due to differences of opinion regarding how they should be managed. I am the majority owner of another company that owns one McDonald's restaurant. In addition, I am an equal partner with a third party in two corporations that own Mutt's restaurants and real estate.

Our marital problems started in 2008 when two things happened -- Frank pushed me to get approved as an owner/operator with McDonald's and Frank got unexplainably ill.

At the time, I was managing our two restaurants and enjoying my life with Frank. When we met, I was just a crew person in one of his stores. Over time, I became a shift manager then a store manager and began running the day-to-day operations in 2001. For our entire relationship and even now, I put on a McDonald's uniform almost every day and go to work in the stores.

Becoming an owner/operator is the highest level in McDonald's. I had to go through rigorous education and training to ensure that I could handle every aspect of a McDonald's

franchise. Once approved by McDonald's as an operator, I was approved as a partial owner of our two stores.

Shortly thereafter, we learned that McDonald's was going to build a new store in Taylors. Frank encouraged me to pitch for the store. I put together a comprehensive presentation of my plans to build, finance, staff, and manage the store. McDonald's granted me the franchise and we started building in 2008. I spent every day supervising all aspects of the store opening, including construction of the building, designing the interior with equipment and furniture, hiring the staff, and preparing for the grand opening in October 2008.

My becoming an owner/operator fundamentally changed our relationship. I was young and insecure when I married Frank. I was content to literally stand behind Frank and allow him to dictate all we did. He decided everything and I was perfectly happy to let him. I became more confident during our marriage, but believed that Frank's total control of our finances and time was normal. I trusted him completely and had no reason to believe he wasn't looking out for my best interest.

As I became a more confident as a businesswoman and matured as a woman, I started making some decisions for myself. The more I showed any sign of independence the unhappier Frank became. Even little decisions like what I ordered for dinner became points of contention. I was no longer willing to be totally controlled and Frank was not willing to give up control.

This impasse was alleviated by Frank's unexplained illness. For some reason, Frank lost a lot of weight. Having been Chairman of the Board of the Greenville Hospital System, he had access to the best of medical care. Even so, our main focus over the next months was his health. After a battery of tests, there seemed to be no medical reason for his weight loss and over time he began to feel good again.

While his illness slowed our struggle over control, it took a toll on our sex life. For the 16 months prior to June 2009, Frank showed no interest in touching me sexually. This was a huge change for us.

Although he is 22 years older than I, Frank has always been very active sexually. He directed our sex life to include new positions and various activities. He encouraged me to buy sex toys and use them on him. While some things seemed a little kinky, he was my husband and I was eager to please him.

Frank also uses pornography extensively. He has a very large library of pornographic videos which he kept in the cabinet in our bedroom. We had cable and satellite television in our house which gave him access to all adult programming. In addition, he had a shelf in his private bathroom for all his adult magazines. When we traveled overseas, he regularly wanted to visit exotic places of adult entertainment.

Virtually every year, he insisted that we visit the Hedonism resorts in Jamaica whose motto is "The Pleasure Seekers Ultimate Super-Inclusive Playground." We stayed in the all nude part of the resort. Frank pushed me to participate in the adult games with total strangers.

He also encouraged me to have sexual contact with the other women there, but I refused. Frank participated fully and won the toga contest. See the picture attached as Exhibit A.

I had never been sexually active with another woman. Frank seemed to have a fantasy about bringing another woman into our marriage. In the past, I tolerated a then-single woman named Nancy Sedlarz performing oral sex on him at our beach house, but I refused to touch her or participate in a threesome. On another occasion, another then-single woman, Frank, and I got in our hot tub naked. Frank then suggested that she and I take a shower together. We both refused.

In December 2008, Frank introduced me to a single, female acquaintance of his named Carol Simpson. Over the next several months, we talked to Carol at the Commerce Club. Frank seemed enchanted with her. I already knew he was intent on bringing someone else into our relationship. Even so, I did not pay much attention to Carol.

In May 2009, Frank strongly encouraged me to spend time with Carol. Then, the first weekend in June, he suggested that I take her to our beach house while he was at a football fantasy camp in Pennsylvania. Carol and I went to the beach. We had a great time and learned that we had the same values of being healthy, working hard, and taking care of our families. We started a walking routine that then that continues to be a big part of my life.

When Frank returned from Pittsburgh, he invited Carol to dinner. She met us at our house and we all went to dinner. When we returned home, Frank suggested that we all get in the hot tub nude. I was hesitant because I really liked Carol and thought she could be just my friend. In fact, I had asked Frank not to ask her to get in the hot tub. Carol was very hesitant, too. Frank assured her that our hot tub was completely private and no one would see us. She agreed. After the hot tub, we sat and talked.

Several days later on June 10th, Frank and I went to Italy. The trip was pleasant, but we talked about Carol every day. I texted her, but Frank insisted that I call her. When we came home, Carol came to our house for dinner.

Once again, Frank insisted that we get in the hot tub. We all laughed and talked. Frank and I left for a family reunion over the July 4th weekend and Carol went to see friends in Washington, DC. On July 8th, I threw a party for Frank at a local restaurant. Carol rode to the party with us and returned to our house. Frank suggested we get in the hot tub, but this time, he also suggested that we all give each other massages.

On July 9th, Frank finally got his wish of me being with him and another woman. We invited Carol over and Frank suggested we do the hot tub. Afterwards, he again suggested that we give each other massages. That evening began four days of Frank having two women, something he had wanted for a long time and I had always been hesitant to give him.

Carol got caught up in our problems. She was having some serious problems of her own, but Frank and I promised her we would be there for her. She and I were becoming friends and Frank seemed happy to have us both with him.

Frank did not realize that my brother and I had some serious conversations over the July 4th holiday. My brother had encouraged me to make some friends my own age or warned me that I would be alone if Frank died first. Carol happened to come along at that time. In addition, Frank seemed to want Carol in our life. I thought I had the best of both worlds. I did not realize that Frank was thinking the same thing.

Frank and I began having more and more problems. I told him I felt smothered. I told him that I felt like a baby bird that he was holding tightly in his hands. The more I wanted to fly the more he squeezed his hands. I begged him to go to counseling with me. When he refused, I told him that I would do what I needed to do to make myself whole. I also told him that no matter what, I would never leave him so he would have to divorce me to get rid of me.

The next six months were different parties and situations at different times, but all come down to the same thing. I wanted to be the person I am and Frank wanted me to be the person he wanted me to be. The more I tried to be me, the more he tried to control me and make me be who he wanted me to be.

By his own admission, Frank started to lay the groundwork for this divorce in October 2009. Before then, I had not worried about money for the 20 years we have been together. However, Frank decided that we would both draw $65,000 each year from the family business for spending money. He continued to pay all our living expenses and other bills. While we were theoretically equal, Frank had his retirement and social security.

In addition, Frank controls all the business checking accounts. I am the majority owner and sole managing partner of Franko, LLC. On the advice of my first attorney, I went to the Bank of Travelers Rest to ensure that I could sign checks. The bank refused to add my name to the checking account and froze a credit line when it discovered that Frank has fraudulently signed to open the account by representing himself as the managing partner. See Exhibit B attached.

Frank's lawyer accused me of trying to withdraw money from the credit line. I didn't even know that the company had a credit line. However, since then I have learned that last year Frank borrowed money on the line and also withdrew money from the company for personal reasons. According to the accountant he withdrew $15,665 for part of the more than $400,000 he spent on renovations at the beach house. Also, he withdrew $15,531 to pay part of the $78,000 it paid to have a 500 square foot closet added to our house for his clothes. Since he started moving funds in preparation the separation, he drew another $84,000 off the line. See Exhibit C.

Frank also started laying the groundwork for his accusations of adultery. He asked me every day whether Carol was coming over. For the most part, he would be very nice to Carol, but hateful to me when she wasn't around. He said I treated him the same way. In a strange way, I think we were both using Carol to keep things somewhat civil between us.

I was in the marriage for the long run and welcomed Carol's friendship. For part of October and virtually all of November, he refused to get in the hot tub with us. Carol and I were

on a vigorous exercise routine that included walking 5 miles a day, lifting weights with a personal trainer, and abdominal exercises with a video. So, a 15-minute stint in the hot tub was a welcome end to most days.

At the same time, Frank was making hateful remarks about me always being with Carol. He told all our friends that we were always together. Much later, I learned that he was asking them to watch us to see if they thought we were having an affair. I guess we played right into his hands, because we started to meet early in the morning at Carol's house to exercise or walk. We tried to meet the personal trainer in the middle of the day. As a result, I could be home with Frank alone at night. Then, Frank kept asking where Carol was.

Carol liked to cook so she and I started cooking for Frank. Then, we started cooking for our friends. After Thanksgiving, Frank was being nice again. He seemed to want Carol around all the time, but he was also being nice to me. He and Carol helped me put up our 13- foot Christmas tree in the living room and the smaller one in our bedroom. We went to dinner, movies, and parties together. He invited Carol to the McDonald's Gala, to the Ronald McDonald House Christmas party, and to Christmas Dinner with our family (and her father) at the Poinsett Hotel.

Frank also started getting in the hot tub again in mid-December. He even asked for massages. For several nights, he insisted that Carol come over after we had returned home from Christmas drop-ins. However, he stopped again when Carol and I both told him we were not interested in a sexual threesome. He said being around us was "like being in a candy store and not being able to eat the candy."

On February 7, 2010, Frank and I hosted our annual Super Bowl party. We had over 100 people at the house. We also had out-of-town guests. Carol and I cooked and set up for the party. Frank seemed to be happy entertaining.

Things were still strained, but I had hopes that Frank and I could work through our issues or at the very least learn to co-exist. I repeatedly told him that he would have to divorce me. I thought by removing divorce as an option, we would eventually focus on our problems. Little did I know what Frank had already planned.

Four days after the party, on February 11, 2010, Carol had a trial in federal court while her mother was having major surgery. I came home after spending 11 hours in the hospital with her mother. Frank greeted me with a letter from his lawyer that said I had to leave our house in 6 days. I asked Frank where I was supposed to live and what furniture I was I to use. He told me to move in with my parents who live in a one-bedroom apartment on Bob Jones property. Bottom line, leave in 6 days with just my clothes.

That night, I went online and found an apartment. The next morning, I rented the apartment, but had to go to our Cannon Drive McDonald's to meet Bob Kitterman, our McDonald's representative for an operations review. Frank was at the store talking to Bob when I arrived. After they finished talking, Frank left me alone to handle the operations review with Bob.

Bob told me that Frank had told him that we were separated. A short time later, we had a meeting with the other owner/operators in our region. Several people there told me that Frank told them about the separation. Not surprisingly, word of our separation made its way up the corporate chain.

While I was at the store, a friend rented truck. In one of the worse snow storms Greenville has seen in years, I started moving. My sister and brother-in-law drove up from Florida and arrived at 3:30 am. We got up the next morning and went back to the house. My brother-in-law took a video of the entire house to show the condition I left it in. We then went to my apartment to unload the truck.

I had no furniture or furnishings. I used the same credit cards I used for years to buy furniture, dishes, sheets, towels, lamps, pots and pans, etc. On Sunday evening, I was unpacking boxes while Frank was at a Valentine's Day party telling more people that I left him.

On Monday, I got a return call from the attorney I had called on Friday morning. I made an appointment for Thursday and began collecting information. This is where the real nightmare began.

Frank continued to tell friends and business associates that I had left him for a woman. Within days, I got calls from McDonald's people from Atlanta to Raleigh telling me they heard about our separation and my affair. Frank told his sons and former wife. He told our friends and acquaintances. I was even approached in a local store with a barrage of questions from a casual acquaintance.

I soon learned that our business holdings, specifically relating to the Mutt's companies, violate the Franchise Agreement that we have with McDonald's. So did McDonald's. Jeff Wilfong, our regional representative requested a meeting with Frank and me. He informed us that their routine investigation initiated upon their learning about our separation had revealed what appeared to be a violation of our Franchise Agreement.

Frank responded by saying that he only had an investment interest in the Mutt's companies and that the companies were in my name. After that meeting, Jeff requested additional information which I provided within the requested 7 days. Frank delayed his response for three weeks or more. The correspondence attached as Exhibit D tell the entire story.

Frank tried to take my interest in the Mutt's companies. He had the co-owner call me and ask me to sign over my interest the company to Frank. Despite this, at a follow up meeting, Frank told Jeff that he had no interest at all in the Mutt's companies.

Based on their investigation, McDonald's found us in violation of the Franchise Agreement for owning Mutt's. Based on the violation, McDonald's denying the rewrite to the Cannon Drive store. In addition, they made Frank and I both ineligible for growth and rewrite until we divest ourselves of Mutt's.

McDonald's and I now know the extent of my ownership of Mutt's. While I am ineligible for growth and rewrite with McDonald's, Jeff and Marty both know that I may have to look to the Mutt's companies for income. I was forced to explain to them that Frank has refused to increase my draw from our companies and refused to pay my attorney's fees. Thus, I may have to draw funds from the Mutt's companies simply to pay my day-to-day expenses and attorney's fees.

Frank has been moving and hiding money. He moved a large sum of money out of one bank account into a newly created account that only he controls. He closed our joint checking account. See Exhibit E attached. He forged my name to a document at Merrill Lynch to remove my name from one of our joint accounts. See Exhibit F attached. He also signed our tax returns and kept all the refunds.

Frank brought Carol into our lives and into our home. He is now lying to garner sympathy and create the impression of the wronged party. After all that, he couldn't even wait until after our first court date before committing adultery yet again with a woman named Janet Cancilla.

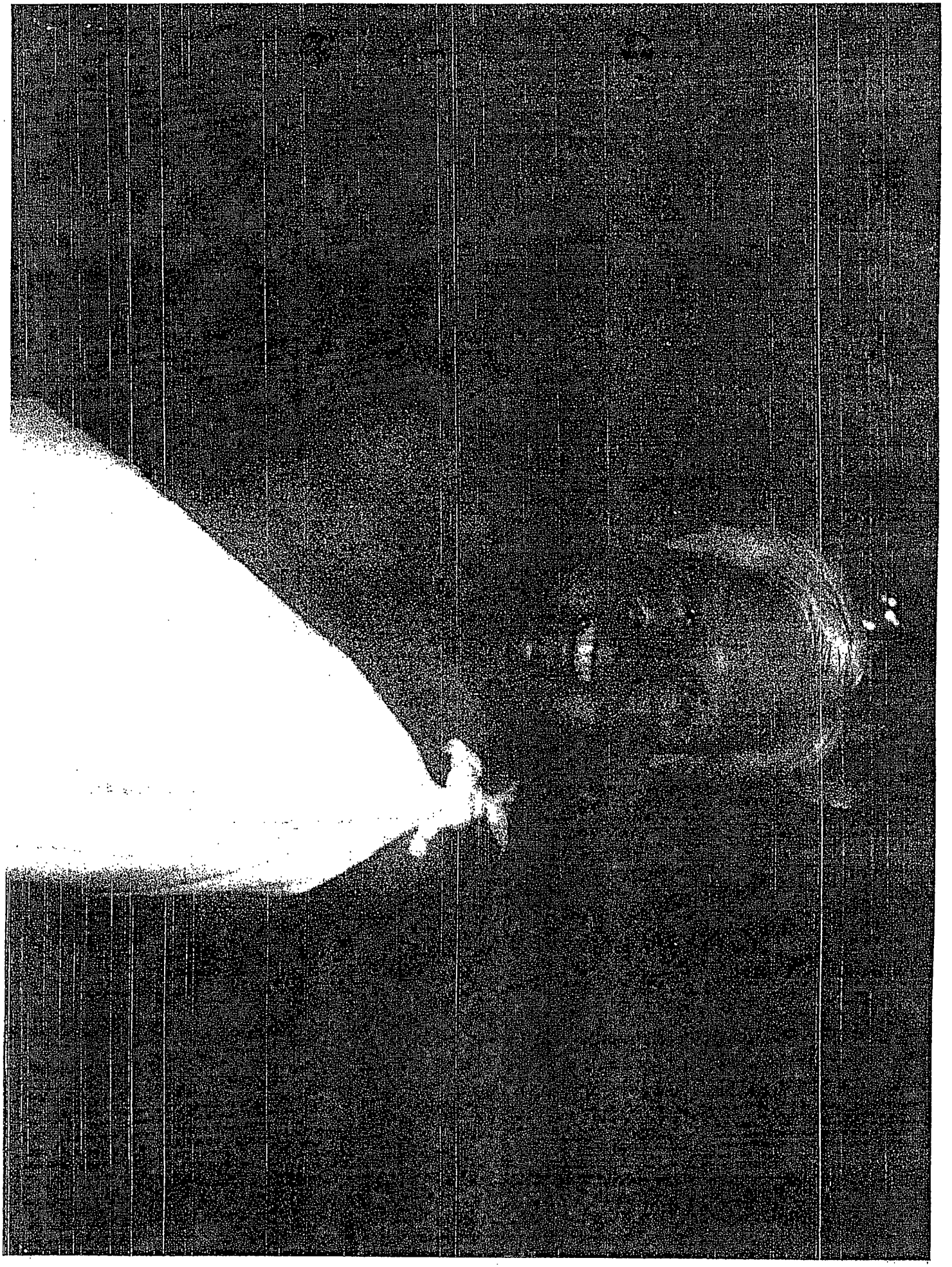
FURTHER AFFIANT SAYETH NOT.

Lynn W Mulligan

Lynn W Mulligan

Sworn to before me this 4th day of August, 2010.

Notary Public for South Carolina
My Commission Expires: June 21, 2010



STATE OF SOUTH CAROLINA	)	IN THE FAMILY COURT FOR THE THIRTEENTH JUDICIAL CIRCUIT
COUNTY OF GREENVILLE	)	
Lynn W Mulligan,	)	C.A. No. 2010-DR-23-1359
Plaintiff.	)	
v.	)	AFFIDAVIT OF CAROL A. SIMPSON
Frank A. Landgraff	)	
Defendant.	)	

BEFORE ME, an Officer authorized to administer oaths in the State of South Carolina, personally appeared CAROL A. SIMPSON, who being first duly sworn, deposes and says the following is true and correct based on her personal knowledge:

As a member of the South Carolina and North Carolina bars, this is the hardest affidavit that I have ever had to write. While I have had to craft many legal arguments, I have never had to expose my personal life, especially to a judge before whom I represent clients. However, this case leaves me with no alternative.

When I first met Frank Landgraff, I believed him to be a moral person and an honest businessman. He and his wife made a handsome couple. Even though he is much older than she, I described their relationship as one that worked. I could not have been more wrong.

In May 2009, Frank began an affair with me. About a week after I refused to continue to see him, he encouraged his wife to take me to their beach house for the weekend. Up until that time, I had never even been to lunch with Lynn. Lynn and I became friends. Over time, Frank became jealous.

Here is the story.

I have known Frank for years as a fellow Rotarian. In early 2009, I began seeing Frank and Lynn at the networking event at Commerce Club on Thursday nights. They always greeted me with a hug. Frank added a kiss and the compliment, "You are a really good hugger." Over several months, we all sat together and talked at the Club. They seemed to be happily married so I thought nothing of his comments.

By April, we were making plans to have dinner together. Frank also said on multiple occasions that he would like to meet me for a drink to get to know me better. Because he said this in front of his wife, I did not think anything was strange about the idea. As it turned out, we met several times without Lynn present and became apparent that that Frank was interested in having an affair with me. The following encounters prove my point.

First, Frank and I met at a neighborhood bar for the long-requested drink on May 12, 2009. Lynn was out of town at a business meeting. I was hesitant to meet Frank, but he assured me that the meeting was innocent. We talked about our education and careers. At the end of the evening, Frank walked me to the car and gave me a kiss that was not much friendlier than when he greeted me at the club.

I called Frank at the next day at 11:50 am to thank him for the drink. He asked me to meet him again, but I had an earlier commitment. He asked me to meet him afterwards for a quick drink. I agreed. We talked until the bar closed and then Frank walked me to my car. What started as a kiss goodbye became intimate in my car for the next several hours. The attached phone records show that I called Frank at 2:37 am to let him know I made it home safely.

On May 18th, Frank called to see how I was doing. That night he showed up at my house with a bottle of wine and cheese. We talked for a while, but once again things got intimate. He left several hours later. Frank called me the next day at 10:59 am and we talked for 15 minutes. Lynn returned to Greenville that afternoon.

Finally, on Saturday, May 30th, I was at my office working in my vegetable garden. Frank called at 1:53 pm to see where I was and then dropped by. We went inside my office and again things got intimate. The attached affidavit confirms that the person who rents the other suite in my office building saw Frank arrive and then saw us go into the office for about 45 minutes.

The attached phone bills show that Frank and I talked frequently during May. While the phone calls were not too bad, the intimacy was wrong. I also knew that Lynn deserved better and told Frank that we could not continue to meet without her present. I did not tell Lynn about this affair until after she and Frank separated because of her commitment never to leave him. Only when Frank told her to leave his house in six days did I think she deserved to know of his adultery.

The first week in June 2009, Frank attended a Pittsburgh Steelers football camp. While there, Frank called me He suggested that Lynn and I go to their beach house while he was gone. Lynn and I later discussed how we were both apprehensive about spending the weekend with someone we didn't know. However, over the weekend, Lynn and I learned how much we had in common.

When we all returned to Greenville, Frank suggested that we go to dinner. He was very emphatic that I meet them at their house so we could ride to the restaurant together. When we got back to their house, Frank suggested that the three of us get in their hot tub -- naked.

The hot tub is on the second floor deck just outside their master bedroom. It is in a corner surrounded by large trees. Frank assured me that it was completely private and no one would see us. The attached pictures show just how private it is. We got into the hot tub naked and then sat on the deck wrapped in a towel and talked.

Two days later, Frank and Lynn left for a two-week trip to Italy. While they were gone, we maintained contact through text messages and phone calls. When they returned, I met them at their house again to go to dinner. Frank presented me with a very expensive silk scarf that he

purchased for me while overseas. Once again, we all got into the hot tub naked and then wrapped in a towel to sit on the deck and talk.

On July 8th, we celebrated Frank's birthday with a group of his friends and then returned to their house for another round in the hot tub – with a twist. They had a professional massage table. We took turns with two of us giving the third a full body massage.

On July 9th, things escalated with increased touching and Frank's encouragement for more active intimacy between Lynn and me. That began a four-day event of the three of us dining, shopping, relaxing, massaging, and sleeping together.

During this time, we shared our problems and dreams. Despite the horrific problems in my life, Frank assured me that he and Lynn were true friends that I could depend on. He promised that we would travel together and that he would put me on the board at Ronald McDonald House. Frank painted a picture of fun and travel for the three of us.

Frank seemed to be very happy with the three of us being together. He pushed the relationship while always demanding that he be the center of attention. He insisted on sitting between us at the movies and beside me in the booth at dinner. He even suggested that I sleep in the middle between the two of them and told Lynn to tell me to take a more active role in touching him.

I soon realized that Frank and Lynn were having severe marital problems that started long before I met Lynn. One night, Lynn begged Frank to go to counseling, but Frank told her that talking things out with me was all they needed. We all talked, but I fell out of favor with Frank the more I encouraged him to accept Lynn for the mature woman she had become over the almost 20 years they were together.

About three years earlier and with Frank's encouragement, Lynn had become an owner/operator for McDonald's. She was no longer the insecure young woman that Frank married, but was now an independent business woman. Frank told me he was not sure he could accept her that way. Lynn went to counseling alone and Frank continued to insist that I could help them.

Throughout July, we continued our pattern of dinners, visits to the hot tub, and massages. We seldom ever slept together until the three of us traveled to Key Largo, Florida on August 1st. Frank and Lynn argued for most of the trip. The only constant during all this time was Lynn's statement that she would never leave Frank. She consistently stated that he would have to divorce her because she was committed to staying married to him.

Throughout August, the tension between the two of them increased. Frank was unhappy that Lynn and I were unwilling to engage in any sexual activity with him. We still continued to relax in the hot tub, but stopped everything else. Frank soon lost interest in the hot tub, but told us to go ahead without him. Lynn and I would jump in for 10-15 minutes after exercising and before joining Frank to watch television.

By this time, Lynn and I had become even closer friends. Most days we met early in the morning to limit her time away from Frank. We began walking 4-5 miles virtually every day.

We had an appointment with our personal trainer four times a week. We are both the primary caretakers of our elderly parents and began working together to take care of them.

We did things like celebrating the birthday of Lynn's mother by cooking at my mother's house. We took our mother's to Biltmore House and then invited the husbands to join us for dinner. After Frank complained about eating out all the time, Lynn and I started cooking dinner for him. In addition, Lynn started going to church with her parents. She visited the church that I attend with my parents. She liked the service and started going to the early service with us and then going to brunch at Stax's with me and my parents. Frank was invited to these events, but chose not to attend.

I later learned that I was the third woman that Frank had attempted to get involved in relationship with him and Lynn. I have met both other women and one told me that I should realize that Frank "does not understand a relationship that is not sexual." This made sense to me. Frank had tried to get me to look at his Playboy at his house before we all went to dinner. Further, he had pornography on the television one night when Lynn and I joined him in the television room.

During October, November, and December, things grew worse between Frank and Lynn. The three of us spent some time together, but Lynn and I spent more time in the early mornings and at lunch so she could be home with Frank at night.

From time to time, Frank would invite me over and we continued to go to movies and dinner together. Sometimes Frank would be distant, but most of the time he would ask for his hug and kiss when I walked in.

On the Friday after Thanksgiving, I went to their house to help decorate for Christmas. Frank was uncharacteristically nice. He helped with the tree and then started bringing us crackers and dip. For a while, the tension disappeared and things were pleasant between us. This was extremely important to me since I had become best friends with Lynn and she had committed herself to growing old with Frank.

A strange incident happened on December 4. Lynn was attending the tree lighting at Bob Jones University with her parents. We were then going to meet Frank for dinner. I had to be at the office late so I could not go to the tree lighting. Frank was quite insistent that I come to his house to be with him alone while Lynn was at her parents. I felt uncomfortable and suspected that he would try something inappropriate. Frank was very upset with me for not coming over.

Instead of meeting him, I went to Brick City Grille. I told several friends why I was there killing time. They remembered Frank from a time that he, Lynn, and I had been there together. Their affidavit confirming this event is attached.

The Ronald McDonald House Gala was on December 11. Frank had invited me to attend with him and Lynn. I met them at the house and we attended the gala together. The next morning I got a call from them with an invitation to breakfast. Frank invited me to a party at their house that night. He told me to bring clothes and spend the day with them. They met me at a shoe store to help me find some shoes. We left there and went to several other stores to shop.

When we got to their house, we got things set up for the party. Then, the three of us got in the hot tub – again naked. When the caterer arrived, the three of us were sitting in towels in front of the fireplace in their master bedroom. We jumped in the shower together, dressed, and joined the caterer to get ready for the party.

Frank and Lynn had a series of Christmas events to attend. After an early event on December 16th, Frank invited me over to the house. We all got into the hot tub and Frank reached over to touch me sexually before Lynn joined us. Frank was having problems with very dry skin. When we got out of the hot tub, Frank asked for a massage. Lynn and I rubbed oil all over him, but only Lynn touched him his genitals.

Two days later on December 18th, Frank asked me to come over again. Lynn had told him that we could all do the hot tub and massages, but sexual touching was off-limits. Frank asked me if I agreed with the rule. I told him I did. Once again, we went in the hot tub and Frank asked for a massage. When Lynn left the room for a minute, Frank asked me to touch him sexually. I refused, but Lynn was standing in the doorway and got very upset that he even asked.

Frank kept telling us that he liked the idea of two women together. Because of this Lynn and I had explored the idea of touching each other for his benefit. We discussed whether we could continue anything physical between us on a regular basis, and if so, what. We went so far to experiment with touching while he was out of town a few days earlier.

Spending other nights with each other was not sexual. Neither of us had any prior same sex experiences and we were only considering it for Frank. On December 15th, we experimented with touching each other outside of Frank's presence since Frank had made it clear that this was one of his fantasies. However, after that experience, based on everything that had occurred between Frank, Lynn, and me, we knew that we could not and did not even want to try to appease Frank's fantasies. His thoughts that Lynn should even tolerate a sexual threesome became repulsive to me and I later learned to her.

The event on the 18th ended the three of us getting in the hot tub and the massages. Frank said massages without sexual touching was like being in a kid in a candy store and not being able to eat the candy. The hugs, kisses and friendliness did not end. I was even invited to bring my father and join Frank, Lynn, his sons and their families for Christmas dinner.

My mother got very ill and had to have an outpatient surgical procedure. Complications led to a hospital stay from January 21-29. When I could not be at the hospital, Lynn would stay with my mom or bring her mother up to sit with her. Lynn even offered to spend the night to give me some rest. One of those days, Frank came to the hospital. He walked out with me and in the elevator, pulled me to him towards kiss me.

Throughout January 2010, Frank continued to encourage me to come to their house and to cook dinner for him. Afterwards Lynn and I would work or watch television with him. Since Lynn and I had become close friends and she was committed to never leaving Frank, Frank wanting me around was important.

One night, Lynn, Frank, and I were talking. Lynn said she was tired and left the room to get ready for bed. Frank started a conversation about me and Lynn. He told me that he thought

she would rather spend time with me rather than with him. He then said that he really liked me so that was okay. I told him that I thought they could work things out if they really tried. He said he did not want to try. I then asked him, "Can Lynn could be my friend and your wife?" he said he didn't know. I said, "That is the most honest thing I have ever heard you say in a long time."

On February 7, 2010, Frank and Lynn had their traditional Super Bowl party. Over 100 hundred people attended. I was busy helping out with coats, directions, and helping the elderly guests like my parents. It was quite an event and Frank seemed happy. On Tuesday, I came over for dinner and Frank greeted me with "Where is my kiss?" He seemed to be very happy and glad for us all to be together.

Two days after that my mother had to have surgery. I had to be in court in Spartanburg. Lynn volunteered to be with my mother. After 11 hours at the hospital, Lynn arrived home. Shortly thereafter, she called me to say that Frank gave her a letter telling her she had 6 days to leave the house or he would expose our affair.

Since that day, I have talked to many people who confirmed that Frank had told them that Lynn and I were having an affair. Even as early as November, he was telling people to watch us. I soon learned that my alleged affair was known to many people including those in corporate McDonald's from Atlanta to Raleigh.

I guess I shouldn't feel special. Several of Frank's friends have told me about his new girlfriend, Jan Cancilla. I didn't introduce myself, but I saw her last Thursday at the Commerce Club. The next day, I got a call from a mutual friend who said that Jan is holding a "Frank and Jan" party on August 8th.

FURTHER AFFIANT SAYETH NOT.

Carol A. Simpson

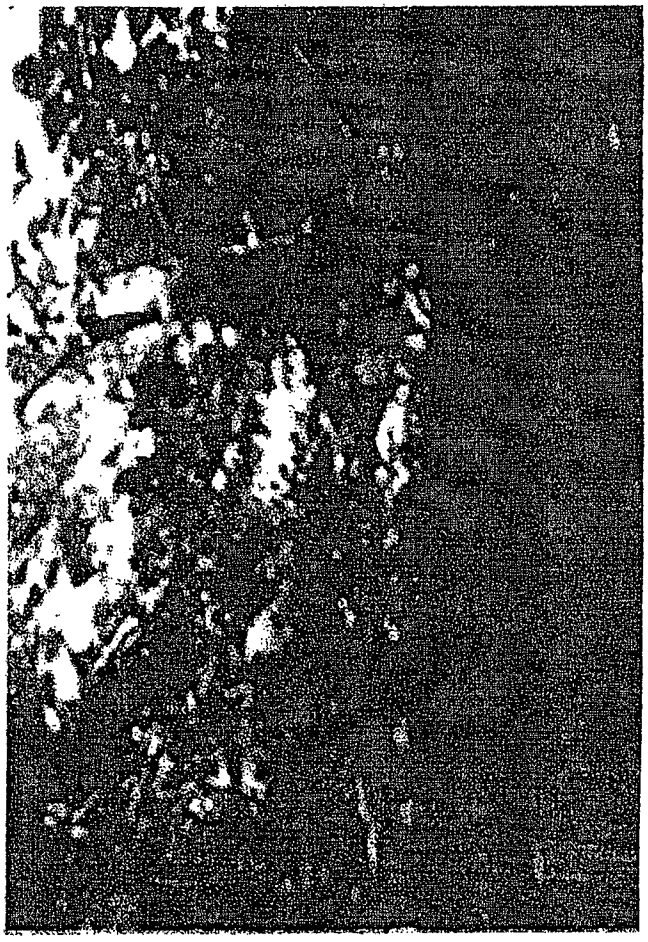
Carol A. Simpson

Sworn to before me this 4th day of August, 2010.

Andrea L. Gum

Notary Public for South Carolina

My Commission Expires: 10-15-2014



STATE OF SOUTH CAROLINA

COUNTY OF GREENVILLE

Jane Doe,

Plaintiff,

v.

Frank A. Landgraff, Carol Sutton, Carol Sutton & Associates - Investigations, Inc.

Defendants.

IN THE COURT OF COMMON PLEAS
C.A. 2013-CP-23-01762

PLAINTIFF'S FIRST SUPPLEMENTAL RESPONSE TO FRANK A. LANDGRAFF'S FIRST INTERROGATORIES

FILED-CLERK OF COURT
GREENVILLE CO. S.C.
PAUL B. WICKENSHAM
2014 NOV 14 PM 4 28

Plaintiff supplements her responses to Frank A. Landgraff's First Interrogatories as follows.

GENERAL RESPONSES AND OBJECTIONS

Plaintiff incorporates the General Responses and Objections set out in Plaintiff's First Response to Frank A. Landgraff's First Interrogatories by references as if fully set out herein.

SUPPLEMENTAL RESPONSES TO INTERROGATORIES

1. Give the names and addresses of persons known to the plaintiff or counsel to be witnesses concerning the facts of the case and indicate whether written or recorded statements have been taken from the witnesses and indicate who has possession of such statements.

   RESPONSE: No supplementation at this time.

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

   RESPONSE: No supplementation at this time.

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

   RESPONSE: No supplementation at this time.

4. List the names and addresses of any expert witnesses whom the plaintiff proposes to use as a witness at the trial of the case. Provide a summary of all opinions plaintiff expects to introduce at trial from all expert witnesses identified.

RESPONSE: No supplementation at this time.

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

RESPONSE: No supplementation at this time.

6. Set forth all facts and/or circumstances known by the plaintiff to support the following allegations contained in the Amended Complaint filed June 14, 2013:

a. Paragraph 3
b. Paragraph 4
c. Paragraph 7
d. Paragraph 8
e. Paragraph 10
f. Paragraph 11
g. Paragraph 12
h. Paragraph 13
i. Paragraph 16
j. Paragraph 17
k. Paragraph 18
l. Paragraph 19
m. Paragraph 22
n. Paragraph 23

RESPONSE: No supplementation at this time.

7. Set forth a detailed itemization of all damages claimed by the plaintiff in the Amended Complaint filed June 14, 2013, including a summary explaining any calculations the plaintiff conducted in reaching all numbers included in the damages itemization, as alleged in:

a. Paragraph 14
b. Paragraph 20
c. Paragraph 24

RESPONSE: No supplementation at this time.

8. Provide a detailed explanation of how Landgraff caused the plaintiff to sustain all damages itemized in response to Interrogatory 8.

RESPONSE: No supplementation at this time.

9. Regarding any person (including the plaintiff), insurance company or other entity who has paid any sums (i.e. bills, expenses, fees, costs, etc.) as a result of the allegations I the Amended Complaint filed June 14, 2013, identify:
   a. Who paid said bills or expenses;
   b. The amount paid by each person/entity; and
   c. Identify the bills and expenses paid.

RESPONSE: South Carolina State Office of Victim Assistance and Plaintiff have both paid for Plaintiff's counseling. Plaintiff has attached the bills to her supplemental responses to the request for production. Plaintiff paid all charges for Deborah K. Leporowski, Psy. D. and all cash charges to McCall Counseling & Therapy, LLC.

11. In relation to the injuries the plaintiff allegedly sustained from the conduct the plaintiff attributes to any defendant, has the plaintiff been admitted to or treated by any health professional (e.g. physicians, mental health professionals, etc.) or at any hospital or health-related institution, whether as an in-patient or out-patient, or received any treatment for such injuries, related illnesses, or related conditions, from any physician or health personnel? If so, identify:
   d. The contract information of any such health professional, hospital, and health-related institution;
   e. The circumstances of the treatment or admission (i.e., type of injury, illness or condition, the nature of the treatment, and dates);
   f. A statement of all medical costs involved.

RESPONSE: No supplementation at this time.

13. Identify all materials (whether documents, photographs, recordings, or other materials) which:
   g. Are possible exhibits or evidence at any deposition, hearing or trial in this case;
   h. The plaintiff intends to introduce as exhibits or evidence at any deposition, hearing or trial in this case.

RESPONSE: No supplementation at this time.

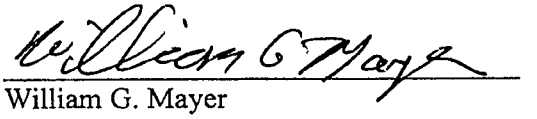
14. Regarding each and every criminal charge, investigation, or other proceeding (felony or misdemeanor), attorney disciplinary proceeding, or civil action to which the plaintiff has been a party or in which the plaintiff has been involved as a witness, or where the plaintiff received a "target letter" (regardless of whether pretrial intervention or expungement occurred), identify:
   i. The identifying information for the case (i.e., name, court, docket number, law enforcement agency(ies) or other entities);
   j. The circumstances (i.e., claims asserted and dates); and
   k. The outcome of the case (i.e., verdict, sentence, sanction) including the terms and date of any settlement.

RESPONSE: Plaintiff identified all cases in her first response so there are no other charges, investigations, proceedings, or actions to identify. For those identified in Plaintiff's first response, the time for appeal has long passed. Thus, as previously stated, Plaintiff did not retain any documents so she has no documents to review. Thus, she has NO other information for the Court to compel.

19. Provide the name, address and dates of employment of the professional engaged "to do a thorough background check on [the plaintiff]" as referenced on Page 9 of the Memorandum in Opposition to Defendant's Motion to Set Aside or Modify Order dated November 11, 2013.

RESPONSE: Gerri Turner Elder, 304 W. Blue Ridge Street, Pendleton, SC. She was not employed, but worked on a contract basis at times convenient to her. All work was completed before the Motion was filed.

Respectfully submitted,



William G. Mayer
S.C. Bar No. 13340
Attorney for the Plaintiff
118 West Main Street
Laurens, SC 29360
864-984-9202 Telephone
864-715-0496 Facsimile

October 25, 2014
Greenville, SC

STATE OF SOUTH CAROLINA

COUNTY OF GREENVILLE

Jane Doe,

Plaintiff,

v.

Frank A. Landgraff, Carol Sutton, Carol Sutton & Associates - Investigations, Inc.

Defendants.

IN THE COURT OF COMMON PLEAS
C.A. 2013-CP-23-01762

FILED-CLERK OF COURT
GREENVILLE CO. S.C.
PAUL B. WICKENSIMER
2014 NOV 14 PM 4 28

PLAINTIFF'S FIRST SUPPLEMENTAL RESPONSE TO FRANK A. LANDGRAFF'S FIRST REQUESTS FOR PRODUCTION TO PLAINTIFF

Plaintiff supplements her responses to Frank A. Landgraff's First Requests for Production to Plaintiff as follows.

GENERAL RESPONSES AND OBJECTIONS.

Plaintiff incorporates the General Responses and Objections set out in Plaintiff's First Response to Frank A. Landgraff's First Requests for Production to Plaintiff by references as if fully set out herein.

SUPPLEMENTAL RESPONSES TO REQUESTS FOR PRODUCTION

3. Any and all documents or materials relating to the alleged actions and/or conduct as referenced in the Amended Complaint filed June 14, 2013, including but not limited to:
   a. Paragraph 3
   b. Paragraph 4
   c. Paragraph 7
   d. Paragraph 8
   e. Paragraph 10
   f. Paragraph 16
   g. Paragraph 18
   h. Paragraph 22
   i. Paragraph 23

   RESPONSE: No supplementation at this time.

4. Any and all documents or materials relating to any intent and/or state of mind of any defendant as referenced in the Amended Complaint filed June 14, 2013, including but not limited to:
   j. Paragraph 4
   k. Paragraph 7
   l. Paragraph 8
   m. Paragraph 13

n. Paragraph 16
o. Paragraph 22
p. Paragraph 23

RESPONSE: No supplementation at this time.

5. Any and all documents or materials relating to any damage of any kind as referenced in the Amended Complaint filed June 14, 2013, including but not limited to:
   q. Paragraph 14
   r. Paragraph 20
   s. Paragraph 24

RESPONSE: See invoice attached as Exhibit A.

6. Any and all documents or materials relating to any distress as referenced in the Amended Complaint filed June 14, 2013.
   t. Paragraph 16
   u. Paragraph 18
   v. Paragraph 19
   w. Paragraph 20

RESPONSE: No supplementation at this time.

7. All documents, whether transcription or otherwise, reflecting or relating to statements (written or oral), reports or accounts of any witnesses or parties to the action relating to the allegations in the Amended Complaint filed June 14, 2013.

RESPONSE: No supplementation at this time.

9. All photographs and/or video relating to the allegations in the Amended Complaint, or relating to injuries the plaintiff claims she received as a result of the supposed conduct underlying the allegations in the Amended Complaint filed June 14, 2013.

RESPONSE: No supplementation at this time.

11. Any and all documents which the plaintiff intends to introduce as an exhibit at any deposition, hearing, and/or at the trial of this case, and any other document upon which the plaintiff relies or intends to rely at any deposition, hearing, and/or trial.

RESPONSE: No supplementation at this time.

13. Any and all recordings (audio, photo, and/or video, whether hard copy, negative, electronic file, videotape, or otherwise) in the plaintiff's possession or custody, or control of the plaintiff, and/or which the plaintiff shared with, provided to, or made available to Lynn W Mulligan f/k/a Lynn Landgraff ("Mulligan"), and/or to Attorney Chace D. Campbell (and/or any employee of Chace Campbell, PA).

RESPONSE: Plaintiff misread this Request. She has no recordings. Thus, Plaintiff has NO recordings to produce in response to this request.

14. Any and all recordings (audio, photo, and/or video, whether hard copy, negative, electronic file, videotape, or otherwise) in the plaintiff's possession or custody, or control of Landgraff which the plaintiff intends to use at any deposition, hearing, or trial.

RESPONSE: Plaintiff misread this Request. She has no recordings of Landgraff. Thus, Plaintiff has NO recordings to produce in response to this request.

19. Any and all correspondence or communications (no matter how delivered, including but not limited to cards, notes, letters, text messages and/or e-mails) (including any and all attachments/enclosures) to Chace D. Campbell and/or any employee of Chace Campbell, PA from the plaintiff, regarding or relating to (a) any allegations or claim the plaintiff asserts in this case, (b) Mulligan, and/or (c) Landgraff.

RESPONSE: Plaintiff's original answer was qualified due to the affidavit she wrote for the Landgraff/Mulligan family court case. Upon reflection, that was not to Chace D. Campbell and/or any employee of Chace Campbell, PA. Plaintiff changes her answer to "Plaintiff has NO documents to produce in response to this request."

20. Any and all correspondence or communications (no matter how delivered, including but not limited to cards, notes, letters, text messages and/or e-mails) (including any and all attachments/enclosures) from Chace D. Campbell and/or any employee of Chace Campbell, PA to the plaintiff, regarding or relating to (a) any allegations or claim the plaintiff asserts in this case, (b) Mulligan, and/or (c) Landgraff.

RESPONSE: Plaintiff's original answer was qualified because Chace D. Campbell provided some information relating to invasion of privacy, but, Plaintiff realized that it was not regarding wrongful invasion of private affairs. Thus, Plaintiff changes her answer to "Plaintiff has NO documents to produce in response to this request."

35. Any documents, materials, or electronic information: provided or supplied to any expert whom the plaintiff expect to call as an expert witness at a deposition, hearing, and/or trial; reviewed by such expert(s); relied upon by such expert(s); considered but rejected as a basis of any expert opinion(s) by such expert(s); discussed with such expert(s); prepared by such expert(s) (including but not limited to drafts and revisions, handwritten notes or drawings, e-mails or correspondence, journal entries, day-timer or calendar entries, billing records, invoices); photographs/videos (in digital format if they exist in that format) provided to or prepared by such expert(s); the dictation of such expert(s); and copies of any and all reports rendered by such expert(s).

RESPONSE: No supplementation at this time.

37. Any and all background check report(s) and communications by the professional engaged "to do a thorough background check on [the plaintiff]" as referenced on Page 9 of the Memorandum in Opposition to Defendant's Motion to Set Aside or Modify Order dated November 11, 2013.

RESPONSE: Without objection, Plaintiff responded that she "has no documents to produce in response to this request." Giving him the benefit of the doubt, Plaintiff assumes that Landgraff thinks Plaintiff is withholding documents based on a general objection. She is not; she has NO documents for the Court to compel her to produce. Landgraff possibly misunderstands the nature of the search. No adverse material was discovered so there was nothing to print so there are NO documents to produce.

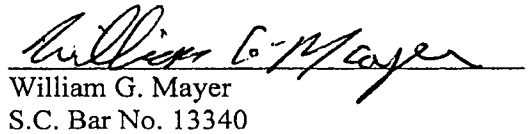
40. Copies of all bills and expenses which the plaintiff claims to have incurred as a result of the supposed conduct underlying the allegations in the Amended Complaint.

RESPONSE: See response to Request No. 5.

45. All records regarding any attorneys fees and/or costs you have paid in this action, and any attorneys fees and/or costs which you owe to your counsel or otherwise.

RESPONSE: No supplementation at this time.

Respectfully submitted,



William G. Mayer
S.C. Bar No. 13340
Attorney for the Plaintiff
118 West Main Street
Laurens, SC 29360
864-984-9202 Telephone
864-715-0496 Facsimile

October 25, 2014
Greenville, SC

McCall Counseling & Therapy, LLC

Gretta McCall, M.Ed., LPC
P.O. Box 2192
Greenville, SC 29602-2192
Phone: 864-270-9324
Fax: 864-242-5083

EIN: 32-0287402
SC License Number: 5363

C2012-092381
Billed - 10/23/12

To: Carol Anne Simpson
Name: 47 Greenland Drive Suite A
Address: Greenville, SC 29615
Phone: 864-235-4900

	Date of Service	Service (CPT Code)	Diagnostic Code	Pmt Method	Amount Charged
1	3.7.12	90801	995.83	SOVA	$90
2	3.14.12	90801	995.83		$180
3	3.21.12	90806	995.83		$90
4	3.29.12	90806	995.83		$50
5	4.3.12	90806	995.83		$50
6	4.11.12	90806	995.83		$50
7	4.17.12	90806	995.83		$50
8	4.23.12	90806	995.83		$50
9	5.2.12	90806	995.83		$50
10	5.9.12	90806	995.83		$50
11	5.30.12	90806	995.83		$50
12	6.6.12	90806	995.83		$66
13	6.13.12	90806	995.83		$66
14	6.20.12	90806	995.83		$66
15	6.27.12	90806	995.83		$66
16	7.11.12	90806	995.83		$66
17	7.27.12	90806	995.83		$66
18	8.1.12	90806	995.83		$66
19	8.15.12	90806	995.83		$66
20	8.29.12	90806	995.83		$66

Total Amount Due: $1320

SOVA pd. $120

SOVA pd. $1152.00 9.17.12

SOVA pd $132.00 10-23-12

PA 10 11/16/12

McCall Counseling & Therapy, LLC

Gretta McCall, M.Ed., LPC
P.O. Box 2192
Greenville, SC 29602-2192
Phone: 864-270-9324
Fax: 864-242-5083

EIN: 32-0287402
SC License Number: 5363

Office info
Approved visits
6 sessions
through 8/5/13

Name: Carol Simpson
Address:
Phone:

	Date of Service	Service	Diagnosis	Pmt Method	Pmt Amount	Amount Charged	Insurance Pmt	Claim #	Pmt to client
1	11-16-12	90806	309.24	Check	$66	$66	Ø	23391349W	
2	2-6-13	90834	309.24	Cash	$66	$90	Ø	30451010W	
3	5-21-13	90834	309.24	Cash	$66	$90	Ø	37432GW	
4	7-25-13	90837	309.24	Cash	$77	$90	Ø	32200750W	
5	8-1-13	90837	309.24	Cash	$77	$90	Ø	32200750W	
6	8-6-13	90837	309.24	Check	$77				
7	8-20-13	90837	309.24	Cash	$77				
8									
9									
10									
11									

Total Amount Due:

applied to deductible
we not file

Deborah K Leporowski Psy.D.
124 Edinburgh Ct
#105
Greenville, SC 29607

STATEMENT

MAKE CHECKS PAYABLE			
Deborah K Leporowski, Psy.D.			
STATEMENT DATE	ACCT NO	AMOUNT DUE	AMOUNT ENCLOSED
10/15/2014	AN	$0.00	

REMIT TO

Carol Simpson
47 Greenland Drive
Ste A
Greenville, SC 29615

DATE	PROCEDURE CODE	DESCRIPTION	CHARGE	PATIENT AMOUNT	INSURANCE / OTHER AMOUNT
Patient: Carol Simpson DOB: 12/27/1957					
08/30/2014	90791	Psychiatric Diagnostic Evaluation Therapist: Deborah K Leporowski, Psy.D. POS: 11 Length: 60 Units: 1	$150.00	$150.00	$0.00
07/14/2014		Payment by Carol Simpson Method: Check		($150.00)	
07/07/2014	90837	Psychoanalysis Therapist: Deborah K Leporowski, Psy.D. POS: 11 Length: 60 Units: 1	$150.00	$150.00	$0.00
07/14/2014		Payment by Carol Simpson Method: Check		($150.00)	
07/14/2014	90837	Psychoanalysis Therapist: Deborah K Leporowski, Psy.D. POS: 11 Length: 60 Units: 1	$150.00	$150.00	$0.00
07/14/2014		Payment by Carol Simpson Method: Check		($150.00)	
07/23/2014	90837	Psychoanalysis Therapist: Deborah K Leporowski, Psy.D. POS: 11 Length: 60 Units: 1	$150.00	$150.00	$0.00
07/23/2014		Payment by Carol Simpson Method: Check		($150.00)	
07/28/2014	90837	Psychoanalysis Therapist: Deborah K Leporowski, Psy.D. POS: 11 Length: 60 Units: 1	$150.00	$150.00	$0.00
07/28/2014		Payment by Carol Simpson Method: Check		($150.00)	
08/05/2014	90837	Psychoanalysis Therapist: Deborah K Leporowski, Psy.D. POS: 11 Length: 60 Units: 1	$150.00	$150.00	$0.00
08/05/2014		Payment by Carol Simpson Method: Check		($150.00)	
08/12/2014	90837	Psychoanalysis Therapist: Deborah K Leporowski, Psy.D. POS: 11 Length: 60 Units: 1	$150.00	$150.00	$0.00
08/12/2014		Payment by Carol Simpson Method: Check		($150.00)	
08/19/2014	90837	Psychoanalysis Therapist: Deborah K Leporowski, Psy.D. POS: 11	$150.00	$150.00	$0.00

CURRENT	OVER 30 DAYS	OVER 60 DAYS	OVER 90 DAYS	OVER 120 DAYS	PLEASE PAY THIS AMOUNT →	PATIENT	INSURANCE / OTHER
$0.00	$0.00	$0.00	$0.00	$0.00		$0.00	$0.00

Psycho-Educational Testing with Administered MMPI-A, Scoring and Written Report

Deborah K Leporowski, Psy.D.
124 Edinburgh Ct
#105
Greenville, SC 29607

STATEMENT

MAKE CHECKS PAYABLE TO			
Deborah K Leporowski, Psy.D.			
STATEMENT DATE	ACCT NO	AMOUNT DUE	AMOUNT ENCLOSED
10/15/2014	AN	$0.00	

REMIT TO

Carol Simpson
47 Greenland Drive
Ste A
Greenville, SC 29615

DATE	PROCEDURE CODE	DESCRIPTION	CHARGE	PATIENT AMOUNT	INSURANCE / OTHER AMOUNT
		Length: 60 Units: 1			
08/19/2014		Payment by Carol Simpson Method: Check		($150.00)	
08/25/2014	90837	Psychoanalysis Therapist: Deborah K Leporowski, Psy.D. POS: 11 Length: 60 Units: 1	$150.00	$150.00	$0.00
08/25/2014		Payment by Carol Simpson Method: Check		($150.00)	
09/03/2014	90837	Psychoanalysis Therapist: Deborah K Leporowski, Psy.D. POS: 11 Length: 60 Units: 1	$150.00	$150.00	$0.00
09/03/2014		Payment by Carol Simpson Method: Check		($150.00)	
09/10/2014	90837	Psychoanalysis Therapist: Deborah K Leporowski, Psy.D. POS: 11 Length: 60 Units: 1	$150.00	$150.00	$0.00
09/10/2014		Payment by Carol Simpson Method: Check		($150.00)	
09/17/2014	90837	Psychoanalysis Therapist: Deborah K Leporowski, Psy.D. POS: 11 Length: 60 Units: 1	$150.00	$150.00	$0.00
09/17/2014		Payment by Carol Simpson Method: Check		($150.00)	
10/01/2014	90837	Psychoanalysis Therapist: Deborah K Leporowski, Psy.D. POS: 11 Length: 60 Units: 1	$150.00	$150.00	$0.00
10/01/2014		Payment by Carol Simpson Method: Check		($150.00)	

CURRENT	OVER 30 DAYS	OVER 60 DAYS	OVER 90 DAYS	OVER 120 DAYS	PLEASE PAY THIS AMOUNT →	PATIENT	INSURANCE / OTHER
$0.00	$0.00	$0.00	$0.00	$0.00		$0.00	$0.00

Psycho-Educational Testing with Administered MMPI-A, Scoring and Written Report

\STATE OF SOUTH CAROLINA IN THE COURT OF COMMON PLEAS

COUNTY OF GREENVILLE C.A. 2013-CP-23-01762

FILED-CLERK OF COURT
GREENVILLE CO. S.C.
PAUL J. WICKENSIMER
2015 JAN 27 PM 1 48

Carol Simpson,

Plaintiff,

v.

Frank A. Landgraff, Carol Sutton, Carol Sutton & Associates - Investigations, Inc.

Defendants.

PLAINTIFF'S FIRST SET OF INTERROGATORIES TO DEFENDANT CAROL SUTTON AND CAROL SUTTON & ASSOCIATES – INVESTIGATIONS, INC.

ENTERED COMPUTER

TO: CAROL SUTTON AND CAROL SUTTON & ASSOCIATES – INVESTIGATIONS, INC., DEFENDANT ABOVE-NAMED AND THEIR ATTORNEY OF RECORD:

Pursuant to Rule 33 of the South Carolina Rules of Civil Procedure, the undersigned attorney for the Plaintiff hereby requests that you serve upon said attorney within thirty (30) days, responses to the following Interrogatories.

The following Interrogatories shall be deemed continuing in nature until the time of the trial of the case so that information sought which comes to the knowledge of said party, her agents, representative or attorneys, after Answers to Interrogatories have been submitted shall be promptly transmitted to the undersigned.

INSTRUCTIONS AND DEFINITIONS

A. In answering these interrogatories, furnish all information, which is available to Defendant, including information which is in the possession of Defendant's attorney, investigators for her or its attorney, independent accountants, officers, employees or agents, and not merely information from Defendant's own personal knowledge.

B. If Defendant cannot answer any of the following interrogatories in full, answer to the extent possible, specifying the reasons why she or it are unable to answer the remainder, and provide whatever information Defendant has concerning the unanswered portions.

C. After each response to each of the following interrogatories, identify each person who participated in the preparation of, or was consulted about, the answer to the interrogatory.

D. The term "document" shall mean all written, printed, typed, recorded, transcribed, punched, taped, or graphic matter of every type and description, however and by whomever prepared, produced, reproduced, disseminated, or made, in the actual or constructive possession, custody, or control of Defendant, including but not limited to all writings, letters, minutes, bulletins, correspondence, telegrams, memoranda, notes, instructions, literature, work assignments, notebooks, diaries, calendars, records, agreements, contracts, notations of telephone or personal conversations or conferences, interoffice communications, microfilm, circulars, pamphlets, studies, notices, summaries, reports, books, invoices, graphs, photographs, drafts, data sheets, data compilations, computer data sheets, computer data compilations, work sheets, statistics, speeches or other writings, tape recordings, phonograph records, data compilations from which information can be obtained or can be translated through detection devices into reasonably usable form, or any other tangible thing. The term "document" also means all copies which are not identical to the originals, such as those bearing marginal comments, alterations, notes or other notations not present on the original document as originally written, typed or otherwise prepared.

E. The term "identify" or "identity," when used with respect to an individual, shall mean to state the name and present or last-known home and business address and phone numbers of each such person, the present or last-known position or business affiliation, and his or her position and business affiliations at all times and, if that individual has ever been employed by Defendant, affiliated or associated with Defendant, or rendered any service to Defendant, so indicate and state the nature and time period of such employment, affiliation, association, or service. Once a person has been fully identified in your answer, such person may be identified thereafter by name alone.

F. Whenever Defendant's response to an Interrogatory mentions a person, set forth with specificity the following information with respect to each such person:

(a) Name and last-known home address and telephone number;

(b) Occupation and last-known employment, business address, and telephone number;

(c) Business and other relationship of such person to Defendant; and

(d) Position and title that person presently has and the position and title held by that person at the time referred to in this interrogatory.

G. When used with respect to a corporation, "identify" or "identity" shall mean to state the corporation's full name, the address of its principal place of business, the state of incorporation, and the corporation's principal activity or activities. When used with respect to a person other than an individual or a corporation, "identify" and "identity" means to state its official name or designation and the address of its principal place of business; identify all partners or members; and state the principal activities of such entity.

H. "Identify" or "identity," with reference to documents, means to state the title of the documents, if any, the date of the document, or the date it was prepared, the identity of the author or authors, the recipients of the document, the type of document, and a description of the subject matter of the document. If any document which Defendant is asked to identify is no longer complete or has been altered, state in what respect the document is incomplete or altered and explain the reasons therefore. If any such document is no longer in existence or no longer in Defendant's possession, custody, or control, state the disposition which was made of the document, the reasons for such disposition, the date of the disposition, the identity of the person(s) ordering, authorizing, and supervising such disposition, and the person performing such disposition, the

substance or contents of the document disposed of, and the identity of all persons having knowledge of the contents thereof.

I. "Person" means and includes, without limiting the generality of its meaning, any natural person; corporate or business entity; partnership; association; governmental body, agency, or subdivision; committee, commission, or other organization or entity.

J. "Concerning" includes responding to, relating to, connected with, commenting on, in respect of, about, regarding, reflecting, analyzing, containing, constituting, considering, comprising, discussing, describing, studying, showing, commenting or reporting on, mentioning, or referring, alluding, or pertaining to, in whole or in part.

K. "Communication" or "communications" means any disclosure, transfer, or exchange of information or opinion, however made.

L. The terms "identify" or "identity" with respect to a communication require that you state (a) the date of the communication, (b) its type (e.g. letter, phone call, or face-to-face meeting), (c) the identity and role of each participant (see definition above of "identify" with respect to persons), (d) its place, if a face-to-face meeting, and (e) the identity of each document constituting or reflecting the communication (see definition above or "identify" with respect to documents), and (f) the substance of the communication in detail.

M. The singular form of a noun or pronoun shall be considered to include within its meaning the plural form of the noun or pronouns so used, and vice versa. The use of any tense of any verb shall be considered to include also within its meaning all other tenses of the verb so used. The use of a pronoun shall also inclusively refer to masculine, feminine, or neuter.

N. The phrase "describe" as used in these interrogatories includes a request for a complete description and explanation of the facts, circumstances, analysis, opinion and other information concerning (as that phrase is defined above) the subject matter of a specific

interrogatory, including, but not be limited to, the following: the identity of every person known to have been involved in or to have witnessed the act or occurrence, the date or dates of any such act or occurrence, and a description of any documents, records, or things documenting or involved in such act, occurrence, or fact.

O. "And" and "or" shall be construed conjunctively or disjunctively as necessary to make the request inclusive rather than exclusive and as necessary to bring within the scope of this request any documents which might otherwise be construed to be outside its scope. For example, if Defendant is asked to identify all documents which relate to "a or b," then in response, identify all documents which relate to "a," all documents which relate to "b," and all documents which relate to "a and b."

P. The use of the words "include(s)" and "including" shall be construed to mean "without limitation".

Q. As used in this request, the term Defendant means Carol Sutton and/or Carol Sutton & Associates - Investigations, Inc., and (1) any of her or its agents, servants, employees, attorneys, experts, consultants, or representatives who are in possession of or who may have obtained information for or on behalf of Defendant, (2) any and all other persons acting under this authority or on their behalf, and (3) any and all entities (including, but limited to trusts, LLCs, corporations, and/or partnerships) in which Defendant has formed or in which she or it has a controlling interest.

R. As used in this request, the term "videotape" means the videotape referenced in Paragraph 4 of Plaintiff's Amended Complaint.

S. As used in this request, the term Mulligan means Lynn W Mulligan, fka Lynn Landgraff

T. As used in this request, the term Landgraff means Frank A. Landgraff.

INTERROGATORIES

1. Identify any and all persons known to the Defendant or counsel to be witnesses concerning the facts of the case and indicate whether written or recorded statements have been taken from the witnesses and indicate who has possession of such statements.
2. Set forth a list of photographs, plats, sketches or other prepared documents in possession of the party that relate to a claim or defense in this case.
3. Set forth the names and addresses of all insurance companies which have or may have liability insurance coverage relating to the claim and set forth the number or numbers of the policies involved and the amount or amounts of liability coverage provided in each policy.
4. For each person known to the parties 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.
5. Identify any and all expert witnesses whom Defendant proposes to use as a witness at the trial of the case. Provide a summary of all opinions Defendant expects to introduce at trial from all expert witnesses identified.
6. Identify all documents which are possible exhibits or evidence at any deposition, hearing or trial in this case or that Defendant intends to introduce as exhibits or evidence at any deposition, hearing or trial in this case.
7. To the extent that any of your responses to any of Plaintiff's requests for admissions is other than an unqualified admission, list the facts and theories which support your denial, the individuals with knowledge of these facts and theories, and the documents which support, concern, or contradict these facts and theories.

8. Describe, in detail and with specificity, all facts, theories, and supporting evidence, concerning each and every defense alleged in your Answer or which you have any reason to think may concern any affirmative defense in Landgraff's Answer, identify each person with knowledge of each such fact, theory, and evidence setting forth the facts you believe each individual is aware of and identify each person in possession of any relevant document.

9. Describe, in detail and with specificity, all facts, theories, and supporting evidence and identify each document that you contend shows that Plaintiff and/or Mulligan tried to hide their friendship, the trips that took together, the time they spent together, or anything else you contend they tried to hide.

10. Describe, in detail and with specificity, all facts, theories, and supporting evidence and identify each document that you contend shows any incidents of affection between Plaintiff and Landgraff and between Plaintiff and Mulligan.

11. If you are now or have ever been a party or involved in any other legal action or claim including, but not limited to a mediation, arbitration, worker's compensation claims, social security disability claims, and insurance claims, identify each case or matter by caption, provide the names of all parties and their respective counsel, and describe the resolution of each matter, including the dates any matter was instituted and concluded, as well as any verdict rendered or settlement reached by or in favor of any party involved.

12. Identify each person, excluding your attorney, to whom you have made any statement or with whom you have had any communication or that any person has had in your presence concerning Mulligan or parties, allegations, claims, defenses, or affirmative defenses in this lawsuit, state when and where each communication took place, identify all persons who were present, and describe the substance of the communication.

13. Identify any statements in the documents produced in response to SUTTON'S FIRST REQUEST FOR PRODUCTION TO PLAINTIFF about which you have had any communication and describe the substance of all communications; identify all evidence and documents that support any statements in the documents produced, and all evidence and documents that contradicts any statements in the documents produced.

14. Set forth an inventory of all originals or copies of the videotape, of all portions of the videotape, and/or of all screen grabs made from the videotape, identifying who has each item inventoried and whether it is possible to copy any of the items.

15. Identify any and all persons with whom Defendant or anyone else known by Defendant has discussed the existence and/or content of the videotape or screen grabs, who has viewed the videotape or screen grabs, or to whom Defendant or anyone else known by Defendant has shown the videotape or screen grabs.

16. Describe, in detail and with specificity, your relationship with Frank A. Landgraff, including how you met him, all professional services you have done for him, and any personal relationship you have or have ever had with him.

17. Describe, in detail and with specificity, the circumstances concerning the affidavit you submitted to the Family Court in *Lynn W Mulligan v. Frank A. Landgraff*, Case No. 2010-DR-23-1359, with specificity and in detail including who wrote the first draft of the affidavit; who made any edits to the affidavit and what changes were made; who read or reviewed the affidavit before it was submitted to Family Court; any communications concerning including screen grabs from the videotape in the affidavit; any communications concerning identifying Plaintiff by name in the affidavit; and any other communications, discussion, and disagreements regarding any aspect of the affidavit.

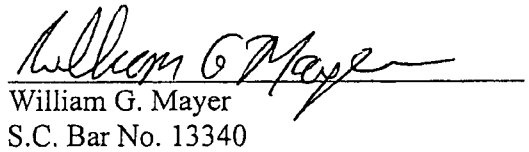
18. Describe, in detail and with specificity the substance of any and all communications concerning the camera installed at 122 Antigua Way, including why the camera was installed; who decided where and when the camera would be installed; all dates and times a camera was installed and removed; the content of any videotapes recorded in addition to the one that is the subject of this case; the legality of installing the camera; who was present when the camera was installed; who was present when the camera was removed; who knew the camera was going to be installed; who gave you permission to install the camera; and any other communications, discussion, and disagreements regarding any aspect of the installation.

19. Identify each and every other case in which you have utilized a motion-activated camera and portable DVD recorder or other similar equipment, including the identity of the person who hired you; whether any videotapes were made; whether the videotape was used in any court case; and any other communications, discussion, and disagreements regarding any aspect of the utilization. For any court case, identify the case by caption, provide the names of all parties and their respective counsel, and describe the resolution of each matter, including the dates any matter was instituted and concluded, as well as any verdict rendered or settlement reached by or in favor of any party involved.

20. Describe the surveillance and any and all communications concerning Plaintiff and Mulligan with specificity and in detail (whether the information was included in any written reports or not) including who decided when and where the surveillance should be conducted; the date the surveillance began and the date the surveillance ended; for all incidences of surveillance, the date, time, place, and investigator who conducted the surveillance; and any other communications, discussion, and disagreements regarding any aspect of the surveillance. For all incidents of surveillance at Plaintiff's residence

describe where the investigator set up to view the garage of the residence, where the investigator set up to view the front door of the residence, where the investigator set up to view the side door of the residence, whether more than one investigator participated in any incidence of surveillance.

21. Describe, in detail and with specificity the substance of any and all communications concerning the decision to stop surveillance on or about November 25, 2009 and beginning surveillance again on or about December 15, 2009 (the "interim period"), including why surveillance was stopped during the interim period; who participated in any discussions concerning the decision; who made the decision; what actions any person discussed taking, agreed to take, or agreed not to take during the interim period; when and where each communication took place; all persons who were present during each communication; and the substance of each communication.



William G. Mayer
S.C. Bar No. 13340
Attorney for the Plaintiff
118 West Main Street
Laurens, SC 29360
864-984-9202 Telephone
864-715-0496 Facsimile

\STATE OF SOUTH CAROLINA

COUNTY OF GREENVILLE

IN THE COURT OF COMMON PLEAS

C.A. 2013-CP-23-01762

FILED - CLERK OF COURT
GREENVILLE CO. S.C.
PAUL E. WICKENSIMER
2015 JAN 27 PM 1 49

Carol Simpson,

Plaintiff,

v.

Frank A. Landgraff, Carol Sutton, Carol Sutton & Associates - Investigations, Inc.

Defendants.

PLAINTIFF'S FIRST REQUESTS FOR ADMISSIONS TO DEFENDANT CAROL SUTTON AND CAROL SUTTON & ASSOCIATES – INVESTIGATIONS, INC.

ENTERED COMPUTER

TO: CAROL SUTTON AND CAROL SUTTON & ASSOCIATES - INVESTIGATIONS, INC., DEFENDANT ABOVE-NAMED AND THEIR ATTORNEY OF RECORD:

COMES NOW Plaintiff, and serves Carol Sutton and Carol Sutton & Associates - Investigations, Inc. with the following Requests for Admission, pursuant to South Carolina Rule of Civil Procedure 36. These Requests are to be answered separately and fully in writing, under oath within thirty (30) days of service. As required by Rule 36, "when good faith requires that a party qualify his answer or deny only a part of the matter of which an admission is requested he shall specify so much of it as is true and qualify or deny the remainder."

DEFINITIONS

1. The term "document" shall mean all written, printed, typed, recorded, transcribed, punched, taped, or graphic matter of every type and description, however and by whomever prepared, produced, reproduced, disseminated, or made, in the actual or constructive possession, custody, or control of Defendant, including but not limited to all writings, letters, minutes, bulletins, correspondence, telegrams, memoranda, notes, instructions, literature, work assignments, notebooks, diaries, calendars, records, agreements, contracts, notations of telephone or personal conversations or conferences, interoffice communications, microfilm, circulars, pamphlets, studies, notices, summaries, reports, books, invoices, graphs,

photographs, drafts, data sheets, data compilations, computer data sheets, computer data compilations, work sheets, statistics, speeches or other writings, tape recordings, phonograph records, data compilations from which information can be obtained or can be translated through detection devices into reasonably usable form, or any other tangible thing. The term "document" also means all copies which are not identical to the originals, such as those bearing marginal comments, alterations, notes or other notations not present on the original document as originally written, typed or otherwise prepared.

2. "Concerning" includes responding to, relating to, connected with, commenting on, in respect of, about, regarding, reflecting, analyzing, containing, constituting, considering, comprising, discussing, describing, studying, showing, commenting or reporting on, mentioning, or referring, alluding, or pertaining to, in whole or in part.

3. "Communication" or "communications" means any disclosure, transfer, or exchange of information or opinion, however made.

4. The singular form of a noun or pronoun shall be considered to include within its meaning the plural form of the noun or pronouns so used, and vice versa. The use of any tense of any verb shall be considered to include also within its meaning all other tenses of the verb so used. The use of a pronoun shall also inclusively refer to masculine, feminine, or neuter.

5. "And" and "or" shall be construed conjunctively or disjunctively as necessary to make the request inclusive rather than exclusive and as necessary to bring within the scope of this request any documents which might otherwise be construed to be outside its scope. For example, if Defendant is asked to identify all documents which relate to "a or b," then in response, identify all documents which relate to "a," all documents which relate to "b," and all documents which relate to "a and b."

6. The use of the words "include(s)" and "including" shall be construed to mean "without limitation".

7. "Person" means and includes, without limiting the generality of its meaning, any natural person; corporate or business entity; partnership; association; governmental body, agency, or subdivision; committee, commission, or other organization or entity.

8. As used in this request, the term Defendant means Carol Sutton and/or Carol Sutton & Associates - Investigations, Inc., and (1) any of her or its agents, servants, employees, attorneys, experts, consultants, or representatives who are in possession of or who may have obtained information for or on behalf of Defendant, (2) any and all other persons acting under this authority or on their behalf, and (3) any and all entities (including, but limited to trusts, LLCs, corporations, and/or partnerships) in which Defendant has formed or in which she or it has a controlling interest.

9. As used in this request, the term "videotape" means the videotape referenced in Paragraph 4 of Plaintiff's Amended Complaint

10. As used in this request, the term Mulligan means Lynn W Mulligan, fka Lynn Landgraff.

11. As used in this request, the term Landgraff means Frank A. Landgraff.

REQUESTS FOR ADMISSION

REQUEST FOR ADMISSION NO. 1:

Admit that Frank A. Landgraff hired you.

REQUEST FOR ADMISSION NO. 2:

Admit that no attorney at Nelson Mullins Riley &Scarborough LLP represented you concerning any issue in this case or in *Lynn W Mulligan v. Frank A. Landgraff*, Case No. 2010-DR-23-1359.

REQUEST FOR ADMISSION NO. 3:

Admit that before you installed the camera in the bedroom at 122 Antiqua Way, your surveillance produced no evidence of sexual activity or of more than a girlfriend, girlfriend relationship between Plaintiff and Mulligan.

REQUEST FOR ADMISSION NO. 4:

Admit that you willing participated in the installation of a motion-activated camera and portable DVD player in the master bedroom at 122 Antigua Way.

REQUEST FOR ADMISSION NO. 5:

Admit that Plaintiff did not give you permission to open her garage door.

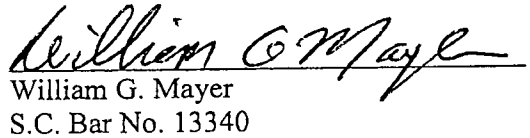
REQUEST FOR ADMISSION NO. 6:

Admit that you knew that installing the motion-activated camera and portable DVD player in the master bedroom at 122 Antigua Way could result in the recording of Plaintiff.

REQUEST FOR ADMISSION NO. 7:

Admit that if you were in the bedroom in which you installed the camera at 122 Antiqua Way, the blinds were closed, and no one with you in the room had a camera, you would think you could change clothes without being concerned that your undressing would be photographed, filmed, or videotaped by anyone.

Respectfully submitted,



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2015 JAN 27 PM 1 49

STATE OF SOUTH CAROLINA | IN THE COURT OF COMMON PLEAS

COUNTY OF GREENVILLE | C.A. 2013-CP-23-01762

Carol Simpson,

Plaintiff,

v.

Frank A. Landgraff, Carol Sutton, Carol Sutton & Associates - Investigations, Inc.

Defendants.

PLAINTIFF'S FIRST REQUESTS FOR PRODUCTION TO DEFENDANTS CAROL SUTTON AND CAROL SUTTON & ASSOCIATES – INVESTIGATIONS, INC.

ENTERED COMPUTER

TO: CAROL SUTTON AND CAROL SUTTON & ASSOCIATES – INVESTIGATIONS, INC., DEFENDANTS ABOVE-NAMED AND THEIR ATTORNEY OF RECORD:

Pursuant to Rule 34 of the South Carolina Rules of Civil Procedure, the undersigned attorney for Plaintiff hereby requests that Defendant make available for inspection and copying the following designated documents at the offices of William G. Mayer, 118 West Main Street, Laurens, SC 29360 or at such other place as may be agreed to by the parties' counsel, no later than thirty (30) days after service of these requests. Defendant may otherwise comply with these requests by forwarding copies of the designated documents to the address set forth above. These requests shall be deemed continuing from the date of service through the trial of this case so as to require supplemental responses if additional responsive documents are identified or otherwise obtained by Defendant or her/its counsel.

INSTRUCTIONS AND DEFINITIONS

A. The term "document" shall mean all written, printed, typed, recorded, transcribed, punched, taped, or graphic matter of every type and description, however and by whomever prepared, produced, reproduced, disseminated, or made, in the actual or constructive possession, custody, or control of Defendant, including but not limited to all writings, letters, minutes, bulletins, correspondence, telegrams, memoranda, notes, instructions, literature, work assignments,

notebooks, diaries, calendars, records, agreements, contracts, notations of telephone or personal conversations or conferences, interoffice communications, microfilm, circulars, pamphlets, studies, notices, summaries, reports, books, invoices, graphs, photographs, drafts, data sheets, data compilations, computer data sheets, computer data compilations, work sheets, statistics, speeches or other writings, tape recordings, phonograph records, data compilations from which information can be obtained or can be translated through detection devices into reasonably usable form, or any other tangible thing. The term "document" also means all copies which are not identical to the originals, such as those bearing marginal comments, alterations, notes or other notations not present on the original document as originally written, typed or otherwise prepared.

B. "Communication" or "communications" means any disclosure, transfer, or exchange of information or opinion, however made.

C. "And" and "or" shall be construed conjunctively or disjunctively as necessary to make the request inclusive rather than exclusive and as necessary to bring within the scope of this request any documents which might otherwise be construed to be outside its scope. For example, if Defendant is asked to identify all documents which relate to "a or b," then in response, identify all documents which relate to "a," all documents which relate to "b," and all documents which relate to "a and b."

D. The use of the words "include(s)" and "including" shall be construed to mean "without limitation."

E. Use of the term "control" when referring to documents or other tangible or intangible things shall mean that Defendant have the right to secure the things or documents or a copy thereof from another person or entity which has actual possession thereof. If any objection raised by Defendant is based in whole or in part on the fact that documents are not in Defendant's possession or custody, then Defendant shall identify the person(s) and/or entities in possession or

custody of the documents, and shall further identify the location of the documents with sufficient particularity to allow Plaintiff to issue a subpoena to obtain or inspect the documents or things.

F. If any document or other tangible thing is responsive to any request stated herein, but is not in Defendant's custody or possession, identify the person or entity with possession or custody with sufficient particularity to allow Plaintiff to issue a subpoena to obtain or inspect the documents or things.

G. If any document was, but is no longer in Defendant's possession or subject to Defendant's control, state what disposition was made of it, including, but limited to whether or not it was destroyed or disposed of, by whom, and the date or dates or approximate date or dates on which such disposition was made and why.

H. "Concerning" includes responding to, relating to, connected with, commenting on, in respect of, about, regarding, reflecting, analyzing, containing, constituting, considering, comprising, discussing, describing, studying, showing, commenting or reporting on, mentioning, or referring, alluding, or pertaining to, in whole or in part.

I. The singular form of a noun or pronoun shall be considered to include within its meaning the plural form of the noun or pronouns so used, and vice versa. The use of any tense of any verb shall be considered to include also within its meaning all other tenses of the verb so used. The use of a pronoun shall also inclusively refer to masculine, feminine, or neuter.

J. As used in this request, the term Defendant means Carol Sutton and/or Carol Sutton & Associates - Investigations, Inc., and (1) any of her or its agents, servants, employees, attorneys, experts, consultants, or representatives who are in possession of or who may have obtained information for or on behalf of Defendant, (2) any and all other persons acting under this authority or on their behalf, and (3) any and all entities (including, but limited to trusts, LLCs, corporations, and/or partnerships) in which Defendant has formed or in which she or it has a controlling interest.

K. As used in this request, the term "videotape" means the videotape referenced in Paragraph 4 of Plaintiff's Amended Complaint.

L. As used in this request, the term Mulligan means Lynn W Mulligan, fka Lynn Landgraff.

M. As used in this request, the term Landgraff means Frank A. Landgraff , and (1) any of his agents, servants, employees, attorneys, experts, consultants, or representatives who are in possession of or who may have obtained information for or on behalf of Landgraff, (2) any and all other persons acting under this authority or on his behalf, and (3) any and all entities (including, but limited to trusts, LLCs, corporations, and/or partnerships) in which Landgraff has formed or in which she or it has a controlling interest.

N. If any document is withheld under a claim of privilege or other protection, so as to aid the Court and the parties hereto to determine the validity of the claim of privilege or other protection, please provide the following information with respect to any such documents:

1. The identity of the person(s) who prepared the document, who signed it, and over whose name it was sent or issued;
2. The identity of each person(s) to whom the document was directed;
3. The nature and substance of the document with sufficient particularity to enable the Court and parties hereto to identify the document;
4. The identity of each person(s) who has custody of, or control over, the document and each copy thereof;
5. The date of the document;
6. The identity of each person to whom copies of the document were furnished;
7. The number of pages;
8. The basis on which any privilege or other protection is claimed; and
9. Whether any non-privileged or non-protected matter is included in the documents.

O. Whenever you object to a particular request, or portion thereof, you must produce all documents called for which are not subject to that objection. Similarly, whenever a document

is not produced in full, please state with particularity the reason or reasons it is not being produced in full, and describe, to the best of your knowledge, information and belief and with as much particularity as possible, those portions of the document which are not produced

P. Wherever it is reasonably practicable, please produce documents in such a manner as will facilitate their identification with the particular request or category of requests to which they are responsive.

DOCUMENTS TO BE PRODUCED

1. Any and all documents referenced in Defendant's answers to any interrogatory asked in this case.
2. Any and all documents referred to or consulted for the purpose of answering any request for admission or interrogatory asked in this case.
3. Any and all documents which evidence, support, or corroborate, all or part of an answer to any request for admission or interrogatory asked in this case.
4. Any and all documents which contravene or contradict all or part of an answer to any request for admission or interrogatory asked in this case.
5. All documents (as defined herein) containing information concerning Mulligan or the parties, allegations, claims, defenses, or affirmative defenses in this lawsuit.
6. Any and all written or recorded statements, narratives, declarations, and affidavits of persons having knowledge of facts concerning Mulligan or the parties, allegations, claims, defenses, or affirmative defenses in this lawsuit.
7. Any and all documents received from any third party concerning Mulligan or the parties, allegations, claims, defenses, or affirmative defenses in this lawsuit, whether received through a subpoena, Freedom of Information Act request, or otherwise.

8. Any documents concerning information provided or supplied to any expert whom Defendant expects to call as an expert witness at a deposition, hearing, and/or trial; requested by experts that Defendant did not or could not produce; reviewed by such expert(s); relied upon by such expert(s); considered but rejected as a basis of any expert opinion(s) by such expert(s); discussed with such expert(s); prepared by such expert(s) (including but not limited to drafts and revisions, handwritten notes or drawings, e-mails or correspondence, journal entries, day-timer or calendar entries, billing records, invoices); photographs/videos (in digital format if they exist in that format) provided to or prepared by such expert(s); the dictation of such expert(s); and copies of any and all reports rendered by such expert(s). If the experts designated by Defendant have not prepared reports, please state the date(s) on which Defendant expects to receive such reports.

9. A *curriculum vitae* of each person Defendant proposes to use as an expert witness.

10. Any diaries, journals, calendars, and/or similar records kept or maintained by the Defendant or at Defendant's direction for the period January 1, 2009 through present concerning Mulligan or the parties, allegations, claims, defenses, or affirmative defenses in this lawsuit.

11. Any and all documents which Defendant intends to introduce as an exhibit at any deposition, hearing, and/or at the trial of this case, and any other document upon which Plaintiff relies or intends to rely at any deposition, hearing, and/or trial.

12. If your response to any request for admission propounded by Defendant in this lawsuit is anything other than an unequivocal "admitted", produce each and every document or tangible thing that in any way constitutes, supports, evidences, or contradicts in whole or in part, the factual basis for your refusal to provide the requested admission.

13. Any and all private investigator's report(s) or other surveillance logs, notes, and communications concerning Mulligan or the parties, allegations, claims, defenses, or affirmative defenses in this lawsuit.

14. Any and all background check report(s) and other such communications concerning Mulligan or the parties, allegations, claims, defenses, or affirmative defenses in this lawsuit.

15. Copies of Defendants' Federal and State income tax returns including copies of all W-2, 1099, K-1, or similar statements and all financial statements prepared and/or filed by Defendant during the time period beginning January 1, 2009 through and including the current date.

16. A copy of any and all affidavits that Defendant has executed since January 1, 2009 concerning Mulligan or the parties, allegations, claims, defenses, or affirmative defenses in this lawsuit.

17. A copy of any and all affidavits that Defendant has submitted to any Court, mediation, arbitration or other legal proceeding in the last 5 years.

18. All records regarding any fees and/or costs that Defendant Landgraff has paid and/or owes to Defendants.

19. All documents exchanged (received from or given to) between you and Landgraff and between you and Nelson Mullins Riley &Scarborough LLP.

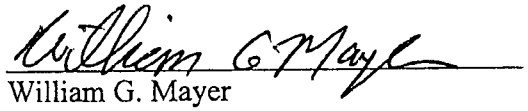
20. All documents, including legal opinions, reported cases, and memorandum, concerning the installation of the camera at 122 Antigua Way in particular or in any non-public place in general.

21. Any document relied upon, referred to, or identified in Defendant's a answers to the Interrogatories served simultaneously herewith not otherwise covered by any Request.

22. Any document concerning all equipment installed or used at 122 Antiqua Way including complete details of its the operation, parameters for activation and deactivation, capabilities, and any other relevant details.

23. Any document of any type, nature or description, not produced in response to the preceding requests, upon which Defendant will rely either in the proof of its case at trial or for impeachment purposes.

Respectfully submitted,



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STATE OF SOUTH CAROLINA

COUNTY OF GREENVILLE

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2014 NOV 19 PM 2 11

IN THE COURT OF COMMON PLEAS

Carol Simpson

Plaintiff,

v.

Frank A. Landgraff, Carol Sutton, Carol Sutton & Associates – Investigations, Inc.,

Defendants.

Civil Action No.: 2013-CP-23-01762

DEFENDANTS CAROL SUTTON, CAROL SUTTON & ASSOCIATES – INVESTIGATIONS, INC., FIRST INTERROGATORIES TO PLAINTIFF, CAROL SIMPSON

TO: CAROL SIMPSON, BY AND THROUGH HER ATTORNEY OF RECORD, WILLIAM G. MAYER.

Pursuant to Rule 33 of the *South Carolina Rules of Civil Procedure*, you are hereby served with the following interrogatories, to be responded to by you, in writing, under oath, within thirty (30) days of service hereof, and to be furnished to Joe Mooneyham, Post Office Box 8359, Greenville, South Carolina 29604, attorney for the defendants, Carol Sutton and Carol Sutton & Associates – Investigations, Inc.:

DEFINITIONS

1. "Document" shall mean every writing or record of every type and description that is or has been in your possession, control, or custody, or of which you have knowledge, including but not limited to printout sheets, movie film, videotape, slides, photographs, microfilm, notes, letters, memoranda, work sheets, books, magazines, notebooks, diaries, calendars, appointment books, charts, tables, papers, agreements, contracts, invoices, budgets, payrolls, check stubs, canceled checks, analyses, projections, transcripts, minutes of meetings of any kind, correspondence, telegrams, e-mails, drafts, data processing discs or tapes, and computer-

produces interpretations thereof, instructions, announcements, and mechanical or electric sound recordings and transcripts thereof. Document also means all copies which are not identical to the originals, such as those bearing marginal comments, alterations, notes, or other notations not present on the original document as originally written, typed, or otherwise prepared.

2. "Person" shall mean an individual, corporation, partnership, proprietorship, association, organization, governmental entity, or group of persons.

3. "Identity" shall mean:

(a) When used in references to an individual, it means to state the person's full name; present business address, or, if unavailable, last known business address; present home address, or, if unavailable, last known home address; business or governmental affiliation and job title, or, if unavailable, last know business or governmental affiliation and job title; and a telephone number at which he can be reached

(b) When used in reference to any person other than an individual, it means to state the person's (1) full name and d/b/a/, if any; and (2) present address or, if unavailable, last known address.

(c) When used in reference to corporate entities, it means to state the corporate name, and date and place of incorporation, and all of its present business addresses.

(d) When used in reference to a document or documentary evidence, it means to state the type of document (e.g. letter, memorandum, telegram, chart), its author and originator, its present location or custodian, the topics it dealt with therein, with such reasonable particularity as is sufficient for a specific demand for production, and any identifying marks, numerals, code words or letters distinguishing it from other like documents. If any such document was, but no longer is in your possession, custody, or control, or in existence, state whether (1) it is missing or lost; (2)

it has been destroyed; (3) it has been transferred, voluntarily or involuntarily, to others; or, (4) it has been disposed of otherwise. In each instance, explain the circumstances surrounding such disposition and identify the person(s) directing or authorizing same, and the date(s) thereof. Identify each document by listing its author, his/her address, type (e.g., letter, memorandum, telegram, chart, photograph, etc.) date, subject matter, present location(s) and custodian(s), and state whether the document (or a copy) is still in existence.

4. "Plaintiff" shall refer to Carol Simpson, and where applicable, her agents and representatives.

5. "Defendant" shall mean Carol Sutton and Carol Sutton & Associates – Investigation, Inc., and where applicable, its attorneys, agents and representatives.

6. "Communications" shall mean any statement made by one person to another, or in the presence of another, or any document delivered or sent from one prison to another.

INSTRUCTIONS

1. When an interrogatory does not specifically request a particular fact, but such a fact is necessary in order to make the answer to the interrogatory comprehensible, complete, or not misleading, you are to include such fact as part of the answer and the interrogatory shall be deemed specifically to request such fact.

2. When, after a reasonable investigation using due diligence, you are unable to answer any interrogatory or any part thereof because of lack of information available to you, specify in detail the type of information which you claim is not available, the reason the information is not available to you, and what you have done to locate such information. In addition, specify what knowledge or belief you have concerning the unanswered portion of the interrogatory, set for the

facts upon which such knowledge or belief is based, and identify the person who has or is likely to have the information which you claim is not available.

3. When an interrogatory asks for specific information (e.g. a date), identify the information precisely if known. If the precise date or other specific information is unknown to you or your agents, you are to give your best approximation of the information requested, provided that you indicate in your response that the information being provided is an approximation and is incomplete in certain specific respects. Also, identify any person who may be able to provide the exact or complete information requested.

4. If you refuse to provide a complete response to any interrogatory due to a claimed privilege or otherwise, describe the basis for your refusal to provide a complete response, including any claim of privilege or work produce, in sufficient detail as to permit the Court to adjudicate the validity of your refusal and identify each fact for which a privilege is claimed.

INTERROGATORIES

1. Give the names and addresses all persons known to the plaintiff or counsel to be witnesses concerning the facts of the case and indicate whether or not written or recorded statements have been taken from the witnesses and indicate who has possession of such statements, and provide a summary of the witness's anticipated testimony.

2. Please identify each expert that the plaintiff intends to call as a witness in this case, and summarize his opinions and the underlying facts which support his opinions.

3. Set forth a list of photographs, plats, sketches or other prepared documents in possession of the plaintiff related to the claims in the case.

4. If the plaintiff claims personal injury or damages cause by any act or omission attributed to the defendants, set forth the names, addresses and telephone numbers of all physicians who

have treated the plaintiff for these injuries, and all hospitals to which the plaintiff has been committed for these injuries.

5. Set forth a statement of all medical costs involved in connection with the claims set forth in the plaintiff's complaint.

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

7. Please provide the individual plaintiff's Social Security Number, drivers' license numbers, current address and date of birth.

8. Please provide the plaintiff's educational background, starting with High School and including any and all courses taken and degrees or certificates received from any institution or other source.

9. Please name and identify all employers of the plaintiff for the last ten years, providing the name, address and telephone number of each employer, the name of the supervisor of the plaintiff, the job titles of the plaintiff, the duration of employment, and the reason that the plaintiff is no longer employed at each place of employment.

10. Please provide the plaintiff's marital history, if any, identifying any and all spouses or former spouses by first, maiden, and current last name, the grounds for divorce, if any and the date of any marriage and divorce.

11. Does the plaintiff have any relatives, by blood or marriage, over the age of eighteen (18) years, residing in Greenville County? If so, please identify those persons by first and last name and by relationship to the plaintiff.

12. Has the plaintiff has ever been treated for chemical substance abuse, alcohol substance abuse, and/or any other substance abuse or dependency? If so, please provide all information

regarding medical treatment, counseling, and current status of said abuse and dependencies, and organizations or agencies where treatment was administered.

13. Please provide a list of any and all prescription and/or non-prescription drug(s) the plaintiff is currently taking or have taken within the past five (5) years, including the type of drug, dosage, frequency and reason prescribed and/or taken.

14. Please provide the name and address of the physician who has prescribed any prescription and/or non-prescription drug(s) to plaintiff within the past five (5) years, along with the name and address of the pharmacy where the medications where purchased.

15. Has the plaintiff participated in the purchase or consumption of marijuana, cocaine, or any drug of that nature (prescription or otherwise)? If so, please state the date, number of times you have participated in such activities and the amount consumed on each occasion.

16. Please state the amount of alcohol the plaintiff consumes on a weekly basis, including the number of times she consumes alcohol, the amount consumed on each specific occasion, and the number of times she has become intoxicated within the past five (5) years.

17. Please identify (with the dates, names, and addresses) all residences, apartments, homes, hotels, resorts, or other places similar in nature that the plaintiff has resided, stayed, spent the night or slept, and identify the names of all people not related by blood or marriage who stayed, slept, resided, or spent the night with you at those locations within the past five (5) years.

18. Please identify any and all litigation in which the plaintiff has been involved since reaching the age of majority, identifying each case or matter by caption, and providing the names of all parties, their respective counsel, and describing the resolution of each matter, including the date any matter was instituted and concluded, as well as any verdict rendered or settlement reached by or in favor of any party involved.

19. Has the plaintiff ever sought the service of a private investigator for any reason, whatsoever, within the past five (5) years? If so, please provide the name, address, and dates of employment of such person(s).

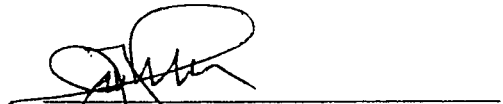
20. Has the plaintiff ever received any gift from any party related to this case, including but not limited to jewelry, money, real estate, clothing, or any other form of property, in the past five (5) years? If so, please identify the giver, provide the date received, provide a detailed description of the gift, and provide an approximate value of the gift, and provide the reason for receiving the gift.

21. Has the plaintiff ever given any gift to any party related to this case, including but not limited to jewelry, money, real estate, clothing, real estate, or any other form of property, in the past five (5) years? If so, please identify the receiver; provide the date given, provide a detailed description of the gift, provide an approximate value of the gift, and provide the reason for giving the gift.

22. Has any party, related to this case, ever paid any form of expenses incurred by the plaintiff, within the past five (5) years? If so, for each payment, please list the name of the person who made the payment, the date of the payment, a description of the payment, the amount paid, name and address of the person to whom the payment was made, and the reason the payment was made.

Signature Block Located On Following Page

MOONEYHAM BERRY, LLC.



JOE MOONEYHAM
Attorney for the Defendants
S.C. Bar No.: 04041
Post Office Box 8359
Greenville, South Carolina 29604
Office: 864.421.0036
Fax: 864.421.9060

November 19, 2014
Greenville, South Carolina

STATE OF SOUTH CAROLINA

COUNTY OF GREENVILLE

FILED-CLERK OF COURT
GREENVILLE CO. S.C.
PAUL B. WICKENSIMER
2014 NOV 19 PM 2 12

IN THE COURT OF COMMON PLEAS

Civil Action No.: 2013-CP-23-01762

Carol Simpson

Plaintiff,

v.

Frank A. Landgraff, Carol Sutton, Carol Sutton & Associates – Investigators, Inc.,

Defendants.

DEFENDANTS CAROL SUTTON, CAROL SUTTON & ASSOCIATES – INVESTIGATIONS, INC., FIRST REQUEST FOR PRODUCTION TO PLAINTIFF CAROL SIMPSON

TO: CAROL SIMPSON, BY AND THROUGH HER ATTORNEY OF RECORD, WILLIAM G. MAYER.

Pursuant to Rule 33 of the *South Carolina Rules of Civil Procedure*, you are hereby served with the following Request for Production, to be responded to by you within thirty (30) days of service hereof, and to be furnished to Joe Mooneyham, Post Office Box 8359, Greenville, South Carolina 29604, attorney for the defendants, Carol Sutton and Carol Sutton & Associates – Investigations, Inc.:

Instructions

1. "Document" means any written, printed, recorded, typed or graphic material, however produced or reproduced, including all non-identical copies; and, further including, but not limited to, any book, ledger, periodical, brochure, letter, memorandum, advertisement, proposal, telegram, telex, report, telephone log, e-mail, draft, drawing, business record, handwritten note, bill, check, invoice, chart, graph, index, tape, transcript, data sheet and data processing card, which is in the plaintiff's possession, custody or control.

2. The words "and" and "or" shall be construed either conjunctively or disjunctively as necessary to bring within the scope of this request any documents which might otherwise be construed to be outside its scope.

3. Wherever applicable, the singular form of a word shall be interpreted as plural.

4. Wherever applicable, use of a pronoun shall inclusively refer to masculine, feminine or neuter; and its use in the singular shall be taken to include one or more.

5. If any request is claimed to be burdensome, then plaintiff shall produce all parts of the request which would not be burdensome and give a detailed explanation of why the remainder would be burdensome sufficient in detail to permit the defendants to move to compel production if they choose.

6. If plaintiff claims a privilege as to any document, then with respect to that document, set forth the following:

A. Who possesses the document;

B. Who have seen or listened to that document;

C. The author, recipient and any copy-holder of the document;

D. The parties to the conversation, if it is a recording or transcript;

E. Who prepared the document;

F. The date of the document;

G. The type of document; and,

H. The type of privilege asserted.

7. All documents covered in this request shall be produced in an orderly manner (and with appropriate markings or other identification) so that defendants and their attorney will be able to identify the source of the document and the number of the request to which it responds.

8. "Plaintiff" when used, shall mean Carol Simpson, and to the extent applicable, her agents and representatives.

9. "Defendant" when used herein, shall mean Carol Sutton and Carol Sutton & Associates – Investigations, Inc., and to the extent applicable, any of her subsidiaries, affiliates, parent companies, or other related organizations, agents, attorneys, or representatives.

10. These requests are deemed continuing up until the trial of this matter.

DOCUMENTS REQUESTED

1. All documents referred to in the defendants' first set of interrogatories to the plaintiff.

2. All photographs, plats, sketches, charts, graphs, or other prepared documents or exhibits of any kind whatsoever which the plaintiff contends supports her claim with regard to the incident in question and/or which the plaintiff intends to introduce as evidence or otherwise use in presenting her case during a trial of the above-captioned matter.

3. All photographs, plats, sketches, or other prepared documents of any kinds whatsoever relating to the incident which is subject matter of this litigation.

4. Any and all documents and communications substantiating any claim described in Plaintiff's complaint.

5. Any diaries, journals, calendars, or similar records kept or maintained by the plaintiff for the past five (5) years.

6. All statements or other written or printed documents concerning any claims of any damages allegedly resulting from the incident which is the subject matter of this litigation.

7. All statements of possible witnesses, including the parties to this action, whether written, oral, summarized, or reproduced in any manner whatsoever relating to the incident which is the subject matter of this litigation.

8. Any and all statements of any experts retained by the plaintiff, whether written, oral, summarized, or reproduced in any manner whatsoever.

9. Provide the *curriculum vitae* of all experts retained by the plaintiff.

10. Any and all private investigator's report(s) or other surveillance logs concerning any party in this case.

11. Any photographs (from negatives or on videotape), CDs, audio recordings, and video recordings in your possession or control relating to any party in this case.

12. Any documents or records relating to gifts you have ever received from any party in this case.

MOONEYHAM BERRY, LLC.

JOE MOONEYHAM
Attorney for the Defendant
S.C. Bar No.: 04041
Post Office Box 8359
Greenville, South Carolina 29604
Office: 864.421.0036
Fax: 864.421.9060

November 19, 2014
Greenville, South Carolina

CLERK OF COURT
GREENVILLE CO. S.C.
PAUL H. WICKENSIMER
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ENTERED COMPUTER

STATE OF SOUTH CAROLINA

COUNTY OF GREENVILLE

IN THE COURT OF COMMON PLEAS

C.A. 2013-CP-23-01762

Carol Simpson,

Plaintiff,

v.

Frank A. Sutton, Carol Sutton, Carol Sutton & Associates - Investigations, Inc.

Defendants.

PLAINTIFF'S RESPONSE TO SUTTON'S FIRST REQUEST FOR PRODUCTION TO PLAINTIFF

Plaintiff responds to Carol Sutton and Carol Sutton & Associates - Investigations, Inc.'s ("Sutton") First Requests for Production to Plaintiff as follows:

GENERAL RESPONSES AND OBJECTIONS

1. Plaintiff's investigation and development of all facts and circumstances relating to this action is ongoing. The following responses reflect plaintiff's current knowledge, understanding and belief respecting matters about which inquiry has been made. Plaintiff expressly reserves the right to supplement, clarify, revise, or correct any or all of the responses and objections herein, and to assert additional objections or privileges, in one or more subsequent supplemental responses. These responses and objections are made without prejudice to, are not a waiver of, and Plaintiff expressly reserves the right to rely on, at any time, including trial, subsequently discovered documents and/or materials.

2. Plaintiff objects to a request for all responses without appropriate limitation as to time, place, or subject matter as overbroad and amounting to a fishing expedition.

3. Plaintiff objects to the requests in their entirety to the extent that they are overbroad or purport to impose obligations upon her that exceed those set forth in South Carolina Rules Civil of Procedure, statutes, case law, and/or court rules.

4. Plaintiff objects to any to the extent the discovery sought is obtainable from some other source that is more convenient, less burdensome, or less expensive, such as
   a. Publicly available information and/or documents including, but not limited to, newspaper clippings, court papers, and documents available on the Internet which may be accessed and obtained by Sutton with less burden than the plaintiff identifying and providing requested information;
   b. Information and/or documents already in Sutton's possession, equally in Sutton's possession, custody or control, or otherwise readily available to Sutton; and
   c. Information and/or documents solely in the possession, custody, or control of third parties.

SCANNED

5. Plaintiff objects to the requests in their entirety to the extent that they are not reasonably calculated to lead to the discovery of admissible evidence in that the information sought would not be admissible pursuant to South Carolina Rules of Evidence.

6. Plaintiff objects to the requests in their entirety to the extent that they purport to require the production of documents that are not in its possession, custody, or control. Thus, Plaintiff shall produce only documents in her possession, custody, or control which does not include any constructive possession that may be conferred by Plaintiff's right or power to compel the production of documents or information from third parties.

7. Plaintiff objects to any production request that requires her to create a document not in existence. A document that does not exist is not within plaintiff's "possession, custody, or control."

8. Plaintiff objects to the requests in their entirety to the extent that they purport to call for the disclosure of information or the production of documents, that are (a) subject to the attorney work product protection including, but not limited to, the mental impressions, conclusions, opinions or legal theories of Plaintiff's counsel; (b) protected by the attorney-client privilege; (c) composed of information constituting or containing information prepared in anticipation of or as a result of litigation; or (d) subject to any other applicable privilege or protection.

9. If Plaintiff inadvertently provides information or documents containing information protected from discovery by the attorney-client privilege, work product doctrine or any other applicable privilege, such provision shall not constitute a waiver of such privileges with respect to that information or those or any other documents. Should such inadvertent production occurs, Defendants shall return all inadvertently produced documents to Plaintiff upon request, and/or shall make no use of the contents of such information or documents nor premise any further discovery on information learned therefrom.

10. Plaintiff objects to these interrogatories to the extent that they are overly broad, unduly burdensome, vague, ambiguous, confusing, require speculation to determine their meaning, use imprecise specifications of the information sought, or use terms whose meaning may be contrary to their plain meaning.

11. By responding to these requests, Plaintiff does not hereby admit, adopt or acquiesce in any factual or legal contention, presumption, assertion or characterization and does not in any way adopt Sutton's purported definitions of words and phrases contained in the requests. Plaintiff objects to those definitions to the extent they are inconsistent with either (a) the definitions set forth by Plaintiff in its answers, or (b) the ordinary and customary meaning of such words and phrases. Similarly, Plaintiff objects to Defendants' purported definitions to the extent they attempt to impose upon Plaintiff any obligations broader than, or inconsistent with, applicable discovery rules or common law.

12. Plaintiff objects to any request that uses the terms, "each and every" "any and all" "all" and/or "any" because such terms are global, overly broad, unduly burdensome, oppressive and harassing.

13. Plaintiff objects to any production request that subjects Plaintiff to an invasion of personal, constitutional, or property rights.

14. None of the objections or responses contained herein is an admission concerning the existence of any documents or materials, the relevance or admissibility of any documents, materials or information, or the truth or accuracy of any statement or characterization contained in Sutton's requests. The plaintiffs' written responses are made without waiving, but, on the contrary, expressly reserving: (a) the right to object, on the grounds of competency, privilege, relevancy, materiality or any other proper grounds, to the use of the information provided herein, in whole or in part, in any subsequent proceeding in this action or any other action; (b) the right to object on any and all grounds, at any time, to other discovery requests involving or relating to the subject matter of these requests; and (c) the right at any time to revise, correct, add or clarify any of the responses provided herein.

15. Plaintiff objects to each document requests that seeks information that would violate her duty to her clients imposed by statute, case law, the Rules of Professional Conduct, including, but not limited to, attorney-client privilege and confidentiality.

16. Plaintiff incorporates by reference every general objection set forth above into each specific response set forth below. A specific response may repeat a general objection for emphasis or some other reason. The failure to include any general objection in any specific response does not waive any general objection to that request. Unless other indicated, Plaintiff will not provide information encompassed by her general responses and objections or by her specific objections set forth below.

17. Each response was prepared by and/or reviewed by Plaintiff and her attorney.

RESPONSES TO REQUESTS FOR PRODUCTION

1. All documents referred to in the defendants' first set of interrogatories to the plaintiff.

   RESPONSE: None.

2. All photographs, plats, sketches, charts, graphs, or other prepared documents or exhibits of any kind whatsoever which the plaintiff contends supports her claim with regard to the incident in question and/or which the plaintiff intends to introduce as evidence or otherwise use in presenting her case during trial of the above-captioned matter.

   RESPONSE: See attached Exhibit A.

3. All photographs, plats, sketches, or other prepared documents of any kind whatsoever relating to the incident which is the subject matter of this litigation.

RESPONSE: See response to Request No. 2.

4. Any and all documents and communications substantiating any claim described in Plaintiff's complaint.

RESPONSE: See response to Request No. 2.

5. Any diaries, journals, calendars, and/or similar records kept or maintained by the plaintiff for the past five (5) years.

RESPONSE: See attached Exhibit B.

6. All statements or other written or printed documents concerning any claims of any damages allegedly resulting from the incident which is the subject matter of this litigation.

RESPONSE: See attached Exhibit C.

7. All statements of possible witnesses, including the parties to this action, whether written, oral, summarized, or reproduced in any manner whatsoever relating to the incident which is the subject matter of this litigation.

RESPONSE: See attached Exhibit D.

8. Any and all statements of any expert retained by the plaintiff, whether written, oral, summarized, or reproduced in any manner whatsoever.

RESPONSE: Not applicable.

9. Provide the *curriculum vitae* of all experts retained by the plaintiff.

RESPONSE: Not applicable.

10. Any and all private investigator's report(s) or other surveillance logs concerning any party in this case.

RESPONSE: Plaintiff only has documents that are already in Sutton's possession so she has no additional documents to produce in response to this request.

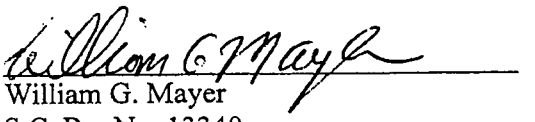
11. Any photographs (from negatives or on videotape), CDs, audio recordings, and video recordings in your possession and control relating to any party in this case.

RESPONSE: See response to Request No. 10.

12. Any documents or records relating to gifts you have ever received from any party to this case.

RESPONSE: Plaintiff has the gifts, but no receipts for the gifts.

Respectfully submitted,



William G. Mayer
S.C. Bar No. 13340
Attorney for the Plaintiff
118 West Main Street
Laurens, SC 29360
864-984-9202 Telephone
864-715-0496 Facsimile

Exhibit

A

ENTERED COMPUTER

STATE OF SOUTH CAROLINA

COUNTY OF GREENVILLE

IN THE COURT OF COMMON PLEAS

C.A. 2013-CP-23-1762

CLERK OF COURT GREENVILLE CO. S.C. PAULA H. MCKENSIMER 2015 JAN 27 PM 1 50

Carol Simpson,

Plaintiff,

v.

Frank A. Landgraff, Carol Sutton, Sutton & Associates Investigations, Inc.

Defendants.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that hereby certify that I have served a copy of PLAINTIFF'S RESPONSE TO SUTTON'S FIRST REQUEST FOR PRODUCTION TO PLAINTIFF upon the individuals named below, by placing a copy in the United States Mail, postage prepaid and return address clearly indicated to the addresses below on this 26th day of January, 2015:

Attorneys for Frank A. Landgraff
Reid T. Sherard
Timothy E. Madden
Lane Davis
Nelson Mullins Riley & Scarborough, LLP
P. O. Box 10084
Greenville, SC 29603-0084

Attorney for Carol Sutton, Sutton & Associates Investigations, Inc.
Joe Mooneyham
Mooneyham, Berry & Pope, LLC
1225 South Church Street
Greenville, SC 29605

William G. Mayer
S.C. Bar No. 13340
Attorney for the Plaintiff
118 West Main Street
Laurens, SC 29360
864-984-9202 Telephone
864-715-0496 Facsimile

SCANNED

STATE OF SOUTH CAROLINA

COUNTY OF GREENVILLE

Lynn W Mulligan,

Plaintiff,

v.

Frank A. Landgraff,
Carol Sutton, and
Carol Sutton and Associates – Investigations, Inc.,

Defendants.

IN THE COURT OF COMMON PLEAS
CIVIL ACTION NO. 2010-CP-23-6024

AMENDED COMPLAINT
(Jury Trial Demanded)

The Plaintiff complaining of the Defendants would respectfully show unto this Honorable Court as follows:

1. Plaintiff Lynn W Mulligan ("Mulligan") is a citizen and resident of the County of Greenville, South Carolina.

2. Defendant Frank A. Landgraff ("Landgraff") is a citizen and resident of the County of Greenville, South Carolina.

3. Defendant Carol Sutton is a citizen and resident of the County of Greenville, South Carolina and owns the Defendant Carol Sutton and Associates-Investigations, Inc, a corporation organized under the laws of the State of South Carolina with its principal office in the County of Greenville, South Carolina. The Defendant Carol Sutton and the Defendant Carol Sutton and Associates-Investigations, Inc are collectively known as "Sutton".

4. Jurisdiction and venue are proper in this Court pursuant to *Thompson v. Ballentine*, 298 S.C. 289, 379 S.E.2d 896 (1989), *Peake v. Peake*, 284 S.C. 591, 327 S.E.2d 375 (Ct. App. 1985), and *Bair v. Bair*, 288 S.C. 452, 343 S.E.2d 445 (1986).

STATEMENT OF FACTS

5. Mulligan and Landgraff were married on November 26, 1996.

6. At their marriage and until July 1, 2010, Mulligan was known as Lynn Landgraff.

7. Due to Landgraff's continuing defamatory statements, his invasion of her privacy, and his overall conduct during the last six months, Mulligan no longer wanted to be associated with him by name and changed her last name to Mulligan.

8. Mulligan is an approved owner/operator with McDonald's with the sole authority to operate one McDonald's restaurant and with minority interest in another McDonald's restaurant.

9. Landgraff is also an approved owner/operator with McDonald's with majority interest in a McDonald's restaurants and with a minority interest in one McDonald's restaurant.

10. While Landgraff controls extensive other investments, Mulligan is solely dependent on her McDonald's income for support.

11. The parties began to have marital problems several years ago, but Mulligan told Landgraff that she would never seek to divorce him.

12. By his own admission, Landgraff hired Carol Sutton and Carol Sutton and Associates – Investigations, Inc. in or about September 2009 to begin investigating Mulligan.

13. Mulligan had no knowledge of Landgraff's intentions so that during the Christmas season she purchased presents for Landgraff's children, grandchildren, and ex-wife; decorated the house for Christmas; attended Christmas functions with Landgraff including the Ronald McDonald House Gala which was publicized in local media; and co-hosted a party for more than 130 guests at their home to honor Ronald McDonald House.

volunteers.

14. During Super Bowl weekend, Mulligan entertained overnight guests and co-hosted a party for more than 120 guests for the parties' Annual Super Bowl Party on February 7, 2010.

15. Four days after the party, Landgraff hand-delivered a letter from his attorney to Mulligan demanding that Mulligan vacate the marital residence in 6 days and have her attorney call him within 8 days.

16. Landgraff told Mulligan to "take nothing but her clothes and move in with her parents," knowing that they live in a small two-bedroom apartment on Bob Jones University property.

17. Landgraff never discussed his intentions with Mulligan during the five months he was making plans to divorce her.

18. The day after his demand and before Mulligan vacated the marital residence, Landgraff informed Bob Kitterman, the parties' field consultant at McDonald's, that he and Mulligan had separated.

19. Two days after receiving Landgraff's demand, Mulligan moved out of the marital residence with only her clothes and personal possessions.

20. While Landgraff was at a Valentine's Party with friends, Mulligan relied on her family to help her rent an apartment, purchase furniture, and buy other household items.

21. In the demand letter, Landgraff accused Mulligan of committing adultery with Landgraff's female friend.

22. Despite his representations that he wanted a quiet and amicable divorce, Landgraff began telling friends and business associates that Mulligan left him for a woman.

23. Mulligan not only did not leave Landgraff, but she also has never sued him for a divorce until after he sued her for a divorce. To the contrary, Mulligan asked the Court for an order of support, while Landgraff sued her for divorce.

24. Specifically, Landgraff played golf with McDonald's associates: Marty Ranft, the V.P. General Manager at McDonald's Corporation and V.P. and General Manager of Raleigh at McDonald's USA, LLC, and two McDonald's owner/operators, Greg and Jeff Stanton.

25. Greg Stanton called Mulligan to tell her that, among other things, Landgraff told them that she had left him for a woman and was living with the woman.

26. He also told Mulligan that Landgraff continued to discuss the issue until they told him that they were there to play golf and it was not the time or place to continue to discuss Mulligan and his personal life.

27. On information and belief, Landgraff told Ralph and/or Lynn Bates that Mulligan had left him for Landgraff's friend.

28. On information and belief, Rick and/or Susan Simonson repeated that statement and also told Carla Nichols in the Raleigh office of McDonald's USA that Mulligan left Landgraff for the same woman.

29. On information and belief, Carla Nichols repeated both statements to numerous people so that people in the Atlanta office of McDonald's USA had knowledge of the statements.

30. Sandra Umsted confronted Mulligan in a local department store regarding the statements.

31. On information and belief, Landgraff has made the defamatory and improper statements to numerous other people.

32. Mulligan mistakenly thought Landgraff had stopped making such statements until Harriet

Dempsey called just prior to Mulligan filing this action to ask her if what Landgraff said about Mulligan leaving him for a woman and her living with that woman were true.

33. All of these disclosures were made prior to any testimony or evidence being offered in this Court or in Family Court.

34. Mulligan has a right to privacy which includes an interest in keeping certain facets of her personal life from exposure to others.

35. Landgraff, Sutton, and others to be identified through discovery researched the costs and benefits of installing a video camera, acquired the necessary equipment, and installed a video camera in Mulligan's bedroom.

36. In November 2009 and in December 2009 and possibly other times, Landgraff and Sutton placed a hidden video camera in Mulligan's bedroom.

37. The hidden video camera was motion-activated so that it would record any movement of anyone who ventured in front of its lens.

38. Apparently, Landgraff and Sutton took no measures to limit the scope or duration of the recording.

39. As a result, Landgraff and Sutton intended for the video camera to indiscriminately record any activity in its view of the entrance to Mulligan's dressing room, bedroom, and the bed.

40. Mulligan had no knowledge of the installation or operation of the video camera.

41. Mulligan did not consent to Landgraff or Sutton recording her activites in her bedroom,

the bed, or entrance into her dressing area.

42. Pursuant to Section 16-17-470 of the South Carolina Code, a "place where a person would have a reasonable expectation of privacy" means "a place where one would believe he or she could disrobe in privacy, without being concerned that his or her undressing was being photographed, filmed, or videotaped by another. . . ."

43. Mulligan thought she could disrobe in her dressing area, her bedroom, and her bed in privacy.

44. Mulligan also had a reasonable expectation that neither Landgraff nor Sutton would secretly record her in the privacy of her dressing area, her bedroom, and the bed.

45. The videotaping of Mulligan without her consent or awareness when she has an expectation of privacy goes beyond Landgraff's rights as a spouse because it may record Mulligan's private matters which could later be exposed to the public.

46. While the videotape presumably did not include an audio recording to prevent a wiretapping charge, the surreptitious videotaping of Mulligan in a private place is an even greater intrusion of privacy than secretly recording her conversations would have been.

47. Knowing that South Carolina recognizes no interspousal exception to the wiretapping statute, Landgraff and Sutton, as a licensed professional, should have known that unauthorized videotaping of Mulligan's actions violates the same right of privacy as the unauthorized recording of her conversations.

48. Further, Landgraff and Sutton knew or should have known that, because it is so exceedingly intrusive, video surveillance is not permissible when done by law enforcement officials across the country without not only a warrant but also without

satisfying the far more stringent requirements of the wiretapping statute for a Title III warrant.

49. In fact, Landgraff and Sutton have exposed the videotape and still photos taken from the tape to numerous people, including, but possibly not limited to, lawyers and clerical staff.

50. Landgraff and Sutton have wrongfully destroyed Mulligan's right to limit the time, place, and persons who may view her private affairs.

51. South Carolina courts have recognized that pictures and videos can be libelous.

52. Landgraff's marriage to Mulligan did not reduce Mulligan's expectation that her personal privacy would not be invaded by him, Sutton, and all those who have viewed the pictures and/or videos.

53. Neither Landgraff's marriage to Mulligan nor his ownership interest in or residence at the marital residence give him and/or Sutton the right to invade the privacy of any third parties that were or may have been invited to the marital home during the time the camera was present and operational.

54. Landgraff, Sutton, and possibly others yet to be indentified conspired to install and did install the video camera in Mulligan's bedroom.

55. Landgraff, Sutton, and possibly others yet to be indentified conspired to record and did record Mulligan in her bedroom.

56. Landgraff, Sutton, and possibly others yet to be indentified acted together to injure Mulligan.

57. Mulligan has suffered special damages to her reputation and business as a result of Landgraff and Sutton's acts.

FIRST CAUSE OF ACTION
DEFAMATION

58. Plaintiff hereby reincorporates all allegations set forth above.

59. Landgraff has made numerous false and defamatory statements concerning Mulligan that impeach her honesty, integrity, virtue, and reputation, and, thereby expose her to contempt and ridicule and injure her in her business and profession.

60. Landgraff's statements are actionable per se in that they charge Mulligan with leaving him for another woman and accuse her of being unfit in her business.

61. Landgraff's communications were made with actual and implied malice.

62. Landgraff is at fault for publishing the statements.

63. None of Landgraff's statements are privileged.

64. Landgraff's statements were intentional and made with reckless disregard of Mulligan.

65. Mulligan has suffered presumed damages, embarrassment, humiliation, and mental suffering as a result of Landgraff's damage to her reputation.

SECOND CAUSE OF ACTION
WRONGFUL PUBLICIZING OF PRIVATE AFFAIRS

66. Mulligan realleges and incorporates paragraphs 1-65 above as if fully repeated herein.

67. Landgraff and Sutton have intentionally publicized private facts about Mulligan.

68. The public has no legitimate interest in the private facts disclosed.

69. Landgraff and Sutton's disclosure of the private facts breached the confidential relationship between Landgraff and Mulligan.

70. Landgraff and Sutton's disclosure of the private facts is highly offensive to Mulligan.

71. Landgraff and Sutton's disclosure of the private facts has caused damage and serious mental injury to Mulligan

72. Mulligan is a person of ordinary sensibilities.

73. Mulligan has suffered presumed damages, embarrassment, humiliation, and mental suffering as a result of Landgraff's and Sutton's wrongful publicizing of her private affairs.

THIRD CAUSE OF ACTION
WRONGFUL INTRUSION INTO PRIVATE AFFAIRS

74. Mulligan realleges and incorporates paragraphs 1-73 above as if fully repeated herein.

75. Landgraff and Sutton intruded on Mulligan's private affairs.

76. Mulligan expects that her person, the entrance to her dressing area, her bedroom, and her bed would be free from exposure.

77. Landgraff and Sutton's wrongful intrusion results from the act of surreptitious videotaping Mulligan's private affairs, not from the nature of anything recorded.

78. Landgraff and Sutton's intrusion was substantial and unreasonable enough to be legally

cognizable.

79. Landgraff and Sutton's intrusion into Mulligan's private affairs was intentional. Mulligan has suffered presumed damages, embarrassment, humiliation, and mental suffering as a result of Landgraff's and Sutton's wrongful intrusion of her private affairs.

FOURTH CAUSE OF ACTION
CIVIL CONSPIRACY

80. Mulligan realleges and incorporates paragraphs 1-79 above as if fully repeated herein.

81. Landgraff, Sutton, and possibly others to be identified through discovery combined their efforts.

82. Landgraff, Sutton, and possibly others to be indentified through discovery worked together for the purpose of injuring Mulligan as detailed herein.

83. Mulligan has suffered special damages as a result of this conspiracy as detailed herein and further as identified through discovery.

WHEREFORE, having fully set forth her complaint, Mulligan prays for the following relief:

1. Actual and punitive damages in a sum to be determined by the jury as the triers of fact;

2. Special damages in a sum to be determined by the jury as the triers of fact;

3. An Order making all Defendants jointly and severally liable for all damages;

4. Disgorgement of any and all copies of video recordings and pictures of Mulligan and/or

third parties at the entrance to her dressing area, the marital bedroom, and the marital bed in the possession and/or control of Landgraff and Sutton;

5. An immediate "gag" order preventing Landgraff and Sutton from publicly discussing the issues raised in this Complaint; and

6. Such other and further relief as the Court may deem to be just and proper.

CHACE CAMPBELL, P.A.

By:_____

Chace Campbell
SC Bar No. 13624
Attorney for Mulligan
P.O. Box 9313
Greenville, SC 29615
864-268-8244 Telephone
864-239-3815 Facsimile

Plaintiff hereby demands trial by jury.

CHACE CAMPBELL, P.A.

By:_____

Chace Campbell
SC Bar No. 13624
Attorney for Mulligan
P.O. Box 9313
Greenville, SC 29615
864-268-8244 Telephone
864-239-3815 Facsimile

Greenville, South Carolina
December 13, 2010

STATE OF SOUTH CAROLINA COUNTY OF GREENVILLE	IN THE COURT OF COMMON PLEAS CIVIL ACTION NO. 2010-CP-23-6024
Lynn W Mulligan, Plaintiff, v. Frank A. Landgraff, Carol Sutton, and Carol Sutton and Associates – Investigations, Inc., Defendants.	**AMENDED SUMMONS** (Jury Trial Demanded)

TO THE DEFENDANTS ABOVE NAMED:

YOU ARE HEREBY SUMMONED and required to answer the Amended Complaint in this action, a copy of which is herewith served upon you, and to serve a copy of your answer to said Amended Complaint on the person whose names are subscribed below at P. O. Box 9313, Greenville, South Carolina 29604, within thirty (30) days after the service hereof, exclusive of the day of such service. If you fail to answer the Amended Complaint within the time aforesaid, the Plaintiff will apply to the Court for the relief demanded therein, and judgment by default will be rendered against you for the relief demanded in the Amended Complaint.

CHACE CAMPBELL, P.A.

Chace D. Campbell
Attorney for Plaintiff
SC Bar 13624
P. O. Box 9313
Greenville, SC 29604
864-268-8244 Telephone
864-239-3815 Facsimile

Greenville, South Carolina
December 13, 2010

STATE OF SOUTH CAROLINA	)	IN THE FAMILY COURT
	)	THIRTEENTH JUDICIAL CIRCUIT
COUNTY OF GREENVILLE	)	
	)	
Lynn W Mulligan,	)	
	)	
Plaintiff,	)	
	)	SUPPLEMENTAL ORDER
vs.	)	SEALING FILE
	)	
Frank A. Landgraff,	)	
	)	
Defendant.	)	Docket No.
	)	2010-DR-23-1359

CLERK OF COURT
GREENVILLE S.C.
2011 APR 12 A 8:55
FAMILY COURT

Plaintiff Attorney:
Chace D. Campbell

Defendant Attorney:
Timothy E. Madden
Reid T. Sherard

Guardian *Ad Litem*:
N/A

Hearing Date:
April 4, 2011

Judge:
Rochelle Y. Conits

Court Reporter:
Mary L. Best

On April 4, 2011, the parties appeared before the undersigned for a final hearing seeking a divorce and approval of a settlement agreement. Wife had previously moved for an order sealing the Court's file in this matter, and Husband joined in Wife's request.

The Court granted the motion to seal the file. This Order is issued as a supplement to the Final Order and Divorce Decree, and details the findings of fact and conclusions of law on the issue of sealing of the file. This Supplemental Order shall remain outside the sealed file.

Plaintiff is represented by Chace D. Campbell of the Greenville County Bar. Defendant is represented by Timothy E. Madden and Reid T. Sherard of the firm Nelson Mullins Riley & Scarborough LLP, in Greenville, South Carolina.

Based upon the evidence presented at the April 4, 2011 hearing, all pleadings, financial declarations, all orders previously entered, and all matters on file, and pursuant to South Carolina Rules of Civil Procedure Rule 41.1 and Ex parte Capital U-Drive-It, Inc. v. Beaver, 369 S.C. 1, 630 S.E.2d 464 (2006), the Court carefully considered the following:

A. The public or professional significance of the lawsuit;

B. The perceived harm of the parties from disclosure;

C. What, if any, alternatives other than sealing the documents may be available to protect legitimate private interests as identified by Rule 41.1, SCRCP;

D. Why the public interests, including but not limited to the public health and safety, is best served by sealing the documents;

E. Whether the settlement documents and other information contained in the records may contain material which may expose private financial matters that could adversely affect the parties.

The Court has considered the pleadings, testimony and documents introduced at the hearing and finds the information contained therein could adversely affect the health and welfare of Plaintiff and Defendant. Both parties are engaged in private business in a field in which there is significant competition, and their respective financial affairs and those of their respective companies are sensitive and proprietary.

There is no public health or safety or other legitimate public interests which would be compromised by sealing the record and documents pertaining to this case. The parties are not public figures, and the lawsuit does not have public or professional significance. By sealing the record, the interests of the parties are protected.

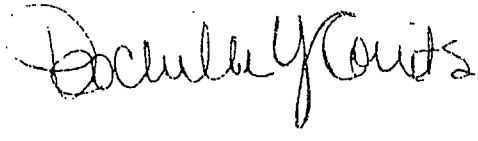
It is important for the parties' counsel to have access to the Court's file, even if the file is sealed.

NOW, THEREFORE, IT IS ORDERED

(1) The entire file and judgment roll in this matter shall be sealed by the Clerk of Court pending further order of the Family Court, and this Order shall remain outside the sealed file.

(2) Without further order of this Court, counsel for the parties may have access to the contents of the sealed file, and the Clerk shall make the file accessible to them upon reasonable request.

AND IT IS SO ORDERED.



Rochelle Y. Conits
Judge of the Family Court
Thirteenth Judicial Circuit

Greenville, South Carolina

Dated: 4-11-11

STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENVILLE)
)
)
Lynn W. Mulligan)
Plaintiff,)
vs.)
)
Frank A. Landgraff)
Defendant.)

IN THE FAMILY COURT
THIRTEENTH JUDICIAL CIRCUIT

SUPPORT INFORMATION SHEET

Docket No. 2010-DR-23-1359

Check appropriate box:

☒ No spousal or child support ordered. (No other items should be completed.)

☐ If support is ordered to be paid directly or through the Court, **you must complete BOTH pages** (as applicable).

Obligation Type	**Child Support**	**Medical Support**	**Spousal Support**
Amount	$	$	$
Collection Costs (5%)	$	$	$
Payment Frequency			
Payment Start Date			
Weekly	☐	☐	☐
Bi-weekly	☐	☐	☐
Monthly	☐	☐	☐
Semi-monthly (1st & 16th)	☐	☐	☐
Semi-monthly (15th & 30th)	☐	☐	☐
Total Arrearage Amount	$	$	$
Wage Withholding			
Required by S.C. Code Ann. §63-17-1420	☐	☐	☐
Ordered	☐	☐	☐
Not Ordered	☐	☐	☐

Custodial Parent (if applicable): _____

*******OBLIGOR'S DESIGNATION STATEMENT: PAYMENT OF COURT COSTS*******

I acknowledge that if ordered to pay support through the court, now or in the future, S.C. Code Ann. § 63-3-370, as amended, requires that I pay court collection costs in an amount equal to five (5) percent of any support payment.

If support is paid through the Court or through a centralized wage withholding system, I designate that an amount equal to five (5) percent of my support payments be applied and distributed in payment of court collection costs, not support. I authorize the deduction of the fee from every payment made by me or on my behalf.

I acknowledge that should I not pay the full amount due, that an arrearage will accrue and that the Clerk of Court may take enforcement action against me for failure to pay all amounts ordered by the Court.

If an amendment to the law changes the amount of court collection costs, this designation authorizes deduction of court collection costs in the amount established by law.

Date: _____, 20_____

_____
Signature of Person paying Support

SCCA 446 (12/2009)

IDENTIFYING INFORMATION ON THIS PAGE

A. OBLIGEE/PAID TO:

Name: _____

Address: _____

City: _____ State: _____ Zip: _____

Email Address: _____ Phone: _____

SSN: _____ Gender: _____ Race: _____ Height:_____ Weight:_____

Date of Birth: _____ Scars: _____

Driver's License Number: _____ Driver's License Issuing State: _____

Employer: _____

Employer Address: _____

B. OBLIGOR/PAID BY:

Name: _____

Address: _____

City: _____ State: _____ Zip: _____

Email Address: _____ Phone: _____

SSN: _____ Gender: _____ Race: _____ Height:_____ Weight:_____

Date of Birth: _____ Scars: _____

Driver's License Number: _____ Driver's License Issuing State: _____

Employer: _____

Employer Address: _____

C. CHILDREN

CHILDREN'S NAMES	DATE OF BIRTH	SSN
1.		
2.		
3.		
4.		
5.		
6.		

_____ PREPARED BY

_____ TITLE

_____ DATE

SCCA 446 (12/2009)

STATE OF SOUTH CAROLINA
COUNTY OF GREENVILLE

IN THE FAMILY COURT
13TH JUDICIAL CIRCUIT

LYNN W. ~~MULLIAGN~~ Mulligan
Plaintiff(s),

vs.

FRANK A. LANDGRAFF
Defendant(s),

JUDGMENT IN A FAMILY COURT CASE

Docket No.: 2010-DR23-01359

CHECK ONE:

☒ **DECISION BY COURT** This action came to trial or hearing before the court. The issues have been tried or heard and an order rendered.

☐ **ACTION DISMISSED** *CHECK REASON:*

- ☐ Rule 12(b), SCRCP
- ☐ Rule 41(a), SCRCP (Vol. Nonsuit)
- ☐ Rule 43(k), SCRCP (Settled)
- ☐ Family Court Benchmark
- ☐ Other: _____

IT IS ORDERED AND ADJUDGED: ( ) See attached order; ( ) Statement of Judgment by the Court

Guardian Ad Litem

Dated: _____,20____

_____S.C.

_____
Family Court Judge

This judgment was entered on 04/12/2011 and a copy mailed first class on 04/12/2011 to attorneys of record or to parties (when appearing pro se) as follows:

FOR THE PLAINTIFF(S)

CHACE D. CAMPBELL, ESQUIRE
P.O. BOX 9313
GREENVILLE SC 29604

FOR THE DEFENDANT(S)

TIMOTHY E. MADDEN, ESQUIRE
P.O. BOX 10084
GREENVILLE SC 29603

REID T. SHERARD, ESQUIRE
P.O. BOX 10084
GREENVILLE, SC 29603

Paul B. Wickensimer
Clerk of Court

Custodial Parent:

SCRCPFORM4F (12/2009) FCI7000 LJEN

STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENVILLE)

IN THE FAMILY COURT

FILED CLERK OF COURT
GREENVILLE, S.C.
2011 APR 12 A 8:55
FAMILY COURT

Lynn W. Mulligan
☐ Plaintiff

v.

Frank A. Landgraff
☒ Defendant.

CASE NO.
2010-DR-23-1359

MOTION AND ORDER INFORMATION FORM AND COVER SHEET

Plaintiff's Attorney:	Defendant's Attorney:
Chase D. Campbell, Bar No.	Timothy E. Madden, Bar No.
Address:	Address:
P.O. Box 9313, Greenville, SC 29604	P.O. Box 10084, Greenville, SC 29603
phone: (864) 268-8244 fax: (864) 239-3815	phone: 864-250-2300 fax: 864-250-2328
e-mail: other:	e-mail: tim.madden@nelsonmullins.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:
Estimated Time Needed: 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.

Signature of Attorney for ☐ Plaintiff / ☒ Defendant Date submitted

SECTION III: Motion Fee

☐ PAID – AMOUNT:
☒ 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: Mary L. Best
☐ 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:
☐ CONTESTED – AMOUNT DUE:

SCCA/233 (11-03)

STATE OF SOUTH CAROLINA	)	**IN THE FAMILY COURT**
	)	**THIRTEENTH JUDICIAL CIRCUIT**
COUNTY OF GREENVILLE	)	
Lynn W Mulligan,	)	
	)	
Plaintiff,	)	
	)	**SETTLEMENT TERMS SHEET**
vs.	)	
	)	
Frank A. Landgraff,	)	
	)	
Defendant.	)	**Docket No.**
	)	2010-DR-23-1359 and 2010-CP-23-6024

The parties agree to the following terms to resolve all issues between Lynn W Mulligan ("Wife") and Frank A. Landgraff ("Husband").

1. The parties will only seek a divorce based on one year's continuous separation.
2. Both parties will request the entire Court file be sealed in the Family Court and Circuit Court litigation.
3. The Mutt's / Log Cabin corporate interests shall be sold or transferred to a third party. To accomplish this disposition, the ownership interest shall be transferred into Husband's name and he shall be responsible for the transfer/sale/disposition. Husband shall receive the loan receivable from Randy Jones.
4. Each party gets the retirement and the real estate in his or her name.
5. All litigation (C/A No. 2010-DR-23-1359 and C/A No. 2010-CP-23-6024) ends in both courts (with prejudice as applicable) and full releases of claims to be signed by the parties in favor of each other and by Wife in favor of Carol Sutton and Carol Sutton and Associates – Investigations, Inc. Husband shall sign the open letter attached as Exhibit A.

6. Wife gets the exercise equipment in workout room of former marital residence on Exhibit B and 10 items on list attached as Exhibit C. Wife will have these items moved at her expense within 30 days of approval of agreement. Wife cannot be present for this pick-up/exchange.
7. Wife gets the BMW and Lincoln automobiles, Husband gets the two Mercedes automobiles.
8. Husband receives the Wade Hampton McDonald's, but if Husband decides to sell this store Wife gets the right of first refusal to purchase at fair market value (FMV) to be determined at the time of sale. FMV to be calculated by appraiser experienced with valuation of McDonald's franchises. Wife is enjoined from taking any action (or not taking required action) which would trigger a sale of the store.
9. Wife receives Franko, LLC. Until July 1, 2011, the parties shall abide by the temporary order regarding the expenses of Franko, LLC and Wife's salary. Effective July 1, 2011, Husband shall pay (or cause to be paid) in full the debt owed by Franko, LLC to Citizens Bank and to the Bank of Traveler's Rest. The amount paid by Husband for these purposes shall be a loan to Wife under the following terms:
    a. The principal balance shall be the amount of the payoff of the two loans.
    b. The interest rate shall be 3% per year, simple interest.
    c. The loan shall be documented in the manner normal and customary for commercial loans, including a promissory note, first mortgage lien, UCC financing on equipment and fixtures, hypothecation of stock, and a personal guaranty of Wife.
    d. The term shall be a period of seven years.

e. The loan shall be fully amortized over a period of ten years, and paid in equal monthly payments, with a balloon due at the end of the seventh year.

f. Beginning March 29, 2011, neither party shall remove or cause to be removed any funds from any debt related to Franko, LLC.

g. The first payment shall be due from Wife to Husband on August 1, 2011.

h. All payments shall be paid by wire transfer or electronic transfer of funds to an account or accounts of Husband's choosing.

i. Wife may prepay any payment without penalty, and may also refinance this loan with a third party if she so elects.

10. Husband will pay $500,000 to Wife no later than July 1, 2011, as equitable apportionment of marital property.

11. Husband receives King Chris Co., Inc. If there is any tax attributable to Wife due to the sale of the Cannon Drive store, Husband will pay that tax liability.

12. Each party is under a restraining order from communications with any person involved with McDonald's corporate or owner/operators regarding the other party or any matters addressed in any filing with the Court in the Family Court and/or Circuit Court litigation.

13. Other than as specifically addressed in this terms document, each keeps any asset in his or her name, and Husband keeps any asset in the parties' joint names.

14. Within 10 days, the parties will execute formal settlement and release of claims documents as to Husband and Wife with appropriate implementing language regarding these terms. If there is any dispute over the language proposed in any formal settlement and/or release of claims document, the parties will submit the dispute to Stephen Bartlett for resolution by binding arbitration. The unsuccessful party pays for the costs of

arbitration. If any party fails to seek court approval of any term of settlement, that party must pay liquidated damages to the other party of $250,000.

15. In the event any third party brings a civil action against Husband or Wife for claims relating to conduct occurring prior to March 30, 2011, then in such event the party against whom the claim is not brought shall fully cooperate with the sued party and voluntarily provide documents or information reasonably requested by the party sued. Unless the party sued consents in writing, the other party shall not voluntarily communicate or provide information (including but not limited to sworn testimony of any type) to the third party who brings such civil action, and prior to responding to any subpoena shall give reasonable notice to the party sued so that the party sued may object to the subpoena.

I, **FRANK A. LANDGRAFF,** have read this document in its entirety and, fully understanding its contents, do freely and voluntarily sign it this 29th day of March, 2011.

IN THE PRESENCE OF:

Frank A. Landgraff

I, **LYNN W MULLIGAN,** have read this document in its entirety and, fully understanding its contents, do freely and voluntarily sign it this 29th day of March, 2011.

IN THE PRESENCE OF:

Lynn W Mulligan

To Whom It May Concern:

As you may know Lynn and I have separated and are now divorced. To set the record straight, Lynn did not leave me but rather I asked her to leave. Further, I have no reason to believe that Lynn lived with another woman.

Lynn and I have now settled our matters and have amicably parted ways.

Sincerely,

Frank Langraff

EXHIBIT A

- Treadmill
- ELLIPTICAL MACHINE
- WEIGHT MACHINE (WHITE)
- STAIR STEP

EXHIBIT B

Reply Reply All Forward

Lynn's List

Chace [chase@scesq.com]

To: Bartlett, Stephen S.

Tuesday, March 29, 2011 9:58 AM

Lynn's List

Digeridoo
Matching boomerang
Aboriginal art
Irish Nutcracker
Giraffe statue from Luxemburg
Tapestry from Belgium
Merino glass polar bear
Delft jar -- large
Large green vase from Tailand
Harry Potter DVD's

EXHIBIT C

STATE OF SOUTH CAROLINA

COUNTY OF GREENVILLE

Lynn W Mulligan,

Plaintiff.

v.

Frank A. Landgraff

Defendant.

2011 MAR -9 P 4: 17

FAMILY COURT

IN THE FAMILY COURT
THIRTEENTH JUDCIAL CIRCUIT

C.A. No. 2010-DR-23-1359

PLAINTIFF'S MOTION TO SEAL FILE

R. Conits

Plaintiff Lynn W. Mulligan ("Wife'), by and through her undersigned counsel, respectfully moves this court under the authority of Rule 41 of the SCRCP for *ex parte* relief in the form of requesting that the Court temporarily segregate the file pending an order to seal the file and for an order sealing portions of the record in this case which reference or have still pictures and videotape of a third party and requiring all future references to the third party to be filed under seal or redacted and for a emergency hearing to be set regarding the permanent sealing and redacting of the file.

BASIS FOR EMERGENCY RELIEF

Defendant Frank A. Landgraff ("Husband") has filed several motions and affidavits in this case alleging the Plaintiff's involvement with a third party and mentioning the name of a third party ("the third party"). He has also secretly videotaped the Plaintiff and the third party. His filings have included still pictures and videotape of the Plaintiff and of the third party in the nude ("the sensitive material"). Husband made no attempt to introduce the sensitive material under seal.

Recently, Wife attended a business meeting in Charlotte at which she was told that Husband has told so many people about the sensitive material that executives in the Raleigh corporate office have recently told executives in the Atlanta corporate office of the existence of the sensitive material.

Until recently, the file has been in the office of the Honorable Alex Kinlaw, Jr. However, now that he has ruled on a motion, the file is back in the file room. Time is of the essence to prevent review and/or dissemination of the sensitive material to the detriment of the third party.

LEGAL ARGUMENT

The United States Supreme Court has stated that "the courts of this county recognize a general right to inspect and copy public records and documents, including judicial records and

documents."[1] The Court has also stated that "the right to inspect and copy judicial records is not absolute."[2]

> Every court has supervisory power over its own records and files, and access has been denied where court files might have become a vehicle for improper purposes. For example, the common-law right of inspection has bowed before the power of a court to insure that its records are not used to gratify public spite or promote public scandal . . . . Similarly, courts have refused to permit their files to serve as reservoirs of libelous statements for press consumption.[3]

As discussed below, the interests served by sealing the court records override the rights of public access. The sealing proposed in this Motion is narrowly tailored so that no less restrictive means exist to achieve the purposes of this Motion. "The decision as to access is best left to the sound discretion of the trial court, a discretion to be exercised in light of the relevant facts and circumstances of the particular case."[4]

In South Carolina, the issuance of a protective order sealing court records in governed by Rule 41, SCRCP and the Supreme Court's decision in *Davis v. Jennings*:

> Hereafter, when a protective order sealing the record is sought, the trial court shall make specific factual findings, on the record, which weigh the need for secrecy against the right of access. Factors to be considered may not be limited to, but should include: the ensuring of a fair trial; the need for witness cooperation; the reliance of the parties upon confidentiality; the public or professional significance of the lawsuit; and the harm to parties from disclosure.[5]

Under the auspices of protecting his rights, Husband presented argument to this Court making numerous sexual allegations and misrepresenting the nature and origin of the sensitive materials. Rather than protect the rights of the Plaintiff and the rights of the third party, the rights of these two have arguably been violated in acquiring[6] and in presenting the sensitive

---

[1] *Nixon v. Warner Communications, Inc.*, 435 U.S. 589, 597, 98 S.Ct. 1306, 55 L.Ed. 2d 570 (1978).
[2] *Id.* At 598.
[3] *Id.* (Internal citations and quotations omitted.)
[4] *Id.* At 599.
[5] 304 S.C. 502, 506, 405 S.E.2d 601, 604 (S.C. 1991).
[6] "The law recognizes that each person has an interest in keeping certain facets of personal life from exposure to others. . . . In South Carolina, three separate and distinct causes of action can arise under the rubric of invasion of privacy: (1) wrongful appropriation of personality; (2) wrongful publicizing of private affairs; and (3) wrongful intrusion into private affairs." *Snakenberg v. Hartford Casualty Ins.*, 299 S.C. 164, 170, 383 S.E.2d 2, 5 (S.C. App. 1989)

material.[7] Apparently, Husband has added insult to injury by spreading the word that the sensitive information exists and is part of the court record.

To say that disclosure of the sensitive material will bring harm is a gross understatement. Husband could have no lawful purpose for opposing this motion except to gain some advantage over Wife in this litigation. In fact, Greenville County court records show that the entire file of his second divorce was sealed. He can have a fair and complete trial of all issues at hand without harming the Plaintiff and the third party.

The Plaintiff had an expectation of privacy in her own home. In all her interactions with Husband, Husband assured third party that she was in a secluded and private area. The third party had every expectation of privacy in Husband's house. Husband should not gain this advantage by "blackmailing" a third party and/or Wife by publically disclosing sensitive material about a third party, especially, before any hearing on Husband's participation in the events depicted in the sensitive material is fully litigated.

Due to the possible further disclosure of sensitive information, there is no other tailoring that will adequately protect the Plaintiff's and third party's rights and interests. The Plaintiff only seeks to have the parts of the record containing sensitive information sealed. Absent sealing of the sensitive information, access to and disclosure of the sensitive information, and possible improper use thereof, cannot be controlled.

CONCLUSION

This Court has the authority to control its docket so that the filings made are not put to an improper use. The Plaintiff respectfully asks for this relief both *ex parte* and permanently so that any misuse of sensitive information will be halted before it is unstoppable.

Wherefore, the Plaintiff asks the Court

1. To seal *nunc pro tunc* all portions of the record that contain or refer to the sensitive material;
2. To order all future references to the third party to be filed under seal or redacted;
3. To order all parties to replace any references to the third party with the name "T.P." for third party;
4. To hold a hearing to determine if the *ex parte* sealing should be made permanent;
5. For an award of attorney's fees and costs to Wife; and
6. For such other relief as the Court deems just and proper.

[7] Rule 4.4(a) of the Rules of Professional Conduct provides that "In representing a client, a lawyer shall not use means that have no substantial purpose other than to embarrass, delay, or burden a third person, or use methods of obtaining evidence that violate the legal rights of such a person."

FILED [illegible]
GREENVILLE, S.C.

2011 MAR 11 P 3:22

[illegible]

CHACE CAMPBELL, P.A.

By: _____

Chace Campbell
SC Bar No. 13624
P.O. Box 9313
Greenville, SC 29615
864-268-8244 Telephone
864-239-3815 Facsimile

Attorney for the Plaintiff

Greenville, South Carolina
February 28, 2011

NOW THEREFORE, BASED UPON THE FOREGOING:

_____ Plaintiff's Motion for Ex Parte Relief and Motion for Emergency Hearing is hereby denied and all pertinent issues are reserved for a temporary hearing to be scheduled.

_____ Plaintiff's Motion for Ex Parte Relief is hereby granted and the file shall be sealed as requested above.

✓ Plaintiff's Motion for an Emergency Hearing is hereby granted and shall be heard on the 4th day of ~~March~~ April, 2011 at 3:15 o'clock am/pm.

AND IT IS SO ORDERED:

Robert N Jenkins, Jr

Family Court Judge
Thirteenth Judicial Circuit

March 10, 2011
Greenville, South Carolina

Exhibit

B

2002	Join Rotary
2008	
5/22/2008	F's office -- 1st
6/11/2008	F's office -- 2nd
2008	
M 12-1	Met Lynn at Club
2009	
T 5-12	Rotary, First night at Rendevous, L at beach
W 5-13	Second night at Rendevous, L at beach
R 5-14	L back; F and L meet C at Club.
F 5-15	C invites Brick City
M 5-18	F called
T 5-19	F called
W 5-20	F called
R 5-21	Missed F call
F 5-22	Brick City, Dad incident
S 5-23 to 5-25	indy 500
w 5-27 - S 5-30	DeBordieu
S 5-30	Garden and Bobby
T 6-2	F called, L re car
W 6-3	F called
R 6-4	F to PA, long call
F 6-5	Beach
S 6-6	Beach, walk
S 6-7	Charleston
M 6-8	Cal Dreaming, 1st hot tub, "very private
T 6-9	F called
6-10 to 23	Italy, "that's right"
	"Cut losses"
R 6-25	Beach Dad, calls x 3
S 6-27	German, argue grabbing
M 6-29	Walk out? Chair C help marriage
T 6-30	Rotary, Chief and Judge
W 7-1	Walk, Playboy, Julians
F 7-3 to 7	Canton, Tim, DC
W 7-8	BD at Coal Fire, 1st massage, stayed
R 7-9 to 12	Costco, Total Wine, loyal, travel, Board
W 7-15 to 16	Kitterman
S 7-18	Liberty Idol
R 7-23 to 26	Detroit
M 7-27	GNO Hendersonville, complained
R 7-30 to 8-4	Key Largo
F 8-7 to 8-9	Jann married
W 8-12 to 13	Kitterman
F 8-14 to 16	L beach
T 8-18	To airport Europe

W 9-2	From airport Europe
T 9-8	GNO Stella's
S 9-12	Mothers Biltmore
T 9-15 to 16	Kitterman
R 9-17	FL
F 9-18 to 21	Cruise
R 9-24	Club
M 9-28	Closets
R 10-1	Club
M 10-5	WON DC
R 10-8 to 12	DC
T 10-13	GNO
S 10-17 to 20	Chic, airport
R 10-29	All to Club
T 11-17	GNO
R 11-19	All to Club
F 11-20 to 23	NY
F 11-27	Tree up
S 11-28	BD Party (Scotch)
W 12-2	GNO Biltmore
F 12-4	Tree lighting fiasco
S 12-5	Bates' party
S 12-6	Mom fainted
M 12-7	Club Open House
F 12-11	McD Gala
S 12-12	After party (tub, shower)
S 12-13	Parents to Bob Jones
T 12-15	The Night
W 12-16	McD manager party, Hot tub, F massage
R 12-17	Collins' party, begged, too late
F 12-18	No triangle
M 12-21	Hardy's party after HHH
W 12-23	Colonoscopy
R 12-24	Mutt's with whole family
F 12-25	Poinsett Hotel
S 12-26	Frank well, ok to kiss
2010	
T 1-12	GNO
R 1-21	Mom to hospital (elevator)
F 1-29	All movies and TGIF
S 1-30	Snow and car
S 1-31	Betty died
S 2-6	Help set up for party
S 2-7	Super Bowl Party
T 2-9	Dinner "Kiss?"
R 2-11	BR Case, surgery, Letter
R 2-18	Furman Dinner

Exhibit

C

County of Greenville

"...At Your Service"

John Vandermosten
Interim Assistant County Administrator
Department of Public Safety
Detention, Forensics and
Record Management Services
Phone: (864) 467-5082

11/13/2014

TO WHOM THIS MAY CONCERN:

This is to certify that a search of local law enforcement records was conducted by the Department of Public Safety, Criminal Justice Support Division, of Greenville, South Carolina. This search covers the past five (5) years and reveals there is no record of convictions against:

NO CONVICTIONS
GREENVILLE COUNTY
CRIMINAL JUSTICE SUPPORT

NAME: SIMPSON, CAROL ANNE

DATE OF BIRTH: 12/27/1957

An additional request must be made for a records search beyond the five (5) year period. Our records consist of information compiled by both the Greenville County Sheriff's Office and the Greenville City Police Department. This records check does not include traffic offenses.

This is certified to be a true document only if the raised seal of the Criminal Justice Support Division of Greenville County is affixed. Please feel free to call our Records Section for verbal verification of this letter.

Very truly yours,

Captain Jinny Moran

Records check completed by: Ernestine Smith-Newton
ERNESTINE SMITH-NEWTON

Purpose for records check: RESEARCH

4 McGee Street Greenville, SC 29601 Fax (864) 467-5113

State of South Carolina
Office of the Governor

NIKKI R. HALEY
GOVERNOR

OFFICE OF EXECUTIVE
POLICY AND PROGRAMS

May 23, 2012

Ms. Carol Anne Simpson
47 Greenland Drive
Suite A
Greenville, SC 29615

RE: Claim #: C2012-092381
Carol Simpson

Dear Ms. Simpson:

The State Office of Victim Assistance (SOVA) has deemed that your claim meets the eligibility standards pursuant to South Carolina Laws governing the Crime Victim's Compensation Fund.

This is neither a notice of award or a payment letter. Before your claim can be processed for consideration, some important information regarding payment is listed below:

- The treatment/service must be directly related to the crime related injury or incident.
- SOVA is the payer of last resort; therefore, all potential collateral sources such as restitution/subrogation recovery issues, and medical health insurance (public or private), will be addressed prior to reviewing your claim for payment consideration.
- Documents from your health insurance company (EOB - Explanation of Benefits) will be required, if applicable.
- The following are a list of some processable documents that will be accepted when considering payment: Medical Claim Forms, Invoices and Itemized Detailed Bills. These documents can be obtained from your doctor, dentist, counselor, hospital or funeral home.
- For lost wages, information from your Employer and your treating Physician will be required.

Pursuant to Section 16-3-1170(4) of the South Carolina Code of Laws, the claimant or award recipient must fully cooperate with all law enforcement agencies and with SOVA. In order for us to continue to provide financial assistance, the compensation fund must be replenished through the process of restitution recovery; therefore, it is important for you to attend your court proceedings and request restitution. It is also very important for you to inform the courts that you have been approved for SOVA services and that restitution should be ordered to SOVA. Please know that the recovery of restitution makes the offender pay for their crimes and it also assists in securing funding for future victims.

Should you have any questions regarding your claim, please contact our office at 1-800-220-5370 or locally at (803)734-1900. Please provide your claim number when calling, sending letters or documents.

Sincerely,

Genita L. Snipes
Eligibility Services Manager

Date: 11/03/10
Patrol Area: 03
Deputy: H.E. Hubbert

Case #: 10-170454
Incident Type: Voyeurism
Suspect(s): Frank A. Landgraff

GREENVILLE COUNTY SHERIFF'S OFFICE
VICTIM / WITNESS ASSISTANCE PROGRAM

VICTIM'S NAME: Carol A. Simpson
MAILING ADDRESS: 47 Greenland Dr PHONE: (H): 238-4900
Suite A Greenville, SC 29615 (W): 233-4995
Alternate/Emergency Contact Information (Next of Kin).
Name: Bill Mayer Relationship: Atty.
Phone #'s _____ _____ 984-9202 _____
(Home) (Work) (Mobile) (Pager)

* I WISH TO BE PRESENT AT THE BOND HEARING. YES ✓ NO ~~✓~~ GG
* I WISH TO BE INFORMED OF ALL PROCEEDINGS. YES ✓ NO _____

Carol A. Simpson
(Victim's Signature)

RIGHTS OF CRIME VICTIMS

*To be treated with fairness, respect and dignity throughout the criminal and juvenile justice process. Victims have a right to be informed of their constitutional rights. * To be reasonably informed when the accused or convicted person is arrested, released, or has escaped. *To be informed of all criminal proceedings, and to be present at those proceedings, when the accused also has the right to be present, for the disposal of charges. *To submit a written or oral statement at all hearings affecting bond or bail of the accused. * To be heard at any proceeding involving a post-arrest decision, a plea, or sentencing. * To be reasonably protected from the accused or persons acting on his/her behalf throughout the criminal justice process. *The right to confer with the prosecution after the accused has been charged, or before the trial, or before the disposition of the charges. The victim must be informed of the disposition. * After the conclusion of the criminal investigation, the victim has the right to reasonable access to all documents relating to the crime committed against them before trial. *To receive prompt and full restitution from the convicted person or persons. *To be informed of any proceeding for any post-conviction action or hearing and to be present at any hearing. *To a reasonable disposition and a prompt and final conclusion of their case.

RESPONSIBILITIES OF CRIME VICTIMS

In order to exercise his/her rights and/or receive services, a victim shall provide, as appropriate, his/her:
◆ legal name ◆ current mailing address ◆ telephone number
To: *LAW ENFORCEMENT, THE PROSECUTING AGENCY, THE SUMMARY COURT JUDGE, THE DEPARTMENT OF JUVENILE JUSTICE, AND/OR THE ATTORNEY GENERAL.*
The victim must inform the appropriate agency of his/her desire to participate in the criminal justice process.

TO RECEIVE VICTIM SERVICES, OR INFORMATION ON VICTIM COMPENSATION, CONTACT:
Greenville County Sheriff's Office
Victim Services Unit
(864) 467-4622 or
(864) 467-4607 or
(864) 467-4609 (Español)
Monday - Friday, 8:00 a.m. - 4:30 p.m.

WHITE-RECORDS YELLOW-VICTIM GREEN-WARRANT BLUE-DETENTION PINK-ESPAÑOL

scanned
IPB

15 NOV 2010 12:

GREENVILLE COUNTY SHERIFF'S OFFICE

Incident Report

Agency I.D.: SC0230000 | Offense: 90Z | SLED Sub-Code: | RTA:

EC5 11/17/2010 13:51:20

Case Number: 10000170454 | Adult/Juv:

EVENT

INCIDENT TYPE	OFFENSE COMPLETED	FORCED ENTRY	PREMISE TYPE	UNITS ENTERED
2865 - Voyeurism	Y	N	20 - Residence/Home	0

TYPE VICTIM: [X] Individual [ ] Business [ ] Financial Inst. [ ] Government [ ] Religious Org. [ ] Soc / Public [ ] Other [ ] Unknown [ ] Police Officer

Incident Location (Subdivision, Mbl Village, Apartment & Number, Street Name & Number): 122 Antigua Wy Greer SC

Closest Intersection: Thornblade Bl | ZipCode: 29650

Incident Date	Time	To	Date	Time	Weapon Type	Time Arrived	Time Completed	Patrol District
11/23/2009	08:00		11/04/2010	09:00		09:00	12:00	03

Complainants Name (Last, first, Middle): Simpson, Carol Anne | Resident: J | Race: W | Sex: F | Age: 52 | Primary Phone: | Business Phone: (864)899-4995 | Mobile Phone: (864)238-4900

Address: 47 Greenland Dr A | City: Greenville | State: SC | Zip Code: 29615 | Patrol District: 03

VICTIM

Victim's Name (Last, first, Middle): Simpson, Carol Anne | Victim Relationship To Subject: OK | Resident: J | Ethnicity: N | Race: W | Sex: F | Age: 52 | Primary Phone: | Business Phone: (864)899-4995 | Mobile Phone: (864)238-4900

Address: 47 Greenland Dr A | City: Greenville | State: South Carolina | Zip Code: 29615 | Patrol District: 03

Visible Injury (Vict 1) [ ] Yes [X] No Explain:

Complaint of any Non-Visible Injuries [ ] Yes [X] No

Victim (No.1) Using Alcohol [ ] Yes [ ] No [X] Unk Drugs [ ] Yes [ ] No [X] Unk Type:

Two-Man Veh [ ] One Man Veh [ ] Detective/SPLASMT [ ] Other [ ] ALONE [ ] ASSISTED [ ]

Jurisdiction: -

SUBJECT

[X] Suspect [ ] Runaway [ ] Wanted [ ] Warrant [ ] Arrest [ ] Missing

Subject's Name (Last, first, Middle): Landgraff, Frank A | Ethnicity: N | Race: W | Sex: M | Age: 69 | Date of Birth: 07/07/1941 | Height: UNK | Weight: UNK | Hair: | Eyes:

Address: 122 Antigua Wy | SSN: 194-32-6766

Facial Hair, Scars, Tattoos, Glasses, Clothing, Physical, Peculiarities, Etc.

City: Greer | State: SC | Zip Code: 29650 | Patrol District: 03

Subject (No.1) Using Alcohol [ ] Yes [ ] No [X] Unk Drugs [ ] Yes [ ] No [X] Unk Type

Arrestee Armed [ ] Yes [ ] No Weapon Type

Arrested Near Offense Scene [ ] Yes [ ] No Total Arrested 0

Date/Time of Offense: 11/23/2009 08:00 | Date of Arrest:

Juvenile Disposition [ ] Handled Released [ ] Referred To Other Authority [ ] Arrested on Current Offense [ ] Cleared By Arrest on Prior Offense [ ] On View Arrest [ ] Summoned [ ] Custody

Charge	Warrant Number	Ticket Number

Arrest Location

NARRATIVE

Gang Affiliation: NG - Not Gang Related

I met with complainant in reference to a voyerism.

Jurisdiction of Theft :

Jurisdiction of Recovery :

VEHICLE

[ ] Towed [ ] Stolen [ ] Recovered [ ] Suspect [ ] Victim

Tag Number | State | Year | VIN | Value

Year | Make | Model | Style | Color

Tag Only [ ]

Additional Vehicle description

PROPERTY

Status	Property Type	Quantity	Property Make	Color	Description	Serial # / OAN	Value

ADMIN

Subject Identified [X] Yes [ ] No

Subject Located [ ] Yes [X] No

[X] Active [ ] Unfounded [ ] Admin Closed

[ ] Arrested Under 18 [ ] Arrested 18 and Over

[ ] Ex-Cleared Under 18 [ ] Ex-Cleared 18 and Over

Reason For Exceptional Clearance [ ] Offender Death [ ] No Prosecution [ ] Victim Declines Cooperation [ ] Extradition Denied [ ] Juvenile No Arrest

Reporting Officer(s)	Date	Unit#/Star#	Approving Officer	Date	Unit#/Star#
HUBERT, HEATHER	11/04/2010	633 / 00498	Matheny, Scott	11/04/2010	603 / 00227
		/	Follow Up Investigation [X] Yes [ ] No (Officer) Hubert, Heather	11/04/2010	633 / 00498

11/17/10

Agency I.D. SC0230000 EC5 11/17/2010 13:51:20

GREENVILLE COUNTY SHERIFF'S OFFICE
Supplemental Report

Case Number 10000170454

☐ Original Report ☐ Status Change ☒ Additional Victims ☐ Additional Stolen Property

Incident Type 2865 - Voyeurism

☒ Supplemental Report ☐ Other Report ☐ Additional Defendants ☐ Additonal Recovered Property

Patrol District 03 Page 1 of 1 Pages

I. D. OVERFLOW

☐ Complainant ☒ Victim #2 ☐ Subject ☐ Runaway ☐ Wanted ☐ Arrest ☐ Missing ☐ Jail ☐ Other

Subject's Name (Last, first, Middle)	Victim Relationship To Subject	Ethnicity	Resident	Race	Sex	Age	Date of Birth
Mulligan, Lynn W	SE	N	S	W	F	46	04/18/1963

Address	City	State	Zip Code	Patrol District	Day Phone	Evening Phone
201 Carolina Pointe Py 134	Greenville	SC	29607	CJ11	(864)270-2793	

Height	Weight	Hair	Eyes	Facial Hair, Scars, Tattoos, Glasses, Clothing, Physical, Peculiarities, Etc.
UNK	UNK			

☒ Victim No. 2 Visible Injury ☐ Yes ☒ No Explain: Complaint of any Non-Visible Injuries ☐ Yes ☒ No Victim Using Alcohol ☐ Yes ☐ No ☒ Unk Drugs ☐ No ☐ Yes Type: Two-Man Veh ☐ One Man Veh ☐ ALONE ☐ Detective ☐ Other ☐ ASSISTED ☐

Subject No. ___ Using Alcohol ☐ No ☐ Yes ☐ Unk Using Drugs ☐ No ☐ Yes Type: ☐ Arrested on Current Offense ☐ Unk ☐ Cleared By Arrest on Prior Offense

Arrestee Armed ☐ Yes ☐ No Weapon Type ☐ On View Arrest ☐ Summoned ☐ Custody

Juvenile Disposition ☐ Handled Released ☐ Referred To Other Authority

Arrest Location

NARRATIVE

Overflow:

Simpson, Carol Anne:Victim 1 Complainant 1

DOB: 12/27/1957

Landgraff, Frank A:Subject 1
Subject Types: Suspect

Mobile: (864)230-0530 , Primary: (864)675-0921 Business: (864)233-1486
DOB: 07/07/1941

Mulligan, Lynn W:Witness 1, Victim 2
SSN: 248-66-0448
DOB: 04/18/1963

Narrative:
I met with complainant (Simpson) and her attorney, Bill Mayer, in my office on 11/04/2010. Simpson advised me that suspect (Landgraff) had a hidden video camera installed in the bedroom of the residence he shared with victim #2 (Mulligan) and did without knowledge or consent from either Simpson or Mulligan digitally video record Simpson and Mulligan nude engaged in sexual activity. Simpson advised that during the time of the recording Landgraff, the only other resident of incident location, had claimed to be out of town. Simpson advised that the recording was done on 12/15/2009 and since that time Landgraff has caused the digital recording and still images from the digital recording to be distributed to attorneys and family and common pleas courts in private actions.

PROPERTY

Status	Property Type	Quantity	Property Make	Color	Description	Serial # / OAN	Value

ADMIN

Subject Identified	Subject Located			
☒ Yes ☐ No	☐ Yes ☒ No	☒ Active ☐ Unfounded ☐ Admin Closed	☐ Arrested Under 18 ☐ Arrested 18 and Over	☐ Ex-Cleared Under 18 ☐ Ex-Cleared 18 and Over

Reason For Exceptional Clearance ☐ Offender Death ☐ No Prosecution ☐ Victim Declines Cooperation ☐ Extradition Denied ☐ Juvenile No Arrest

Reporting Officer(s)	Date	Unit#/Star#	Approving Officer	Date	Unit#/Star#
HUBERT, HEATHER	11/04/2010	633 / 00498	Mahony, Scott	11/04/2010	603 / 00227
Scanned 9 IPB		/	Follow Up Investigation ☒ Yes ☐ No Hubert, Heather	11/04/2010	633 / 00498

11/17/10

Agency I.D. SC0230000 EC5 12/03/2010 09:34:15

GREENVILLE COUNTY SHERIFF'S OFFICE
Supplemental Report

Case Number 10000170454

☐ Original Report ☐ Status Change ☐ Additional Victims ☐ Additional Stolen Property
☒ Supplemental Report ☐ Other Report ☐ Additional Defendants ☐ Additonal Recovered Property

Incident Type 2865 - Voyeurism

Patrol District 03 Page 1 of 1 Pages

I. D. OVERFLOW

☐ Complainant ☒ Victim #1 ☐ Subject ☐ Runaway ☐ Wanted ☐ Arrest ☐ Missing ☐ Jail ☐ Other

Subject's Name (Last, first, Middle)	Victim Relationship To Subject	Ethnicity	Resident	Race	Sex	Age	Date of Birth
Simpson, Carol Anne	OK	N	J	W	F	52	12/27/1957

Address	City	State	Zip Code	Patrol District	Day Phone	Evening Phone
47 Greenland Dr A	Greenville	SC	29615	03		(864)899-4995

Height | Weight | Hair | Eyes | Facial Hair, scars, Tattoos, Glasses, Clothing, Physical, Peculiarities, Etc.

☒ Victim No. 1 Visible Injury ☐ Yes ☒ No Complaint of any Non-Visible Injuries ☐ Yes ☒ No Victim Using Alcohol ☐ Yes ☐ No ☒ Unk Two-Man Veh ☐ One Man Veh ☐ ALONE ☐
Explain: Drugs ☐ No ☐ Yes Type: Detective ☐ Other ☐ ASSISTED ☐

Subject No. ___ Using Alcohol ☐ No ☐ Yes ☐ Unk
Using Drugs ☐ No ☐ Yes Type:

☐ Arrested on Current Offense
☐ Unk ☐ Cleared By Arrest on Prior Offense

Arrestee Armed ☐ Yes ☐ No Weapon Type

Juvenile Disposition ☐ Handled Released ☐ Referred To Other Authority ☐ On View Arrest ☐ Summoned ☐ Custody

Arrest Location

Gang Affiliation: NG - Not Gang Related

NARRATIVE

Overflow:

Landgraff, Frank A:Subject 1
Subject Types: Suspect
ADDRESS: 122 Antigua Wy Greer SC 29650 03, ETHNICITY: N, RESIDENT: J, RACE: W, SEX: M, AGE: 69, DOB: 07/07/1941, SSN: 194-32-6766,

Mobile: (864)230-0530 , Primary: (864)675-0921 , Business: (864)233-1486 VISIBLE INJURY: No, NON-VISIBLE INJURY: No, USING ALCOHOL: Unknown, USING DRUGS: Unknown
---
Mulligan, Lynn W:Witness 1, Victim 2
ADDRESS: 201 Carolina Pointe Py Greenville SC 29607 134 CJ11 (Greenville City), ETHNICITY: N, RESIDENT: S, RACE: W, SEX: F, AGE: 46, DOB: 04/18/1963, SSN: 248-66-0448,
VICTIM REL TO SUBJECT: SE,
Primary: (864)270-2793 , VISIBLE INJURY: No, NON-VISIBLE INJURY: No, USING ALCOHOL: Unknown, USING DRUGS: Unknown

Narrative:
Since report date I have been provided with copies of affidavits from Private Investigator Carol Sutton, and a PI report from Sutton in reference to this incident. I have been provided with copies of still shots from the digital recording, as well as a copy of the digital recording itself. I have been provided with copies of additional affidavits (in the family court case) from Frank Landgraff, Janet Cancilla, Nany Hamilton, Carol Simpson, Lynn Mulligan, Bobby Thompson, William K. Hanney, Suzanne Hunter Haney, Andrea Gum, Hester Billings, Gary Fagia, Jann Fagia, Harold Lefkowitz, Sarepta Wilson, and Van Wilson, as well as additional corespondance in the related family court case. I have met with and briefed Sgt S. Matheny and Solicitor Howard Steinberg on this case.

PROPERTY

Status	Property Type	Quantity	Property Make	Color	Description	Serial # / OAN	Value

ADMIN

Subject Identified ☒ Yes ☐ No
Subject Located ☐ Yes ☒ No
☒ Active ☐ Admin Closed ☐ Unfounded
☐ Arrested Under 18 ☐ Arrested 18 and Over
☐ Ex-Cleared Under 18 ☐ Ex-Cleared 18 and Over

Reason For Exceptional Clearance ☐ Offender Death ☐ No Prosecution ☐ Victim Declines Cooperation ☐ Extradition Denied ☐ Juvenile No Arrest

Reporting Officer(s)	Date	Unit#/Star#	Approving Officer	Date	Unit#/Star#
HUBERT, HEATHER	11/12/2010	633 / 00498	Hubert, Heather	11/12/2010	633 / 00498
		/	Follow Up Investigation ☒ Yes ☐ No (Officer) Hubert, Heather	11/12/2010	633 / 00498

12-6-10

Agency I.D.
SC0230000 EC5 12/03/2010 09:35:21

GREENVILLE COUNTY SHERIFF'S OFFICE
Supplemental Report

Case Number
10000170454

☐ Original Report ☐ Status Change ☐ Additional Victims ☐ Additional Stolen Property
☒ Supplemental Report ☐ Other Report ☐ Additional Defendants ☐ Additonal Recovered Property

Incident Type 2865 - Voyeurism
Patrol District 03 Page 1 of 1 Pages

I. D. OVERFLOW

☐ Complainant ☒ Victim # 1 ☐ Subject ☐ Runaway ☐ Wanted ☐ Arrest ☐ Missing ☐ Jail ☐ Other

Subject's Name (Last, First, Middle)	Victim Relationship To Subject	Ethnicity	Resident	Race	Sex	Age	Date of Birth
Simpson, Carol Anne	OK	N	J	W	F	52	12/27/1957

Address	City	State	Zip Code	Patrol District	Day Phone	Evening Phone
47 Greenland Dr A	Greenville	SC	29615	03		(864)899-4995

Height | Weight | Hair | Eyes | Facial Hair, Scars, Tattoos, Glasses, Clothing, Physical, Peculiarities, Etc.

☒ Victim No. 1 Visible Injury ☐ Yes ☒ No Complaint of any Non-Visible Injuries ☐ Yes ☒ No Victim Using Alcohol ☐ Yes ☐ No ☒ Unk Two-Man Veh ☐ One Man Veh ☐ ALONE ☐
Explain: Drugs ☐ No ☐ Yes Type: Detective ☐ Other ☐ ASSISTED ☐

Subject No. ___ Using Alcohol ☐ No ☐ Yes ☐ Unk ☐ Arrested on Current Offense
Using Drugs ☐ No ☐ Yes Type: ☐ Unk ☐ Cleared By Arrest on Prior Offense

Arrestee Armed ☐ Yes ☐ No Weapon Type
Juvenile Disposition ☐ Handled Released ☐ Referred To Other Authority ☐ On View Arrest ☐ Summoned ☐ Custody
Arrest Location

Gang Affiliation: NG - Not Gang Related

NARRATIVE

Overflow:

Landgraff, Frank A:Subject 1
Subject Types: Suspect
ADDRESS: 122 Antigua Wy Greer SC 29650 03, ETHNICITY: N, RESIDENT: J, RACE: W, SEX: M, AGE: 69, DOB: 07/07/1941, SSN: 194-32-6766,

Mobile: (864)230-0530 , Primary: (864)675-0921 , Business: (864)233-1486 VISIBLE INJURY: No, NON-VISIBLE INJURY: No, USING ALCOHOL: Unknown, USING DRUGS: Unknown
---
Mulligan, Lynn W:Witness 1, Victim 2
ADDRESS: 201 Carolina Pointe Py Greenville SC 29607 134 CJ11 (Greenville City), ETHNICITY: N, RESIDENT: S, RACE: W, SEX: F, AGE: 46, DOB: 04/18/1963, SSN: 248-66-0448,
VICTIM REL TO SUBJECT: SE,
Primary: (864)270-2793 , VISIBLE INJURY: No, NON-VISIBLE INJURY: No, USING ALCOHOL: Unknown, USING DRUGS: Unknown

Narrative:
I met with complainant (Simpson) and her attorney, Bill Mayer, in my office. We were joined via conference call by Attorney Jeffery P. Greipp. Greipp is an attorney advisor for AEquatias. After this meeting Simpson prepared and provided me with a case statement. I provided Assistant Solicitor Howard Steinberg, and Sgt S. Matheny with a copy of Simpson's case statement, and briefed them on our meeting. Steinburg advised me that he has forwarded that information to Deputy Solicitor Betty Strom for further review.

PROPERTY

Status	Property Type	Quantity	Property Make	Color	Description	Serial # / OAN	Value

ADMIN

Subject Identified	Subject Located			
☒ Yes ☐ No	☐ Yes ☒ No	☒ Active ☐ Unfounded ☐ Admin Closed	☐ Arrested Under 18 ☐ Arrested 18 and Over	☐ Ex-Cleared Under 18 ☐ Ex-Cleared 18 and Over

Reason For Exceptional Clearance ☐ Offender Death ☐ No Prosecution ☐ Victim Declines Cooperation ☐ Extradition Denied ☐ Juvenile No Arrest

Reporting Officer(s)	Date	Unit#/Star#	Approving Officer	Date	Unit#/Star#
HUBERT, HEATHER	11/24/2010	633 / 00498	Hubert, Heather	11/24/2010	633 / 00498
		/	Follow Up Investigation ☒ Yes ☐ No (Officer) Hubert, Heather	11/24/2010	633 / 00498

12-6-10

Agency I.D. SC0230000 EC5 04/06/2011 10:10:01

GREENVILLE COUNTY SHERIFF'S OFFICE
Supplemental Report

Case Number 10000170454

☐ Original Report ☐ Status Change ☐ Additional Victims ☐ Additional Stolen Property
☒ Supplemental Report ☐ Other Report ☐ Additional Defendants ☐ Additional Recovered Property

Incident Type 2865 - Voyeurism
Patrol District 03 Page 1 of 2 Pages

I. D. OVERFLOW

☐ Complainant ☒ Victim #1 ☐ Subject ☐ Runaway ☐ Wanted ☐ Arrest ☐ Missing ☐ Jail ☐ Other

Subject's Name (Last, first, Middle)	Victim Relationship To Subject	Ethnicity	Resident	Race	Sex	Age	Date of Birth
Simpson, Carol Anne	OK	N	J	W	F	52	12/27/1957

Address	City	State	Zip Code	Patrol District	Day Phone	Evening Phone
47 Greenland Dr A	Greenville	SC	29615	03		(864)899-4995

Height | Weight | Hair | Eyes | Facial Hair, Scars, Tattoos, Glasses, Clothing, Physical, Peculiarities, Etc.

☒ Victim No. 1 Visible Injury ☐ Yes ☒ No Complaint of any Non-Visible Injuries ☐ Yes ☒ No Victim Using Alcohol ☐ Yes ☐ No ☒ Unk Two-Man Veh ☐ One Man Veh ☐ ALONE ☐
Explain: Drugs ☐ No ☐ Yes Type: Detective ☐ Other ☐ ASSISTED ☐

Subject No. ___ Using Alcohol ☐ No ☐ Yes ☐ Unk ☐ Arrested on Current Offense
Using Drugs ☐ No ☐ Yes Type: ☐ Unk ☐ Cleared By Arrest on Prior Offense

Arrestee Armed ☐ Yes ☐ No Weapon Type ☐ On View Arrest ☐ Summoned ☐ Custody

Juvenile Disposition ☐ Handled Released ☐ Referred To Other Authority

Arrest Location Gang Affiliation: NG - Not Gang Related

NARRATIVE

Overflow:

Landgraff, Frank A:Subject 1
Subject Types: Suspect
ADDRESS: 122 Antigua Wy Greer SC 29650 03, ETHNICITY: N, RESIDENT: J, RACE: W, SEX: M, AGE: 69, DOB: 07/07/1941, SSN: 194-32-6766,

Mobile: (864)230-0530 , Primary: (864)675-0921 , Business: (864)233-1486 VISIBLE INJURY: No, NON-VISIBLE INJURY: No, USING ALCOHOL: Unknown, USING DRUGS: Unknown
---
Mulligan, Lynn W:Witness 1, Victim 2
ADDRESS: 201 Carolina Pointe Py Greenville SC 29607 134 CJ11 (Greenville City), ETHNICITY: N, RESIDENT: S, RACE: W, SEX: F, AGE: 46, DOB: 04/18/1963, SSN: 248-66-0448,
VICTIM REL TO SUBJECT: SE,
Primary: (864)270-2793 , VISIBLE INJURY: No, NON-VISIBLE INJURY: No, USING ALCOHOL: Unknown, USING DRUGS: Unknown

Narrative:
On 04/02/2011 I met with Victim #1 (Simpson) and victim #2 (Mulligan) in reference to this case. Mulligan advised that she had no knowledge that suspect was video recording their master bedroom while he was out of town, or at any other time. Mulligan advised that she never consented to any such recording. Mulligan advised that prior to the incident recorded, Landgraff had requested that Mulligan participate in sexual touching with Simpson, and on occasions other women. Mulligan advised that during their marriage she and Landgraff had vacationed at "swinger" style resorts and Landgraff would encourage her to touch other women sexually, which she refused to do on those occasions. Mulligan advised that Landgraff expressed fantasy about having two women together with him sexually and that he maintained pornography of that nature. Mulligan confirmed that prior the recording she, Landgraff, and Simpson participated in sexual touching as a group, and did share a bed together at times. Mulligan advised that characterization of those incidents as "sexual touching" is due to Landgraff being unable to achieve erection, therefore actual sexual intercourse was not possible. Mulligan confirmed that after the recorded incident when Landgraff would have been fully aware of the incident, Landgraff requested additional group sexual activities. Mulligan advised that it was only after both Mulligan and Simpson declined to participate further in group sexual activities that Landgraff filed for divorce. Mulligan advised that during the period between the recording up until Landgraff was explicitly turned down for

PROPERTY

Status	Property Type	Quantity	Property Make	Color	Description	Serial # / OAN	Value

ADMIN

Subject Identified ☒ Yes ☐ No | Subject Located ☐ Yes ☒ No | ☒ Active ☐ Unfounded ☐ Admin Closed | ☐ Arrested Under 18 ☐ Arrested 18 and Over | ☐ Ex-Cleared Under 18 ☐ Ex-Cleared 18 and Over

Reason For Exceptional Clearance ☐ Offender Death ☐ No Prosecution ☐ Victim Declines Cooperation ☐ Extradition Denied ☐ Juvenile No Arrest

Reporting Officer(s)	Date	Unit#/Star#	Approving Officer	Date	Unit#/Star#
HUBERT, HEATHER	04/04/2011	633 / 00498	Matheny, Scott	04/04/2011	603 / 00227
		/	Follow Up Investigation ☒ Yes ☐ No (Detail) Hubert, Heather	04/04/2011	633 / 00498

UMP 5-8-12

Agency I.D.
SC0230000 EC5 04/06/2011 10:10:01

GREENVILLE COUNTY SHERIFF'S OFFICE
Supplemental Report

Case Number
10000170454

☐ Original Report ☐ Status Change ☐ Additional Victims ☐ Additional Stolen Property
☒ Supplemental Report ☐ Other Report ☐ Additional Defendants ☐ Additonal Recovered Property

Incident Type 2865 - Voyeurism
Patrol District 03 Page 2 of 2 Pages

I. D. OVERFLOW

☐ Complainant ☐ Victim ☐ Subject ☐ Runaway ☐ Wanted ☐ Arrest ☐ Missing ☐ Jail ☐ Other

Subject's Name (Last, first, Middle)	Victim Relationship To Subject	Ethnicity	Resident	Race	Sex	Age	Date of Birth

Address	City	State	Zip Code	Patrol District	Day Phone	Evening Phone

Height	Weight	Hair	Eyes	Facial Hair, Scars, Tattoos, Glasses, Clothing, Physical, Peculiarities, Etc.

☐ Victim No. ____ Visible Injury ☐ Yes ☐ No Complaint of any Non-Visible Injuries ☐ Yes ☐ No Victim Using Alcohol ☐ Yes ☐ No ☐ Unk Two-Man Veh ☐ One Man Veh ☐ ALONE ☐
Explain: Drugs ☐ No ☐ Yes Type: Detective ☐ Other ☐ ASSISTED ☐

Subject No. ___ Using Alcohol ☐ No ☐ Yes ☐ Unk ☐ Arrested on Current Offense
Using Drugs ☐ No ☐ Yes Type: ☐ Unk ☐ Cleared By Arrest on Prior Offense

Arrestee Armed ☐ Yes ☒ No Weapon Type ☐ On View Arrest ☐ Summoned ☐ Custody

Juvenile Disposition ☐ Handled Released ☐ Referred To Other Authority

Arrest Location Gang Affiliation: NG - Not Gang Related

NARRATIVE

group sexual activities, Landgraff had been unusually pleasant and attentive. Mulligan advised that during that time period, Landgraff had invited Simpson to their home on numerous occasions including inviting Simpson to decorate the family Christmas tree and to spend the night at the home. Mulligan advised that also during this time period Landgraff invited Simpson to parties for Christmas and the Super Bowl. Mulligan advised that immediately prior to the recorded incident that Landgraff had told her he was going out of town, that she should stay at the residence while he was gone, and that she should not stay by herself. Mulligan advised that the artificial penis with harness used in the recording was in the home prior to the recording. I asked Mulligan if Landgraff was aware of the item's presence in the home. Mulligan advised that Landgraff was aware of the item, and that she had worn it for use on Landgraff during sexual intercourse. Mulligan advised that as part her divorce settlement, Landgraff signed a letter admitting to giving out false information about Mulligan and Simpson.

PROPERTY

Status	Property Type	Quantity	Property Make	Color	Description	Serial # / OAN	Value

ADMIN

Subject Identified	Subject Located			
☒ Yes ☐ No	☐ Yes ☒ No	☒ Active ☐ Unfounded ☐ Admin Closed	☐ Arrested Under 18 ☐ Arrested 18 and Over	☐ Ex-Cleared Under 18 ☐ Ex-Cleared 18 and Over

Reason For Exceptional Clearance ☐ Offender Death ☐ No Prosecution ☐ Victim Declines Cooperation ☐ Extradition Denied ☐ Juvenile No Arrest

Reporting Officer(s)	Date	Unit#/Star#	Approving Officer	Date	Unit#/Star#
HUBERT, HEATHER	04/04/2011	633 / 00498	Matheny, Scott	04/04/2011	603 / 00227
		/	Follow Up Investigation ☒ Yes ☐ No (Officer) Hubert, Heather	04/04/2011	633 / 00498

Ump 58-11E

Case Statement
Incident Type: Voyeurism
Case #10-170454

Summary of the Facts

Suspect is married to Wife and had a personal relationship with Victim. Suspect introduced Victim to Wife and encouraged a friendship between them. Suspect then promoted a personal and physical relationship between himself, Wife, and Victim. Suspect became hostile when Suspect and Wife refused to continue a physical relationship with him.

Suspect hired Private Investigator to, in his words, "document the activities of my Wife." Private Investigator documented approximately 185 hours of activity between Victim and Wife with no indication of any improper relationship.

Suspect with cooperation of Private Investigator installed a covert camera in the marital residence. Suspect represented to Private Investigator that he wanted to install the covert camera to document Wife's affair. The camera was motion-activated and focused solely on the bed in the master bedroom.

Private Investigator's notes indicate that the camera was first installed in November. Private Investigator denies that the camera captured any activity of any kind. After this event, Suspect was once solicitous of time with Wife and Victim. All three socialized together and even had Christmas dinner together with their families. Suspect continuously commented on how much he missed physical contact with Wife and Friend. Suspect planned a trip and made clear to Wife that she should plan to spend the night at the house due to construction workers building a house next door. Suspect suggested that Victim stay with Wife while he was gone.

Before leaving town, Suspect and Private Investigator re-installed the covert camera. This time camera filmed Wife and Victim. Suspect did not confront Wife and continued to cohabit and have sexual contact with her. Suspect also attempted to renew a physical relationship between himself, Wife, and Victim.

Two months after having the video, Suspect demanded that Wife leave the marital home. Suspect, nor Wife, filed for divorce. However, Suspect did allege adultery in answer to Wife's action for separate maintenance and support. Thus, Suspect did not use the videotape offensively as he alleged.

Offense of Voyeurism

Section 16-17-470(B) provides a person commits the crime of voyeurism as follows:

> A person commits the crime of voyeurism if, for the purpose of arousing or gratifying sexual desire of any person, he or she

knowingly views, photographs, audio records, video records, produces, or creates a digital electronic file, or films another person, without that person's knowledge and consent, while the person is in a place where he or she would have a reasonable expectation of privacy.

Legislative History

Voyeurism and related cases have surged only in recent years with the growth of miniature cameras and other "spyware." Many victims are either unaware that they have been a victim of voyeurism or too embarrassed and/or humiliated to reported the incident. In addition, many prosecutors fail to fully understand the damage to the victim or the importance of deterring such activity. Thus, not much history exists for prosecutions around the country and the learning curve is very steep.

Analysis

At first glance, the actions of Suspect and Private Investigator may not appear to violate the statute. However, a thoughtful analysis shows that Suspect and Private Investigator violated Section B on at least two counts and aggravated the offense by distributed the video to his attorney, opposing counsel, and the court with no necessity of doing so.

<u>Element: "he or she knowingly views, photographs, audio records, video records, produces, or creates a digital electronic file, or films another person"</u>

Suspect signed an affidavit that he was present during and approved the installation of the camera in the master bedroom. Private Investigator signed an affidavit that she and Suspect placed the camera in the master bedroom. Both, not only knew they were, but intended to, videotape or film Wife and Victim.

Suspect and Private Investigator have also signed affidavits describing the contents of videotape. Affiants must have personal knowledge of the information their affidavits contain. In addition, Private Investigator attached still shots made from the videotape as an exhibit to her affidavit. Thus, both have also viewed the video.

<u>Element: "for the purpose of arousing or gratifying sexual desire of any person "</u>

Suspect has stated that he installed the camera to document his Wife's adultery. While this may be one reason for the videotaping, the evidence shows that it is not the only reason. Suspect may have numerous purposes, but, if one of them is for sexual arousal or gratification, He violated the statute.

Suspect placed the camera in such a position that it captured only the bed in the master bedroom. Thus, if it captured anything, it would capture nudity and sexual activity. Neither

nudity, nor sexual activity is necessary to prove adultery in South Carolina, only opportunity and inclination.

As a result, Suspect only needed to capture some show of affection between Wife and Victim to prove adultery. He could have done that by much less invasive means such as placing the camera in the hallway or even other parts of the bedroom. Better yet, he could have merely come home early to witness the behavior himself. Instead, he chose an extreme measure, arguably for his own gratification.

Even with the videotape, the Judge at the Temporary Hearing did not deny alimony to the Wife. He stated that Wife may have a defense of connivance. While the Judge did not mention the defense of condonation, Suspect's sexual conduct and cohabitation with Wife for two months after his knowledge of the videotape arguably constitute condonation. Thus, his actions prior to and after recording the videotape belie his stated purpose of making the videotape to document adultery.

Suspect's own sexual gratification is a more plausible explanation of his making of the videotape. Wife signed an affidavit with the following description of her sexual relationship with Suspect:

> Although he is 22 years older than I, Frank has always been very active sexually. He directed our sex life to include new positions and various activities. He encouraged me to buy sex toys and use them on him. While some things seemed a little kinky, he was my husband and I was eager to please him.
>
> Frank also uses pornography extensively. He has a very large library of pornographic videos which he kept in the cabinet in our bedroom. We had cable and satellite television in our house which gave him access to all adult programming. In addition, he had a shelf in his private bathroom for all his adult magazines. When we traveled overseas, he regularly wanted to visit exotic places of adult entertainment.
>
> Virtually every year, he insisted that we visit the Hedonism resorts in Jamaica whose motto is "The Pleasure Seekers Ultimate Super-Inclusive Playground." We stayed in the all nude part of the resort. Frank pushed me to participate in the adult games with total strangers. He also encouraged me to have sexual contact with the other women there, but I refused. Frank participated fully and won the toga contest.
>
> I had never been sexually active with another woman. Frank seemed to have a fantasy about bringing another woman into our marriage. In the past, I tolerated a then-single woman performing oral sex on him at our beach house, but I refused to touch her or

> participate in a threesome. On another occasion, another then-single woman, Frank, and I got in our hot tub naked. Frank then suggested that she and I take a shower together. We both refused.

With his sexual history and encouragement of a threesome between himself, Wife, and Victim, Suspect announced another motivation for making the videotape. When they refused to fully participate in his fantasy, he orchestrated events to capture it on videotape – for his own sexual desire.

Element: "without that person's knowledge and consent"

Victim and Wife state that they did not know the camera had been installed and did not consent to the videotaping. Suspect's affidavit refers to the camera as "covert" and never alleges that he had consent to videotape Victim and/or Wife. Wife confirms that she has never given Suspect permission to videotape her in any similar situation or while she was alone with Suspect. In any event, consent can hardly be given without some awareness that the videotaping was occurring.

Element: "while the person is in a place where he or she would have a reasonable expectation of privacy"

Section 16-17-470(D) provides the following definition:

> (1) "Place where a person would have a reasonable expectation of privacy" means:
>
> (a) a place where a reasonable person would believe that he or she could disrobe in privacy, without being concerned that his or her undressing was being photographed, filmed, or videotaped by another; or
>
> (b) a place where one would reasonably expect to be safe from hostile intrusion or surveillance.

Victim had to been to the Suspect's house on many occasions. She and Wife often went into Wife's dressing room to change clothes. Suspect assured Victim that the area was secluded. The residence has an alarm that chimes if any door is opened. On the evening of the videotaping, Victim and Wife believed Suspect was not at home. No one else was believed to be in the home and no security cameras were in the home. Victim states that she believed that she could disrobe in private without being seen by anyone but Wife and without being videotaped by anyone.

Does Suspect have a right to set up covert camera in his own home?

The statute provides no exception for Suspect to set up a covert camera in his own home, making the question irrelevant to the crime of voyeurism. However, it arose several times in discussion and seemed to be at least initially relevant to some. While no South Carolina case addresses this issue, cases from other jurisdictions find that Suspect had no right to place the covert camera in the master bedroom in his own home.

In a Wisconsin criminal case,[1] a boyfriend was convicted for secretly videotaping his girlfriend, without her consent, while she was nude. The Court stated that

> By placing limits of the ability of others to record, the statute protects a person's interest in limiting, as to time, place, and persons, the viewing of his or her nude body.

and

> It is one thing to be viewed in the nude by a person at some point in time, but quite another to be recorded in the nude so that a recording exists that can be saved or distributed and viewed at a later time.

In a domestic case in Iowa,[2] a husband installed a motion-activated camera in the parties master bedroom. It only captured the "comings and goings" of the wife, but the court held that the wife "did not forfeit through marriage her expectation of privacy. " In doing so, the Court stated that

> . . . the videotaping of a person without consent or awareness when there is an expectation of privacy goes beyond the rights of a spouse because it may record private matters which could later be exposed to the public eye.

In deciding whether the federal government had a right to videotape suspected terrorists in a federal building, the Court in a Seventh Circuit case[3] followed in six other federal circuits observed that

> It is true that secretly televising people (or taking still or moving pictures of them) while they are in what they think is a private place is an even greater intrusion on privacy than secretly recording their conversations.

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[1] *State of Wisconsin v. Jahnke*, 762 N.W.2d 696, 699 (Wis. App. 2008), review denied, 765 N.W.2d 578 (Wis. 2009)
[2] *In re the Marriage of Tigges*, 758 N.W.2d 824, 828 (Iowa 2008)
[3] *United States v. Torres*, 751 F.2d 875, 878 (7th Cir. 1984)

A 2010 Minnesota case,[4] a husband videotaped his wife, without her knowledge while she was undressed in their shared residential bathroom. The court used the wiretapping prohibition in observing that

> If marriage does not erase a spouse's reasonable expectation of privacy in his or her phone calls, it surely cannot erase his or her reasonable expectation of privacy from being videotaped while undressed without his or her knowledge or consent.

Wife has a reasonable expectation of privacy that prohibits Suspect from covertly videotaping her in their master bedroom even though she sacrifices some right to privacy by sharing that bedroom with him. As a third party, Victim has even more of an expectation.

Culpability of Private Investigator

Private Investigator is also culpable. She knowingly video recorded and filmed Victim and Wife, without their knowledge and consent, while they were in a place where they had a reasonable expectation of privacy. She did not have to do this for her own gratification – only for the "sexual desire of any person." Thus, the sexual desire of Suspect fulfills this final element of the crime.

Private Investigator is a licensed professional who advertises that she has more than 20 years experience. She is charged with knowing the law. By participating in installing and focusing the camera directly on the bed, she also knew that, if it captured anything, it would capture nudity and sexual activity.

Private Investigator also knows that she only needed to capture affection to provide evidence of adultery. Knowing that she would only capture nudity and sexual activity, she should have known that one purpose could have been sexual arousal or gratification. Thus, she violated the statute in her own right and as a co-conspirator with Suspect.

Aggravated Voyeurism

Section 16-17-470(C) provides a person commits the crime of aggravated voyeurism as follows:

> A person commits the crime of aggravated voyeurism if he or she knowingly sells or distributes any photograph, audio recording, video recording, digital electronic file, or film of another person taken or made in violation of this section. A person who violates the provisions of this subsection is guilty of a felony and, upon conviction, must be fined not less than five hundred dollars or more than five thousand dollars or imprisoned not more than ten years, or both.

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[44] *State of Minnesota v. Perez*, 779 N.W.2d 105, 110 (Minn. App. 2010)

Without further investigation, it is unknown to whom Suspect or Private Investigator has distributed the videotape. However, at a minimum, Suspect and/or Private Investigator has given a copy to Suspect's attorneys, Wife's attorneys, and the Family Court.

Due to the defenses of connivance and condonation and the excessive nature of this evidence, courts could find that no legitimate reason existed to give the videotape of the Wife to the attorneys or the Court. Suspect had no right to videotape Victim to further his domestic case. Barring such a ruling, evidence gathered from Suspect and Private Investigator may document other distribution.

Sources of Additional Evidence

Wife stated that Suspect has a large library of pornographic videos and adult magazines. Records of his visits to the Hedonism resort should be available. He reportedly acquired a laptop computer which may contain evidence of his viewing of the videotape and/or pornography. The viewing of the videotape is also voyeurism and viewing of pornography confirms his prurient interest in the videotape.

Information in Private Investigator's files may give more evidence of the purpose of making the videotape. The files should also contain information regarding distribution. At the very least, they should contain complete information regarding the videotaping. For instance, Private Investigator responded to a subpoena by alleging that nothing was recorded during the first installation of the covert camera. In addition, the files should explain the irregular gaps in a videotape made by a motion-activated device that was recording continuous activity. Of course, once indicted, Private Investigator may agree to testify against Suspect, compounding the evidence against him.

Conclusion

Based on the above analysis, warrants should issue for Suspect and Private Investigator for two counts of aggravated voyeurism.

SECTION 16-17-470. Eavesdropping, peeping, voyeurism.

(A) It is unlawful for a person to be an eavesdropper or a peeping tom on or about the premises of another or to go upon the premises of another for the purpose of becoming an eavesdropper or a peeping tom. The term "peeping tom", as used in this section, is defined as a person who peeps through windows, doors, or other like places, on or about the premises of another, for the purpose of spying upon or invading the privacy of the persons spied upon and any other conduct of a similar nature, that tends to invade the privacy of others. The term " peeping tom" also includes any person who employs the use of video or audio equipment for the purposes set forth in this section. A person who violates the provisions of this section is guilty of a misdemeanor and, upon conviction, must be fined not more than five hundred dollars or imprisoned not more than three years, or both.

(B) A person commits the crime of voyeurism if, for the purpose of arousing or gratifying sexual desire of any person, he or she knowingly views, photographs, audio records, video records, produces, or creates a digital electronic file, or films another person, without that person's knowledge and consent, while the person is in a place where he or she would have a reasonable expectation of privacy. A person who violates the provisions of this subsection:

(1) for a first offense, is guilty of a misdemeanor and, upon conviction, must be fined not more than five hundred dollars or imprisoned not more than three years, or both; or

(2) for a second or subsequent offense, is guilty of a felony and, upon conviction, must be fined not less than five hundred dollars or more than five thousand dollars or imprisoned not more than five years, or both.

(C) A person commits the crime of aggravated voyeurism if he or she knowingly sells or distributes any photograph, audio recording, video recording, digital electronic file, or film of another person taken or made in violation of this section. A person who violates the provisions of this subsection is guilty of a felony and, upon conviction, must be fined not less than five hundred dollars or more than five thousand dollars or imprisoned not more than ten years, or both.

(D) As used in this section:

(1) "Place where a person would have a reasonable expectation of privacy" means:

(a) a place where a reasonable person would believe that he or she could disrobe in privacy, without being concerned that his or her undressing was being photographed, filmed, or videotaped by another; or

(b) a place where one would reasonably expect to be safe from hostile intrusion or surveillance.

(2) "Surveillance" means secret observation of the activities of another person for the purpose of spying upon and invading the privacy of the person.

(3) "View" means the intentional looking upon of another person for more than a brief period of time, in other than a casual or cursory manner, with the unaided eye or with a device designed or intended to improve visual acuity.

(E) The provisions of subsection (A) do not apply to:

(1) viewing, photographing, videotaping, or filming by personnel of the Department of Corrections or of a county, municipal, or local jail or detention center or correctional facility for security purposes or during investigation of alleged misconduct by a person in the custody of the Department of Corrections or a county, municipal, or local jail or detention center or correctional facility;

(2) security surveillance for the purposes of decreasing or prosecuting theft, shoplifting, or other security surveillance measures in bona fide business establishments;

(3) any official law enforcement activities conducted pursuant to Section 16-17-480;

(4) private detectives and investigators conducting surveillance in the ordinary course of business; or

(5) any bona fide news gathering activities.

(F) In addition to any other punishment prescribed by this section or other provision of law, a person procuring photographs, audio recordings, video recordings, digital electronic files, or films in violation of this section shall immediately forfeit all items. These items must be destroyed when no longer required for evidentiary purposes.

Supplemental Case Statement
Incident Type: Voyeurism
Case #10-170454

The following objections have arisen since the first Case Statement.

Victim should not have been engaging in the conduct on the videotape.

This is a value judgment, not a legal argument. Unlike the federal video voyeurism statute, what is actually captured on the videotape is not the gravamen of the offense. As in the *In re Tigges*[1] case, the videotape could have captured nothing of a graphic or demeaning nature – "The wrongfulness of the conduct springs not from the specific nature of the recorded activities, but instead from the fact that [Wife's] activities were recorded without her knowledge and consent at a time and place and under circumstances in which she has a reasonable expectation of privacy."

The voyeurism statute has the following four elements and not one of them focuses on the content of the videotape. "A person commits the crime of voyeurism if,"

1. Mens rea of lewd intent – "for the purpose of arousing or gratifying sexual desire of any person,"
2. Act – "he or she knowingly views, photographs, audio records, video records, produces, or creates a digital electronic file, or films another person"
3. Lack of consent – "without that person's knowledge and consent"
4. Protected location – "while the person is in a place where he or she would have a reasonable expectation of privacy."

Granted, the sensibilities of many people may be upset by the facts of this case.[2] However, even in the Bible belt of South Carolina, a majority of people would agree in a fundamental right of privacy. Thus, while they may abhor someone's actions, they can rationally be disgusted that someone else secretly recorded those actions for later viewing or distribution.

He is just going to say his motive was to document adultery.

This objection brings into question the sufficiency of the evidence of Suspect's lewd intent. See Exhibit B for a full discussion of this issue.

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[1] *In re the Marriage of Tigges*, 758 N.W.2d 824, 828 (Iowa 2008).
[2] See Victim's Statement attached as Exhibit A.

No one is going to believe that Victim has a reasonable expectation of privacy in a man's bedroom with his wife.

Actually, case law indicates that even Wife has a right to privacy in their shared bedroom. See summary of cases in Exhibit C. A prominent law professor (whose name I did not get permission to use) said, "[T]ypically there is a reasonable expectation of privacy in a bedroom (assuming the blinds and drapes are closed and no one standing in a public place like a sidewalk by the house could see into the bedroom). Most people do not expect that there is a video camera watching them in their own bedroom (or in the bedroom of another)."

Again, this statement seems to be based on the activity captured, not the location. The statute is about location and provides the following definition:

> (1) "Place where a person would have a reasonable expectation of privacy" means:
>
> (a) a place where a reasonable person would believe that he or she could disrobe in privacy, without being concerned that his or her undressing was being photographed, filmed, or videotaped by another; or
>
> (b) a place where one would reasonably expect to be safe from hostile intrusion or surveillance.

Interpreting the statute so as to render no part of it meaningless or superfluous, the legislature seems to identify two categories of places where people have a reasonable expectation of privacy. Section (1)(a) defines private places where one would normally disrobe – bathrooms, bedrooms, changing rooms, and tanning booths. Section (1)(b) seems to widen the protection to the privacy of the clothed person in a public place – presumably to criminalize activities such as up-skirting.

Victim has a subjective expectation of privacy. Suspect had invited her over to his home and indeed into his bedroom on numerous occasions. Wife and Victim had changed clothes in the bedroom and in her dressing room attached thereto. Suspect, Wife, and Victim had taken showers in the master bathroom and engaged in other activities in the nude together, both in the bedroom and on the secluded outside deck. There were no overt surveillance cameras in the bedroom, bathroom, or outside deck. Victim gave no permission to have her actions memorialized for others to see and indeed did not even know Suspect had made the videotape until about 8 months later.

The solicitor's office is not going to be used to benefit other litigation.

Two cases – both between Suspect and Wife -- were ongoing when this investigation opened. However, both cases have settled. Even though encouraged by many to do so, Victim has not pursued any civil remedies. Rather Victim is focused on having Suspect's conduct to be declared criminal to deter others.

Victim committed the crime of adultery with Wife.

This is untrue. Criminal adultery is defined in Section 16-15-70 as follows: ". . . the living together and carnal intercourse with each other or habitual carnal intercourse with each other without living together of a man and woman when either is lawfully married to some other person." Victim has never lived with Wife nor have they had habitual carnal intercourse.

If Suspect gives the videotape to someone else or shows it to them, it would show he had intent other than documenting adultery.

This statement was the answer to Victim's concern that Suspect could be free to distribute or sell the videotape if he has not violated the statute in making it. Section 16-17-470(c) defines aggravated voyeurism as selling or distributing the video only if the video were made in violation of the statute.

If Suspect's assertion that his only motivation to make the videotape was to document adultery carries the day, then he has not violated the statute. As a result, he could show or give the video to whomever he chooses. Indeed, he could upload it to the internet.

To allow Suspect to act in reliance on a determination that he has not broken the law and then arrest him for his actions seems questionable.

This case is just going to come down to he said, she said.

By their very nature, covert and sexual activities are meant to be secret. Thus, many times the evidence is he said, she said. However, in this case, Wife has corroborated Victim's account of the facts.

Sufficiency of Evidence of Purpose

South Carolina has not articulated a legal standard for proving that someone had a "purpose of arousing or gratifying the sexual desire of any person." However, other states have provided guidelines.

North Carolina cases have uniformly provided that "[a] defendant's purpose, being a mental attitude, is seldom provable by direct evidence and must ordinarily be proven by inference." Thus, whether an action was for the purpose of arousing or gratifying sexual desire" may be inferred from the evidence of the defendant's actions.[1]

In Missouri, the courts have provided that "[i]n assessing whether a touching is for the purpose of arousing or gratifying sexual desire rather than being an innocent touching, a fact-finder looks at the circumstances of the particular case." The actor's purpose is determined from his mental state. However, because direct evidence of a person's mental state is rarely available, proof of the actor's mental state will often rest on circumstantial evidence and permissible inferences. The statute contains the language "for the purpose of arousing or gratifying sexual desire" in order to exclude innocent contact from being deemed criminal conduct.[2]

The primary sponsor of the legislation stated that the Louisiana voyeurism statute was the model for the South Carolina statute. In a case involving the secret videotaping of two people in a bedroom, the court evaluated the evidence by "[c]onsidering the circumstances surrounding the defendant's secret videotaping . . . ." The court looked to three factors: the sexual proclivities of the defendant,[3] the placement of the camera,[4] and the availability of other methods to accomplish his purpose.[5]

Defendant's Sexual Proclivities

Examining Defendant's sexual proclivities provide sufficient evidence of his purpose of arousing and gratifying his own sexual desires. By his words and actions, Defendant has demonstrated a long history of being interested in all things sexual with a particular desire to be part of a threesome.

He attempted several times to persuade a woman to join him and Wife. While Wife tolerated Defendant's indiscretions, she refused to join him in a threesome. Watching pornography and live adult entertainment was not enough. He repeatedly expressed his desire to personally watch two women in sexual situations.

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[1] *State of North Carolina v. Elliott*, 665 S.E.2d 594 (N.C. App. 2008).
[2] *State of Missouri v. Willis*, 239 S.W.3d 198, 201 (Mo.App. S.D. 2007)
[3] "From these facts, it is possible to infer that defendant's sexual proclivities lean towards teenaged girls." *State of Louisiana v. Schaller*, 15 So.3d 1046, 1055 (La. App. 5 Cir 2009), *cert. denied*, 28 So.3d (La. 2010)
[4] "However, the placement of the camera in a bedroom belies defendant's testimony" that he purchased the video camera he used to make the secret recording for security purposes. *Id.*
[5] The court observed could have accomplished his other purpose of determining if the teenaged girl was doing anything wrong with her boyfriend by other means. *Id.*

In short, he has a proclivity for the very thing he videotaped. Thus, it would be difficult to believe that Defendant could install a covert camera without having a purpose of satisfying his own sexual desire.[6]

Placement of the Camera

Defendant placed a motion-activated camera that was focused on the bed in the master bedroom and the entrance to the Wife's dressing room. If it captured anything, it would capture activity at the dressing room door or in and around the bed. Thus, it would only capture nudity and sexual activity. In fact, since the camera was motion-activated, it would not capture sleeping only sexual activity.

Defendant knew the habits of Wife and Victim well. He often sat in a chair in the master bedroom to watch television. He knew that when they entered the master bedroom that they went into the dressing room to change clothes or to disrobe to get in the hot tub. He also knew that they sat by the fireplace in the chairs when in the bedroom. He could have easily placed the camera in the hallway or other parts of the bedroom or focused it on the hot tub.

Instead, he focused the camera directly on the bed in hopes of capturing the activity that he encouraged and connived to produce. After carefully orchestrating what should happen, when it should happen, and where it should happen, he was able to videotape his fantasy.

Availability of Other Methods to Accomplish Defendant's Stated Purpose

Defendant will allege that his purpose for making the video was to document his Wife's adultery. Assuming that is true, it does not absolve him of guilt.

Arguably, he had no real suspicion of adultery. He had engaged in sexual activities with his Wife and Victim, but had no evidence that they engaged in any such activity outside his presence or had a propensity to do so.[7] He knew of his Wife's strong appetite for heterosexual activities and had engaged in them with her for the prior 20 years. He also knew of her hesitancy to be involved in any activities with a woman due to his prior attempts to bring females into their relationship at home and nude resorts.

Wife and Victim spent time together, even stayed overnight together. What females don't, especially when the other spouse is traveling? Wife took several trips with Defendant. One was with her sister, niece, cousin, and her cousin's 15-year old son. Another was with her mother, father, and siblings – hardly romantic getaways. Not once did Defendant care enough to even ask Victim if she accompanied Wife on the trips.

---

[6] "In *State v. McClees*, this Court held that the defendant's act of secretly videotaping an undressed child was for the purpose of arousing or gratifying sexual desire even though no evidence was presented showing that the defendant ever actually viewed the video." *State of North Carolina v McClary*, 679 S.E.2d 414, 418 (N.C. App. 2009)

[7] In fact, he knew that Victim had insisted that no touching of Victim would occur, if at all, outside the presence of him and Lynn together. He had attempted to violate the rule on many occasions and was rebuffed. The violation he captured occurred only at his insistence and with his permission.

Defendant knew where his Wife was and never objected. For about three weeks of the 2 ½ months in question, Defendant and Wife were on a European vacation together. Defendant listed 26 other days that Wife and Victim could have been together. He paid a private investigator to follow them for 185 hours during that time. He knew exactly where they were and could have objected to or questioned the time they spent together. He also knew that the private investigator was unable to capture any evidence of sexual inclination between them.

Defendant could have accomplished his stated purpose of documented his suspicions of adultery in less intrusive ways. He only needed to capture affection.[8] Since he orchestrated the time and place of the events videotaped, he could have simply walked into the bedroom with a camera or the private investigator.

Conclusion

During the case-in-chief, the prosecution will be able to provide evidence of Defendant's prurient purposes. His non-sexual motivation can be addressed in a motion in limine so that it will not be mentioned during the case-in-chief. After the prosecution rests, the Defendant would have to can take the stand to present his purpose, and swear under oath that his sole purpose was to document adultery.

To avoid conviction, Defendant will have to convince the jury that his only purpose was for his divorce. By that time, the jury will have a picture of him that will make it difficult for him to gain credibility. As a result, the jury will have all it needs to find beyond a reasonable doubt that Defendant had a sexual purpose in making the secret videotape.

[8] South Carolina has recognized that homosexual conduct constitutes adultery, but has articulated no different method of proving such adultery than that of proving heterosexual adultery.

State of South Carolina
Office of the Governor

NIKKI R. HALEY
GOVERNOR

OFFICE OF EXECUTIVE
POLICY AND PROGRAMS

May 23, 2012

Ms. Carol Anne Simpson
47 Greenland Drive
Suite A
Greenville, SC 29615

RE: Claim #: C2012-092381
Carol Simpson

Dear Ms. Simpson:

The State Office of Victim Assistance (SOVA) has deemed that your claim meets the eligibility standards pursuant to South Carolina Laws governing the Crime Victim's Compensation Fund.

This is neither a notice of award or a payment letter. Before your claim can be processed for consideration, some important information regarding payment is listed below:

- The treatment/service must be directly related to the crime related injury or incident.
- SOVA is the payer of last resort; therefore, all potential collateral sources such as restitution/subrogation recovery issues, and medical health insurance (public or private), will be addressed prior to reviewing your claim for payment consideration.
- Documents from your health insurance company (EOB - Explanation of Benefits) will be required, if applicable.
- The following are a list of some processable documents that will be accepted when considering payment: Medical Claim Forms, Invoices and Itemized Detailed Bills. These documents can be obtained from your doctor, dentist, counselor, hospital or funeral home.
- For lost wages, information from your Employer and your treating Physician will be required.

Pursuant to Section 16-3-1170(4) of the South Carolina Code of Laws, the claimant or award recipient must fully cooperate with all law enforcement agencies and with SOVA. In order for us to continue to provide financial assistance, the compensation fund must be replenished through the process of restitution recovery; therefore, it is important for you to attend your court proceedings and request restitution. It is also very important for you to inform the courts that you have been approved for SOVA services and that restitution should be ordered to SOVA. Please know that the recovery of restitution makes the offender pay for their crimes and it also assists in securing funding for future victims.

Should you have any questions regarding your claim, please contact our office at 1-800-220-5370 or locally at (803)734-1900. Please provide your claim number when calling, sending letters or documents.

Sincerely,

Genita L. Snipes
Eligibility Services Manager

McCall Counseling & Therapy, LLC

Gretta McCall, M.Ed., LPC
P.O. Box 2192
Greenville, SC 29602-2192
Phone: 864-270-9324
Fax: 864-242-5083

EIN: 32-0287402
SC License Number: 5363

C2012-092381
Billed - 10/23/12

To: Carol Anne Simpson
Name: 47 Greenland Drive, Suite A
Address: Greenville, SC 29615
Phone: 864-235-4500

	Date of Service	Service (CPT Code)	Diagnostic Code	Pmt Method	Amount Charged
1	3.7.12	90801	995.83	SOVA	$90
2	3.14.12	90801	995.83		$180
3	3.21.12	90806	995.83		$90
4	3.29.12	90806	995.83		$50
5	4.3.12	90806	995.83		$50
6	4.11.12	90806	995.83		$50
7	4.18.12	90806	995.83		$50
8	4.25.12	90806	995.83		$50
9	5.2.12	90806	995.83		$90
10	5.9.12	90806	995.83		$50
11	5.30.12	90806	995.83		$50
12	6.6.12	90806	995.83		$66
13	6.13.12	90806	995.83		$66
14	6.20.12	90806	995.83		$66
15	6.27.12	90806	995.83		$66
16	7.11.12	90806	995.83		$66
17	7.27.12	90806	995.83		$66
18	8.1.12	90806	995.83		$66
19	8.15.12	90806	995.83		$66
20	8.29.12	90806	995.83		$66

Total Amount Due: $120

SOVA pd. $120

SOVA pd. $1152.00 9.18.12

SOVA pd $132.00 10.23.12

PAID 11/16/12

McCall Counseling & Therapy, LLC

Gretta McCall, M.Ed., LPC
P.O. Box 2192
Greenville, SC 29602-2192
Phone: 864-270-9324
Fax: 864-242-5083

EIN: 32-0287402
SC License Number: 5363

Office info
Approved visits
6 sessions
through 8/5/13

Name: Carol Simpson
Address:
Phone:

	Date of Service	Service	Diagnosis	Pmt Method	Pmt Amount	Amount Charged	Insurance Pmt	Claim #	Pmt to client
1	11-16-12	90806	309.24	Check	$66	$66	Ø	23391349W	
2	2-6-13	90834	309.24	Cash	$66	$90	Ø	30450100W	
3	5-21-13	90834	309.24	Cash	$66	$90	Ø	37432GW	
4	7-25-13	90837	309.24	Cash	$77	$90	Ø	32200750W	
5	8-1-13	90837	309.24	Cash	$77	$90	Ø	32200750W	
6	8-14-13	90837	309.24	Check	$77				
7	8-20-13	90837	309.24	Cash	$77				
8									
9									
10									
11									

Total Amount Due:

Applied to additional visits we not file

Deborah K Leporowski, Psy.D.
124 Edinburgh Ct
#105
Greenville, SC 29607

STATEMENT

MAKE CHECKS PAYABLE TO			
Deborah K Lepprowski, Psy.D.			
STATEMENT DATE	ACCT NO	AMOUNT DUE	AMOUNT ENCLOSED
10/15/2014	AN	$0.00	
REMIT TO			

Carol Simpson
47 Greenland Drive
Ste A
Greenville, SC 29615

DATE	PROCEDURE CODE	DESCRIPTION	CHARGE	PATIENT AMOUNT	INSURANCE / OTHER AMOUNT
Patient: Carol Simpson DOB: 12/27/1957					
06/30/2014	90791	Psychiatric Diagnostic Evaluation Therapist: Deborah K Leporowski, Psy.D. POS: 11 Length: 60 Units: 1	$150.00	$150.00	$0.00
07/14/2014		Payment by Carol Simpson Method: Check		($150.00)	
07/07/2014	90837	Psychoanalysis Therapist: Deborah K Leporowski, Psy.D. POS: 11 Length: 60 Units: 1	$150.00	$150.00	$0.00
07/14/2014		Payment by Carol Simpson Method: Check		($150.00)	
07/14/2014	90837	Psychoanalysis Therapist: Deborah K Leporowski, Psy.D. POS: 11 Length: 60 Units: 1	$150.00	$150.00	$0.00
07/14/2014		Payment by Carol Simpson Method: Check		($150.00)	
07/23/2014	90837	Psychoanalysis Therapist: Deborah K Leporowski, Psy.D. POS: 11 Length: 60 Units: 1	$150.00	$150.00	$0.00
07/23/2014		Payment by Carol Simpson Method: Check		($150.00)	
07/28/2014	90837	Psychoanalysis Therapist: Deborah K Leporowski, Psy.D. POS: 11 Length: 60 Units: 1	$150.00	$150.00	$0.00
07/28/2014		Payment by Carol Simpson Method: Check		($150.00)	
08/05/2014	90837	Psychoanalysis Therapist: Deborah K Leporowski, Psy.D. POS: 11 Length: 60 Units: 1	$150.00	$150.00	$0.00
08/05/2014		Payment by Carol Simpson Method: Check		($150.00)	
08/12/2014	90837	Psychoanalysis Therapist: Deborah K Leporowski, Psy.D. POS: 11 Length: 60 Units: 1	$150.00	$150.00	$0.00
08/12/2014		Payment by Carol Simpson Method: Check		($150.00)	
08/19/2014	90837	Psychoanalysis Therapist: Deborah K Leporowski, Psy.D. POS: 11	$150.00	$150.00	$0.00

CURRENT	OVER 30 DAYS	OVER 60 DAYS	OVER 90 DAYS	OVER 120 DAYS	PLEASE PAY THIS AMOUNT →	PATIENT	INSURANCE / OTHER
$0.00	$0.00	$0.00	$0.00	$0.00		$0.00	$0.00

Psycho-Educational Testing with Administered MMPI-A, Scoring and Written Report

STATEMENT

Deborah K Leporowski, Psy.D.
124 Edinburgh Ct
#105
Greenville, SC 29607

MAKE CHECKS PAYABLE TO			
Deborah K Leporowski, Psy.D.			
STATEMENT DATE	ACCT NO	AMOUNT DUE	AMOUNT ENCLOSED
10/15/2014	AN	$0.00	

REMIT TO

Carol Simpson
47 Greenland Drive
Ste A
Greenville, SC 29615

DATE	PROCEDURE CODE	DESCRIPTION	CHARGE	PATIENT AMOUNT	INSURANCE / OTHER AMOUNT
		Length: 60 Units: 1			
08/19/2014		Payment by Carol Simpson Method: Check		($150.00)	
08/25/2014	90837	Psychoanalysis Therapist: Deborah K Leporowski, Psy.D. POS: 11 Length: 60 Units: 1	$150.00	$150.00	$0.00
08/25/2014		Payment by Carol Simpson Method: Check		($150.00)	
09/03/2014	90837	Psychoanalysis Therapist: Deborah K Leporowski, Psy.D. POS: 11 Length: 60 Units: 1	$150.00	$150.00	$0.00
09/03/2014		Payment by Carol Simpson Method: Check		($150.00)	
09/10/2014	90837	Psychoanalysis Therapist: Deborah K Leporowski, Psy.D. POS: 11 Length: 60 Units: 1	$150.00	$150.00	$0.00
09/10/2014		Payment by Carol Simpson Method: Check		($150.00)	
09/17/2014	90837	Psychoanalysis Therapist: Deborah K Leporowski, Psy.D. POS: 11 Length: 60 Units: 1	$150.00	$150.00	$0.00
09/17/2014		Payment by Carol Simpson Method: Check		($150.00)	
10/01/2014	90837	Psychoanalysis Therapist: Deborah K Leporowski, Psy.D. POS: 11 Length: 60 Units: 1	$150.00	$150.00	$0.00
10/01/2014		Payment by Carol Simpson Method: Check		($150.00)	

CURRENT	OVER 30 DAYS	OVER 60 DAYS	OVER 90 DAYS	OVER 120 DAYS	PLEASE PAY THIS AMOUNT →	PATIENT	INSURANCE / OTHER
$0.00	$0.00	$0.00	$0.00	$0.00		$0.00	$0.00

Psycho-Educational Testing with Administered MMPI-A, Scoring and Written Report

Exhibit

D

STATE OF SOUTH CAROLINA

COUNTY OF GREENVILLE

Carol Simpson,

Plaintiff,

v.

Frank A. Landgraff, Carol Sutton, Carol Sutton & Associates - Investigations, Inc.

Defendants.

IN THE COURT OF COMMON PLEAS
C.A. 2013-CP-23-01762

FILED-CLERK OF COURT
GREENVILLE CO. S.C.
PAUL B. WICKENSIMER
2014 NOV 14 PM 4 29

PLAINTIFF'S MEMORANDUM IN OPPOSITION TO DEFENDANT FRANK A. LANDGRAFF'S MOTION FOR SUMMARY JUDGMENT

Frank A. Landgraff's ("Landgraff") alleges that "[N]o issue of material facts exists as to any element of any claim asserted by Plaintiff . . . ." While it is difficult to respond to nothing but his unsupported statements, Plaintiff cites the following facts to contradict Landgraff's declarations. Plaintiff provides support for her statements summarized below in the Paragraphs indicated.

¶	**Landgraff's Allegations**	**Facts in a "light most favorable" to Plaintiff**
1	"Even if Plaintiff could otherwise demonstrate an 'intrusion' . . . which she cannot"	She actually does demonstrate his intrusion through Landgraff's affidavit and the existence of the videotape. Certainly, his intrusion was intentional.
2	Intrusion "into her privacy"	The correct legal standard is intrusion "into that which is private".
3	"all such allegations fail to constitute a 'substantial and unreasonable' intrusion so as to sustain relief"	How do they fail?
4	"Plaintiff complains because a video camera . . . caught Plaintiff . . . ."	Plaintiff denied this allegation in her discovery responses.
5	"unlawful relations"	There were no unlawful relations per U.S. Supreme Court, SC statutes, and SC case law.
6	"while Landgraff was out of town"	His affidavits indicate he may have been in town and his location is irrelevant.
7	"no lawful right to be in Landgraff's bedroom"	Plaintiff had a lawful right to be there.

8	"Plaintiff would not have appeared on the video committing unlawful acts"	Plaintiff would appear on the video by walking in the room.
9	"Plaintiff cannot claim Landgraff's installation of a video camera in his own home and in his own bedroom constitutes 'extreme and outrageous' behavior as a matter of law"	She doesn't.
10	"Fails to allege special damages with sufficient particularity"	What is insufficient?
11	"Nor does Plaintiff have any evidence supporting her claim of special damages."	While Plaintiff is not required to provide evidence in her Complaint to support the ultimate facts, the evidence is apparent.
12	"All of Plaintiff's claims are barred by the doctrine of *ex turpi causa.*"	Plaintiff is not guilty of any unlawful.
13	"Absent Plaintiff's unlawful conduct, none of the issues about which she complains could or would have occurred."	Tort exists even if no activity occurs.

1. Intruding is "watching, spying, prying, besetting, overhearing, or other similar conduct."[1] Landgraff admits that he used a motion-sensitive hidden camera to make a videotape of Plaintiff. Using the ordinary meaning of the words, this is certainly watching and spying. Thus, Plaintiff has demonstrated an intrusion.

2. Landgraff has misread the standard for a wrongful intrusion into private affairs. While this tort involves the right to privacy, it is significantly different than the other privacy torts.[2] The invasion is not into some expectation of "privacy", but an intrusion into what is "private" as opposed to public. The United States Supreme Court has stated that behavior such as Plaintiff's is private.[3]

3. Landgraff seems to think that his declaring something to be true makes it true. It does not. He must give some indication of how the allegation fails to be "substantial and unreasonable".

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[1] *Snakenberg v. Hartford Casualty Ins. Co., Inc.*, 383 S.E.2d 2, 299 S.C. 164 (S.C. App. 1989).
[2] *Id.* at 171.
[3] *Lawrence v. Texas*, 539 U.S. 558, 578 (2003) ("The case does involve two adults who, with full and mutual consent from each other, engaged in sexual practices common to a homosexual lifestyle. The petitioners are entitled to respect for their private lives. . . . The Texas statute furthers no legitimate state interest which can justify its intrusion into the personal and private life of the individual.)

Judging by the damage Plaintiff has suffered the intrusion was very substantial and completely unreasonable.

4. Plaintiff complains about Landgraff's intrusion. *His* trespass upon her solitude is the issue, not *her* behavior. The act of wiretapping is illegal, regardless of what is recorded.

5. In *Lawrence v. Texas*, the United States Supreme Court stated that "It is not until the 1970s that any State singled out same-sex relations for criminal prosecution, and only nine states have done so." According to the Court, South Carolina was not one of those states. Plaintiff fully addressed the issue of a crime under South Carolina statute and common law on pages 7-12 of her Memorandum in Support of Plaintiff's Motion to Strike. Landgraff's declaration is meaningless. Only a judge or jury can declare Plaintiff's actions unlawful.

6. Based on the timetable in Defendants' affidavits, Landgraff may not have been out of town.

7. Landgraff gives no indication of what was unlawful about Plaintiff's presence. She did not break into the house. To the contrary, Landgraff and his wife invited Plaintiff to be a guest in their home. Significantly, based on the attached affidavits, the Family Court made an initial finding that Landgraff may have connived to be certain that Plaintiff was present and engaging in the activity he intentionally videotaped.

8. Landgraff describes the camera he installed as motion-sensitive. Consequently, Plaintiff would have appeared on the video when she walked into the room and continued to be videotaped as long as she moved in front of the motion sensor. As a result, the intrusion results regardless of Plaintiff's acts.

9. Landgraff's installation of the video camera wrongfully intruded into that which was private. His actions in conniving to be certain that Plaintiff would be present to be recorded and his outrageous conduct after the intrusion comprise the basis for his intentionally inflicting of emotional distress on Plaintiff. For example, a reasonable person would know that Landgraff's actions in Family Court would cause Plaintiff distress. If he were truly just making the videotape in an attempt to prove adultery, revealing Plaintiff's name and printing still shots from the

videotape to enter into the record were legally unnecessary. If he thought such actions were legally necessary, he could have entered the evidence under seal to protect Plaintiff as a third party to that action.

10. As usual, Landgraff simply states that something is insufficient, but does not identify what. Dismissal of a civil conspiracy claim is only appropriate when "a plaintiff merely repeats the damages from another claim instead of specifically listing special damages as part of their civil conspiracy claim."[4] Plaintiff clearly lists "special damages including, but not limited to loss of professional reputation, medical expenses, and future medical expenses."

11. Simply identifying all of the judges and attorneys to whom Landgraff has chosen to disclose Plaintiff's identity for no bona fide legal reason proves these damages.

12. Landgraff stopped short of properly stating what the Court "held" in the *Jackson v. Bi-Lo* case. The Court stated that "South Carolina courts have reached similar conclusions refusing to aid plaintiffs who are themselves guilty of an illegal act." The attached certified criminal records search is conclusive evidence that Plaintiff is not guilty of an illegal act. In addition, Plaintiff has discussed the issue of whether her behavior was criminal or in violation of the law with both the Greenville County Solicitor and a deputy in the Greenville County Sheriff's office. Both indicated it was not.

13. Plaintiff's conduct or lack thereof is irrelevant. When Landgraff installed the camera he was intentionally "watching, spying . . . ." What he was watching just had to be "that which is private" for his behavior to be actionable. The behavior of those he was watching is irrelevant.

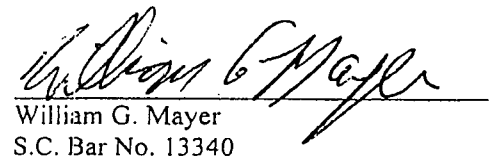
---

[4] *Hackworth v. Greywood at Hammett, LLC*, 385 S.C. 110, 115, 682 S.E.2d 871, 874. (In this case, the parties admitted they had committed bribery.)

CONCLUSION

Based on the facts presented above, the Court should deny Landgraff's Motion for Summary Judgment.

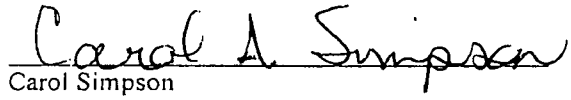
Respectfully submitted,



William G. Mayer
S.C. Bar No. 13340
Attorney for the Plaintiff
118 West Main Street
Laurens, SC 29360
864-984-9202 Telephone
864-715-0496 Facsimile

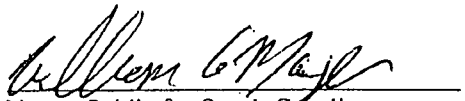
VERIFICATION

PERSONALLY appeared before me the undersigned who, after first being duly sworn, states: That she is the Plaintiff in the foregoing action; that she has read this PLAINTIFF'S MEMORANDUM IN OPPOSITION TO DEFENDANT FRANK A. LANDGRAFF'S MOTION FOR SUMMARY JUDGMENT and the same are true of her own knowledge.



Carol Simpson

SWORN TO BEFORE ME THIS
November 14, 2014



Notary Public for South Carolina
Commission Expires 3-26-18

STATE OF SOUTH CAROLINA

COUNTY OF GREENVILLE

Carol Simpson,

Plaintiff,

v.

Frank A. Landgraff, Carol Sutton, Sutton & Associates Investigations, Inc.

Defendants.

IN THE COURT OF COMMON PLEAS
C.A. 2013-CP-23-1762

CERTIFICATE OF SERVICE

FILED-CLERK OF COURT
GREENVILLE CO. S.C.
PAUL B. WICKENSIMER
2014 NOV 14 PM 4 29

I HEREBY CERTIFY that hereby certify that I have served a copy of PLAINTIFF'S MEMORANDUM IN OPPOSITION TO DEFENDANT FRANK A. LANDGRAFF'S MOTION FOR SUMMARY JUDGMENT upon the individuals named below, by placing a copy in the United States Mail, postage prepaid and return address clearly indicated to the addresses below on this 14 th day of November, 2014:

Attorneys for Frank A. Landgraff
Reid T. Sherard
Timothy E. Madden
Lane Davis
Nelson Mullins Riley & Scarborough, LLP
P. O. Box 10084
Greenville, SC 29603-0084

Attorney for Carol Sutton, Sutton & Associates Investigations, Inc.
Joe Mooneyham
Mooneyham, Berry & Pope, LLC
1225 South Church Street
Greenville, SC 29605

William G. Mayer
S.C. Bar No. 13340
Attorney for the Plaintiff
118 West Main Street
Laurens, SC 29360
864-984-9202 Telephone
864-715-0496 Facsimile

County of Greenville

"...At Your Service"

John Vandermosten
Interim Assistant County Administrator
Department of Public Safety
Detention, Forensics and
Record Management Services
Phone: (864) 467-5082

11/13/2014

TO WHOM THIS MAY CONCERN:

This is to certify that a search of local law enforcement records was conducted by the Department of Public Safety, Criminal Justice Support Division, of Greenville, South Carolina. This search covers the past five (5) years and reveals there is no record of convictions against:

NO CONVICTIONS
GREENVILLE COUNTY
CRIMINAL JUSTICE SUPPORT

NAME: SIMPSON, CAROL ANNE

DATE OF BIRTH: 12/27/1957

An additional request must be made for a records search beyond the five (5) year period. Our records consist of information compiled by both the Greenville County Sheriff's Office and the Greenville City Police Department. This records check does not include traffic offenses.

This is certified to be a true document only if the raised seal of the Criminal Justice Support Division of Greenville County is affixed. Please feel free to call our Records Section for verbal verification of this letter.

Very truly yours,

Captain Jinny Moran

Records check completed by: Ernestine Smith-Newton
ERNESTINE SMITH-NEWTON

Purpose for records check: RESEARCH

4 McGee Street Greenville, SC 29601 Fax (864) 467-5113

STATE OF SOUTH CAROLINA	)	IN THE FAMILY COURT FOR THE THIRTEENTH JUDICIAL CIRCUIT
COUNTY OF GREENVILLE	)	
Lynn W Mulligan,	)	C.A. No. 2010-DR-23-1359
Plaintiff.	)	
v.	)	AFFIDAVIT OF CAROL A. SIMPSON
Frank A. Landgraff	)	
Defendant.	)	

BEFORE ME, an Officer authorized to administer oaths in the State of South Carolina, personally appeared CAROL A. SIMPSON, who being first duly sworn, deposes and says the following is true and correct based on her personal knowledge:

As a member of the South Carolina and North Carolina bars, this is the hardest affidavit that I have ever had to write. While I have had to craft many legal arguments, I have never had to expose my personal life, especially to a judge before whom I represent clients. However, this case leaves me with no alternative.

When I first met Frank Landgraff, I believed him to be a moral person and an honest businessman. He and his wife made a handsome couple. Even though he is much older than she, I described their relationship as one that worked. I could not have been more wrong.

In May 2009, Frank began an affair with me. About a week after I refused to continue to see him, he encouraged his wife to take me to their beach house for the weekend. Up until that time, I had never even been to lunch with Lynn. Lynn and I became friends. Over time, Frank became jealous.

Here is the story.

I have known Frank for years as a fellow Rotarian. In early 2009, I began seeing Frank and Lynn at the networking event at Commerce Club on Thursday nights. They always greeted me with a hug. Frank added a kiss and the compliment, "You are a really good hugger." Over several months, we all sat together and talked at the Club. They seemed to be happily married so I thought nothing of his comments.

By April, we were making plans to have dinner together. Frank also said on multiple occasions that he would like to meet me for a drink to get to know me better. Because he said this in front of his wife, I did not think anything was strange about the idea. As it turned out, we met several times without Lynn present and became apparent that that Frank was interested in having an affair with me. The following encounters prove my point.

First, Frank and I met at a neighborhood bar for the long-requested drink on May 12, 2009. Lynn was out of town at a business meeting. I was hesitant to meet Frank, but he assured me that the meeting was innocent. We talked about our education and careers. At the end of the evening, Frank walked me to the car and gave me a kiss that was not much friendlier than when he greeted me at the club.

I called Frank at the next day at 11:50 am to thank him for the drink. He asked me to meet him again, but I had an earlier commitment. He asked me to meet him afterwards for a quick drink. I agreed. We talked until the bar closed and then Frank walked me to my car. What started as a kiss goodbye became intimate in my car for the next several hours. The attached phone records show that I called Frank at 2:37 am to let him know I made it home safely.

On May 18th, Frank called to see how I was doing. That night he showed up at my house with a bottle of wine and cheese. We talked for a while, but once again things got intimate. He left several hours later. Frank called me the next day at 10:59 am and we talked for 15 minutes. Lynn returned to Greenville that afternoon.

Finally, on Saturday, May 30th, I was at my office working in my vegetable garden. Frank called at 1:53 pm to see where I was and then dropped by. We went inside my office and again things got intimate. The attached affidavit confirms that the person who rents the other suite in my office building saw Frank arrive and then saw us go into the office for about 45 minutes.

The attached phone bills show that Frank and I talked frequently during May. While the phone calls were not too bad, the intimacy was wrong. I also knew that Lynn deserved better and told Frank that we could not continue to meet without her present. I did not tell Lynn about this affair until after she and Frank separated because of her commitment never to leave him. Only when Frank told her to leave his house in six days did I think she deserved to know of his adultery.

The first week in June 2009, Frank attended a Pittsburgh Steelers football camp. While there, Frank called me He suggested that Lynn and I go to their beach house while he was gone. Lynn and I later discussed how we were both apprehensive about spending the weekend with someone we didn't know. However, over the weekend, Lynn and I learned how much we had in common.

When we all returned to Greenville, Frank suggested that we go to dinner. He was very emphatic that I meet them at their house so we could ride to the restaurant together. When we got back to their house, Frank suggested that the three of us get in their hot tub -- naked.

The hot tub is on the second floor deck just outside their master bedroom. It is in a corner surrounded by large trees. Frank assured me that it was completely private and no one would see us. The attached pictures show just how private it is. We got into the hot tub naked and then sat on the deck wrapped in a towel and talked.

Two days later, Frank and Lynn left for a two-week trip to Italy. While they were gone, we maintained contact through text messages and phone calls. When they returned, I met them at their house again to go to dinner. Frank presented me with a very expensive silk scarf that he

purchased for me while overseas. Once again, we all got into the hot tub naked and then wrapped in a towel to sit on the deck and talk.

On July 8th, we celebrated Frank's birthday with a group of his friends and then returned to their house for another round in the hot tub – with a twist. They had a professional massage table. We took turns with two of us giving the third a full body massage.

On July 9th, things escalated with increased touching and Frank's encouragement for more active intimacy between Lynn and me. That began a four-day event of the three of us dining, shopping, relaxing, massaging, and sleeping together.

During this time, we shared our problems and dreams. Despite the horrific problems in my life, Frank assured me that he and Lynn were true friends that I could depend on. He promised that we would travel together and that he would put me on the board at Ronald McDonald House. Frank painted a picture of fun and travel for the three of us.

Frank seemed to be very happy with the three of us being together. He pushed the relationship while always demanding that he be the center of attention. He insisted on sitting between us at the movies and beside me in the booth at dinner. He even suggested that I sleep in the middle between the two of them and told Lynn to tell me to take a more active role in touching him.

I soon realized that Frank and Lynn were having severe marital problems that started long before I met Lynn. One night, Lynn begged Frank to go to counseling, but Frank told her that talking things out with me was all they needed. We all talked, but I fell out of favor with Frank the more I encouraged him to accept Lynn for the mature woman she had become over the almost 20 years they were together.

About three years earlier and with Frank's encouragement, Lynn had become an owner/operator for McDonald's. She was no longer the insecure young woman that Frank married, but was now an independent business woman. Frank told me he was not sure he could accept her that way. Lynn went to counseling alone and Frank continued to insist that I could help them.

Throughout July, we continued our pattern of dinners, visits to the hot tub, and massages. We seldom ever slept together until the three of us traveled to Key Largo, Florida on August 1st. Frank and Lynn argued for most of the trip. The only constant during all this time was Lynn's statement that she would never leave Frank. She consistently stated that he would have to divorce her because she was committed to staying married to him.

Throughout August, the tension between the two of them increased. Frank was unhappy that Lynn and I were unwilling to engage in any sexual activity with him. We still continued to relax in the hot tub, but stopped everything else. Frank soon lost interest in the hot tub, but told us to go ahead without him. Lynn and I would jump in for 10-15 minutes after exercising and before joining Frank to watch television.

By this time, Lynn and I had become even closer friends. Most days we met early in the morning to limit her time away from Frank. We began walking 4-5 miles virtually every day.

We had an appointment with our personal trainer four times a week. We are both the primary caretakers of our elderly parents and began working together to take care of them.

We did things like celebrating the birthday of Lynn's mother by cooking at my mother's house. We took our mother's to Biltmore House and then invited the husbands to join us for dinner. After Frank complained about eating out all the time, Lynn and I started cooking dinner for him. In addition, Lynn started going to church with her parents. She visited the church that I attend with my parents. She liked the service and started going to the early service with us and then going to brunch at Stax's with me and my parents. Frank was invited to these events, but chose not to attend.

I later learned that I was the third woman that Frank had attempted to get involved in relationship with him and Lynn. I have met both other women and one told me that I should realize that Frank "does not understand a relationship that is not sexual." This made sense to me. Frank had tried to get me to look at his Playboy at his house before we all went to dinner. Further, he had pornography on the television one night when Lynn and I joined him in the television room.

During October, November, and December, things grew worse between Frank and Lynn. The three of us spent some time together, but Lynn and I spent more time in the early mornings and at lunch so she could be home with Frank at night.

From time to time, Frank would invite me over and we continued to go to movies and dinner together. Sometimes Frank would be distant, but most of the time he would ask for his hug and kiss when I walked in.

On the Friday after Thanksgiving, I went to their house to help decorate for Christmas. Frank was uncharacteristically nice. He helped with the tree and then started bringing us crackers and dip. For a while, the tension disappeared and things were pleasant between us. This was extremely important to me since I had become best friends with Lynn and she had committed herself to growing old with Frank.

A strange incident happened on December 4. Lynn was attending the tree lighting at Bob Jones University with her parents. We were then going to meet Frank for dinner. I had to be at the office late so I could not go to the tree lighting. Frank was quite insistent that I come to his house to be with him alone while Lynn was at her parents. I felt uncomfortable and suspected that he would try something inappropriate. Frank was very upset with me for not coming over.

Instead of meeting him, I went to Brick City Grille. I told several friends why I was there killing time. They remembered Frank from a time that he, Lynn, and I had been there together. Their affidavit confirming this event is attached.

The Ronald McDonald House Gala was on December 11. Frank had invited me to attend with him and Lynn. I met them at the house and we attended the gala together. The next morning I got a call from them with an invitation to breakfast. Frank invited me to a party at their house that night. He told me to bring clothes and spend the day with them. They met me at a shoe store to help me find some shoes. We left there and went to several other stores to shop.

When we got to their house, we got things set up for the party. Then, the three of us got in the hot tub – again naked. When the caterer arrived, the three of us were sitting in towels in front of the fireplace in their master bedroom. We jumped in the shower together, dressed, and joined the caterer to get ready for the party.

Frank and Lynn had a series of Christmas events to attend. After an early event on December 16th, Frank invited me over to the house. We all got into the hot tub and Frank reached over to touch me sexually before Lynn joined us. Frank was having problems with very dry skin. When we got out of the hot tub, Frank asked for a massage. Lynn and I rubbed oil all over him, but only Lynn touched him his genitals.

Two days later on December 18th, Frank asked me to come over again. Lynn had told him that we could all do the hot tub and massages, but sexual touching was off-limits. Frank asked me if I agreed with the rule. I told him I did. Once again, we went in the hot tub and Frank asked for a massage. When Lynn left the room for a minute, Frank asked me to touch him sexually. I refused, but Lynn was standing in the doorway and got very upset that he even asked.

Frank kept telling us that he liked the idea of two women together. Because of this Lynn and I had explored the idea of touching each other for his benefit. We discussed whether we could continue anything physical between us on a regular basis, and if so, what. We went so far to experiment with touching while he was out of town a few days earlier.

Spending other nights with each other was not sexual. Neither of us had any prior same sex experiences and we were only considering it for Frank. On December 15th, we experimented with touching each other outside of Frank's presence since Frank had made it clear that this was one of his fantasies. However, after that experience, based on everything that had occurred between Frank, Lynn, and me, we knew that we could not and did not even want to try to appease Frank's fantasies. His thoughts that Lynn should even tolerate a sexual threesome became repulsive to me and I later learned to her.

The event on the 18th ended the three of us getting in the hot tub and the massages. Frank said massages without sexual touching was like being in a kid in a candy store and not being able to eat the candy. The hugs, kisses and friendliness did not end. I was even invited to bring my father and join Frank, Lynn, his sons and their families for Christmas dinner.

My mother got very ill and had to have an outpatient surgical procedure. Complications led to a hospital stay from January 21-29. When I could not be at the hospital, Lynn would stay with my mom or bring her mother up to sit with her. Lynn even offered to spend the night to give me some rest. One of those days, Frank came to the hospital. He walked out with me and in the elevator, pulled me to him towards kiss me.

Throughout January 2010, Frank continued to encourage me to come to their house and to cook dinner for him. Afterwards Lynn and I would work or watch television with him. Since Lynn and I had become close friends and she was committed to never leaving Frank, Frank wanting me around was important.

One night, Lynn, Frank, and I were talking. Lynn said she was tired and left the room to get ready for bed. Frank started a conversation about me and Lynn. He told me that he thought

she would rather spend time with me rather than with him. He then said that he really liked me so that was okay. I told him that I thought they could work things out if they really tried. He said he did not want to try. I then asked him, "Can Lynn could be my friend and your wife?" he said he didn't know. I said, "That is the most honest thing I have ever heard you say in a long time."

On February 7, 2010, Frank and Lynn had their traditional Super Bowl party. Over 100 hundred people attended. I was busy helping out with coats, directions, and helping the elderly guests like my parents. It was quite an event and Frank seemed happy. On Tuesday, I came over for dinner and Frank greeted me with "Where is my kiss?" He seemed to be very happy and glad for us all to be together.

Two days after that my mother had to have surgery. I had to be in court in Spartanburg. Lynn volunteered to be with my mother. After 11 hours at the hospital, Lynn arrived home. Shortly thereafter, she called me to say that Frank gave her a letter telling her she had 6 days to leave the house or he would expose our affair.

Since that day, I have talked to many people who confirmed that Frank had told them that Lynn and I were having an affair. Even as early as November, he was telling people to watch us. I soon learned that my alleged affair was known to many people including those in corporate McDonald's from Atlanta to Raleigh.

I guess I shouldn't feel special. Several of Frank's friends have told me about his new girlfriend, Jan Cancilla. I didn't introduce myself, but I saw her last Thursday at the Commerce Club. The next day, I got a call from a mutual friend who said that Jan is holding a "Frank and Jan" party on August 8th.

FURTHER AFFIANT SAYETH NOT.

Carol A. Simpson

Carol A. Simpson

Sworn to before me this 4th day of August, 2010.

Andrea L. Gum

Notary Public for South Carolina
My Commission Expires: 6-15-2014

STATE OF SOUTH CAROLINA	)	IN THE FAMILY COURT FOR THE THIRTEENTH JUDICIAL CIRCUIT
COUNTY OF GREENVILLE	)	
Lynn W Mulligan,	)	C.A. No. 2010-DR-23-1359
Plaintiff.	)	AFFIDAVIT OF JANN W FAIGA
v.	)	
Frank A. Landgraff	)	
Defendant.	)	

BEFORE ME, an Officer authorized to administer oaths in the State of Florida, personally appeared JANN W FAIGA, who being first duly sworn, deposes and says the following is true and correct based on her personal knowledge.

Lynn Landgraff is my twin sister. While we have never been able to see each other much since she has been involved with Frank Landgraff, we have talked, emailed, and texted regularly.

Unlike most people, I have known Frank to be two very different people. To the public, Frank is known as a prominent businessman. To our family, he is known as a controlling and condescending man.

When he came with Lynn to family gatherings, he made comments about our meager houses and old-fashioned ways. Our father is a retired Bob Jones minister, so we never had much money. Frank has criticized my son, who despite his disabilities, is doing well as a junior at Clemson University. Even though she just graduated from University of Florida with a 3.98 average and starts graduate school this month, my daughter doesn't rise to Frank's standards because she is considering a stint in the Peace Corp. We may never meet Frank's social standing, but we are a strong family with good standards.

Over the almost 22 years that Lynn has been involved with Frank, he has been in total control of her life. He never allowed her to visit my home without him. I was very hurt when they came to Florida, but Frank would not allow Lynn to leave the business meeting they were attending long enough to have lunch with me. Even worse, he has never allowed her to go to New York to see my brother and his wife without him, but he would not go with her.

On the other hand, Frank travelled to meetings in New York, Chicago, Atlanta, and even overseas without Lynn. He thought nothing of leaving her, but would not allow her to travel anywhere without him.

Also, during those 22 years, Frank has never allowed Lynn to have friend that was just hers. Frank and Lynn were very social together. However, they socialized mainly with couples Frank's age. Many were friends he made while married to one of his first two wives.

Lynn called me and told me Frank was encouraging her to become friends with a single female named Carol Simpson. Lynn said she liked Carol and that at least she was her age. Lynn wanted a friend and Frank seemed to be accepting of Carol and the time she and Lynn spent together. While I understood Lynn's need for a friend, I was skeptical of Carol, but I agreed to keep an open mind.

Over the last year when Frank was not around, I have been spent time with Lynn alone, with Carol alone, and with Carol and Lynn together. Carol earned my respect. Then, she earned my complete trust. I can now see why Lynn developed such a close friendship with Carol so quickly.

For example, my parents had their 59th wedding anniversary. I was in Florida, my brother was in New York, and Lynn was traveling overseas with Frank. Without being asked, Carol stepped in and made the day memorable for my parents. She bought a sugar-free cake (Mom is diabetic) and a dozen red roses for my father to give to my mother. Mom doesn't drive so Carol picked her up to meet Dad at their favorite restaurant for lunch. Carol took pictures on her phone and emailed them to all of us. She even paid the bill.

On another occasion, my daughter was visiting my son at Clemson. They met Carol, Frank, Lynn, and my parents for lunch. My son was having car problems. Carol knew of a repair shop open on Sunday and followed him there to leave the car while he visited his grandparents. A couple of months ago, Carol helped my son again when he moved out of his college apartment for the summer.

Carol is very smart. When my daughter was having a rough time in school taking a full load and working, I told her to call Carol to get help with a paper. Carol agreed to help and spent an entire evening reading and editing on my daughter's paper. I am not sure who did what, but they got an "A" and my daughter felt supported in a very rough time.

My husband is from South Africa. When we had a question about his green card, Carol offered to call her friend who works for the Immigration and Naturalization Service. She also answered questions about the legal process when my stepson had some issues we needed guidance on. Another time, I called her and she readily answered questions about my cousin's domestic situation.

Over the last year, Carol has been a constant support to my parents. As I mentioned earlier, my parents have never had much money. Carol works in the kitchen at her church on Wednesday nights. She then does "meals on wheels" and brings extra food to my parents. They call me every week to tell me what she brought and how many meals they can make out of it. In addition, Carol cooked homemade vegetable soup with no beef or salt so my mother could eat it. She keeps them well-stocked with soup and other heart-healthy dishes.

Carol also threw a birthday dinner for my mother. Lynn and Carol cooked a joint lunch for my mom and Carol's mom for Mother's Day. On Father's Day, they all went to lunch together. Lynn and Carol took both moms to Biltmore House for a girl's day and then asked Dad, Carol's stepdad, and Frank to join them for dinner. Frank declined and was upset that Lynn stayed for the dinner.

Carol has gone to the doctor with my parents and helped them determine which insurance supplement is best for them. She helped Lynn decorate their house for Christmas. She planted winter flowers in planters on their small deck and recently replaced them with flowers for the summer. Mom and Dad have become so comfortable with Carol that they even have a To Do List ready for Lynn and Carol when they drop by. Carol even kept Mom's fish over the July 4th weekend.

In short, Carol has not only become Lynn's friend, but she is a friend to our family. She is very accepting of all of us. We laugh together and have cried together. By her actions over the last year, she has proven herself to me.

I am fully aware of the details of Carol's relationship with Frank. I also know the details of the relationship between Lynn, Frank, and Carol. Even so, I am glad Carol is Lynn's friend.

I chose the word *friend* carefully. My husband and I have spent considerable time with Lynn and Carol together. We have discussed the issue of their supposed affair frequently. The respect they have for each other is amazing. They are practically the same age and have many of the same goals. Everyone would be lucky to have such a friendship.

To the contrary, Frank does not know how to have a relationship. My father summed it up best when he said that "Frank does not want to be called a son-in-law, an uncle, a grandfather, a brother-in-law, or a father. We all just call him Frank or Lanny." No wonder he can't understand how Lynn and Carol can just be friends.

FURTHER AFFIANT SAYETH NOT.

Jann W Faiga

Jann W Faiga

STATE OF FLORIDA)
COUNTY OF Brevard)

Sworn to and subscribed before me this 2 day of August, 2010, by Jann W Faiga who is personally known to me [✓] or who produced identification [ ] of the following kind _____, and who did take an oath before me that the contents of the foregoing affidavit are wholly true and accurate.

My Commission expires on:

Jill Hill

Notary Public

Notary Public State of Florida
Jill Hill
My Commission DD649282
Expires 04/01/2011

Jill Hill

Print Name

STATE OF SOUTH CAROLINA	)	IN THE FAMILY COURT FOR THE THIRTEENTH JUDICIAL CIRCUIT
COUNTY OF GREENVILLE	)	
Lynn W Mulligan,	)	C.A. No. 2010-DR-23-1359
Plaintiff.	)	
v.	)	AFFIDAVIT OF BOBBY THOMPSON
Frank A. Landgraff	)	
Defendant.	)	

BEFORE ME, an Officer authorized to administer oaths in the State of South Carolina, personally appeared BOBBY THOMPSON, who being first duly sworn, deposes and says the following is true and correct based on his personal knowledge.

I rent the office space next to Carol Simpson at Carol Simpson Law Offices. I am a personal trainer who meets clients by appointment only and I often work on Saturdays. Carol's office is closed on Saturdays, but she often works in the vegetable and flower gardens in front of the office on Saturdays during the summer.

She was working in the garden one Saturday in May 2009, when a man with solid gray hair drove up in a gray Mercedes. Carol and the man went into Carol's office and stayed for about 45 minutes. He left and Carol went back to work in the garden.

I remember the incident because I felt sorry for Carol because she had to stop gardening to meet with a client. I have now seen a picture of Frank Landgraff and recognize him as the man who came to see Carol and went into her office alone with her.

Beginning in September 2009, I began training Carol and Lynn Mulligan with weights. They had a standing appointment four times a week. We did not do abdominal exercises or cardiovascular exercises because they were walking and doing those early in the morning or at lunchtime.

FURTHER AFFIANT SAYETH NOT.

Bobby Thompson

Sworn to before me this 2nd day of August, 2010.

Notary Public for South Carolina
My Commission Expires: June 21, 2017

STATE OF SOUTH CAROLINA COUNTY OF GREENVILLE Lynn W Mulligan, Plaintiff. v. Frank A. Landgraff Defendant.	IN THE FAMILY COURT FOR THE THIRTEENTH JUDICIAL CIRCUIT C.A. No. 2010-DR-23-1359 AFFIDAVIT OF WILLIAM K. and SUZANNE HUNTER HANEY

BEFORE ME, an Officer authorized to administer oaths in the State of South Carolina, personally appeared WILLIAM K. and SUZANNE HUNTER HANEY, who being first duly sworn, depose and say the following is true and correct based on their personal knowledge.

We have known Carol Simpson socially for many years. Suzanne worked for her on a part time basis. Carol and her father have celebrated Christmas in our home.

For several years, we would see Carol and her father out on Friday nights. He stopped going out on Fridays so Carol rarely came out alone. Several times, we saw Carol at Brick City Grille with an older man with gray hair and a female about Carol's age. We didn't know them, but recognized them from pictures as Frank Landgraff and Lynn Mulligan.

We were taken back to learn that the man and other woman were married. He always focused more on Carol than he did on Lynn. He and Carol talked to each other a lot, but ignored Lynn.

The night of the Christmas tree lighting at Bob Jones University, Carol came by. We learned that she was killing time because she was supposed to meet Frank and Lynn for dinner but Lynn was at the tree lighting. Carol was hesitant to meet Frank at his house alone. When the tree lighting was over, Carol left.

FURTHER AFFIANT SAYETH NOT.

William K. Haney

William K. Haney

Suzanne Hunter Haney

Suzanne Hunter Haney

Sworn to before me this 2nd day of August, 2010.

Robert T. Rawl

Notary Public for South Carolina
My Commission Expires: June 24, 2017

STATE OF SOUTH CAROLINA	)	IN THE FAMILY COURT FOR THE THIRTEENTH JUDICIAL CIRCUIT
COUNTY OF GREENVILLE	)	
Lynn W Mulligan,	)	C.A. No. 2010-DR-23-1359
Plaintiff.	)	
v.	)	AFFIDAVIT OF ANN HESTER BILLINGS
Frank A. Landgraff	)	
Defendant.	)	

BEFORE ME, an Officer authorized to administer oaths in the State of South Carolina, personally appeared ANN HESTER BILLINGS, who being first duly sworn, deposes and says the following is true and correct based on her personal knowledge:

I know Carol Simpson from conversations we have had when she and her father used to come to Brick City Grille on Friday nights. She has also done some legal work for me.

On several occasions, I saw Carol at Brick City with a couple. The male had grey hair and other female seemed to be closer to Carol's age and had short hair. He always seemed to be more interested in Carol than the other woman. I was surprised to learn that the man and other woman were married.

The night of the Christmas tree lighting at Bob Jones University, Carol came to Brick City. She had agreed to meet the couple for dinner after the wife went to the tree lighting. The husband had asked her to come by the house early to be with him while they waited on the wife. Because of his prior advances, Carol did not want to be alone with him.

After she met with someone at the restaurant, I bought her a drink and discussed some legal matters. We talked with other friends until the wife called to say she was ready to meet.

I recognize the couple from a picture. He is Frank Landgraff, and she is Lynn Mulligan.

FURTHER AFFIANT SAYETH NOT.

Ann Hester Billings

Ann Hester Billings

Sworn to before me this 2nd day of August, 2010.

Robert T. Crawford

Notary Public for South Carolina
My Commission Expires: June 21, 2017

STATE OF SOUTH CAROLINA	)	IN THE FAMILY COURT FOR THE THIRTEENTH JUDICIAL CIRCUIT
COUNTY OF GREENVILLE	)	
Lynn W Mulligan,	)	C.A. No. 2010-DR-23-1359
Plaintiff.	)	
v.	)	AFFIDAVIT OF SAREPTA P. WILSON
Frank A. Landgraff	)	
Defendant.	)	

BEFORE ME, an Officer authorized to administer oaths in the State of South Carolina, personally appeared SAREPTA P. WILSON, who being first duly sworn, deposes and says the following is true and correct based on her personal knowledge.

My name is Sarepta Wilson. Carol Simpson is my daughter. I understand that Frank Landgraff is saying many things about the relationship between his wife Lynn and my daughter. I have seen no evidence for his allegations. Here is what I know about Lynn.

At first, I was very jealous of Lynn. Before she and Carol became friends, Carol spent a lot of her time with me and her stepfather. We could always count on Carol to fix things at our house; cook for us; and plant flowers in our yard. I missed that closeness at first, but my 85-year old sister told me to let Carol have a friend. Now, I have Carol and Lynn to count on.

My sister is now deceased, but she was right about Lynn. In early December 2009, I passed out in church. I spent the day in the emergency room with Lynn by my side. Shortly after that, I had an outpatient procedure that ended in a hospital stay. For the next seven days, Carol, Lynn, or Lynn's mother took turns being with me 24 hours a day.

The same weekend that I was released from the hospital, Carol called to tell me that my oldest sister Betty was in the hospital and not expected to live. The night before we had had some bad weather and were not certain what the roads were like in Greenwood where Betty was in intensive care.

Lynn and Carol had already talked. Lynn drives a heavy car with four-wheel drive. She was already on her way to take care of our pet and then she was going by to get Carol to follow us to Greenwood. Carol told my husband and I to get on the road immediately and that they would be behind us should we have any trouble.

We arrived at the hospital in time to see my sister alive. Lynn spent her time getting us something to eat and doing anything to help. She was by my side while the doctor updated the family on Betty's condition. We all asked questions and said our good-byes before they took Betty off the respirator. She died within minutes. Lynn was visibly upset by the event, but she stayed with me to comfort me.

Two weeks later, I had to return to the hospital for carotid artery surgery. The surgery was scheduled for the same day that my daughter had to appear in federal court. Lynn took me to the hospital and stayed with me for 11 hours while I had surgery and recovered. Frank knew I was having surgery and that Lynn was with me. Even so, he handed her a letter accusing her of having an affair with Carol and demanded that she move out in six days or he would expose the affair.

I can only guess that Frank was trying to scare Lynn and Carol. Maybe, he thought he could drive a wedge between all of us. Instead, we all rallied around Lynn. Her life had proven to me and to my husband what type person she is. We joined her other friends in doing whatever we could to make things easier on her.

I couldn't be much help in the move or in helping Lynn set up her new home, but I could be there. Carol explained to me that Frank may continue to try to say that they were having an affair. Thus, it would be important for them to keep someone around them. As a result, I joined Lynn's mother, her father, my husband, and Lynn's sister as one of the "babysitters."

Disgusted at Frank's plan to divorce Lynn, we were all determined he would no longer be able to accuse them of having an affair. So we stayed with them all the time. Because my medical condition kept me from driving, the only hard part for me was transportation. I had to depend on them to pick me up or for my husband to transport me. My husband gladly provided the transportation since he is out-of-town a great deal (sometimes overnight) and was glad that I had company.

According to Carol, Lynn is my "favorite daughter." Lynn is special and we do treat her as one of the family. We have done a lot together -- visited Biltmore, celebrated Mother's Day, celebrated her mother's birthday, etc. For months, Lynn has attended church with me, my husband and Carol. Afterwards, we go to Stax's for brunch. I do treat her like a daughter.

But, my love for Lynn runs far deeper than all this. Throughout my life, I have relied heavily on my siblings for support. Carol had a brother, but he was killed in a car wreck. She knows a lot of people, but I have always worried who would support her after I die. She has many mentors, but not since high school has Carol had a close female friend.

I have said it often and repeat it now without a hint of exaggeration – "I can die in peace knowing that Carol has a friend like Lynn."

FURTHER AFFIANT SAYETH NOT.

Sarepta P. Wilson

Sarepta P. Wilson

Sworn to before me this 2nd day of August, 2010.

Robert Crawford

Notary Public for South Carolina
My Commission Expires: June 21, 2017

STATE OF SOUTH CAROLINA	)	IN THE FAMILY COURT FOR THE THIRTEENTH JUDICIAL CIRCUIT
COUNTY OF GREENVILLE	)	
Lynn W Mulligan,	)	C.A. No. 2010-DR-23-1359
Plaintiff.	)	
v.	)	AFFIDAVIT OF VAN WILSON
Frank A. Landgraff	)	
Defendant.	)	

BEFORE ME, an Officer authorized to administer oaths in the State of South Carolina, personally appeared VAN WILSON, who being first duly sworn, deposes and says the following is true and correct based on his personal knowledge.

I am married to Sarepta Wilson, and Carol Simpson is my stepdaughter. Besides being a friend to Carol, Lynn has been unbelievably supportive of my wife. She stood by my wife through almost three months of doctor's visits, hospital stays, and surgery. I trust her so completely that I gave Lynn a key to my house and added a code for her to our alarm system.

I first met Frank and Lynn before they separated. I talked to Frank on multiple occasions at the Commerce Club and he came to my house for a birthday party. Lynn started going to church with our family and sometimes joined us for brunch when Frank didn't mind. After they separated, Lynn has joined us for brunch almost every Sunday.

I always perceived Frank to be very controlling. I often commented that he just wanted to keep Lynn under his thumb. Even so, Lynn was unwavering in her commitment to never leave him.

Knowing Frank's allegations of an ongoing affair between Carol and Lynn, I encouraged my wife to "babysit" them on a continuing basis. While it may seem like a stupid exercise to most, we wanted to do our part to protect Lynn. She has been a faithful friend to me, my wife, and Carol.

FURTHER AFFIANT SAYETH NOT.

Van Wilson

Van Wilson

Sworn to before me this 2nd day of August, 2010.

Notary Public for South Carolina
My Commission Expires: June 21, 2017

STATE OF SOUTH CAROLINA	)	IN THE FAMILY COURT FOR THE THIRTEENTH JUDICIAL CIRCUIT
COUNTY OF GREENVILLE	)	
Lynn W Mulligan,	)	C.A. No. 2010-DR-23-1359
Plaintiff.	)	
v.	)	AFFIDAVIT OF HAROLD LEFKOWITZ
Frank A. Landgraff	)	
Defendant.	)	

BEFORE ME, an Officer authorized to administer oaths in the State of South Carolina, personally appeared HAROLD LEFKOWITZ, who being first duly sworn, deposes and says the following is true and correct based on her personal knowledge.

I know Lynn Mulligan and Frank Landgraff from the Commerce Club and from social events with a common friend. As a divorced man, I know that there are always two sides to every story so I have tried to stay out of their personal matters.

I also know a woman named Jan Cancilla because she is a friend of a lady I dated for a while. On two occasions, I have seen Frank Landgraff and Jan together at social events. Once they were together on Thursday night at the Commerce Club. The other time, Frank brought Jan to the birthday party of a mutual friend.

Recently, Jan confirmed that she is dating Frank and invited me to her house for a party with her and Frank on August 8th.

FURTHER AFFIANT SAYETH NOT.

Harold Lefkowitz

Sworn to before me this 2nd day of July, 2010.

Notary Public for South Carolina
My Commission Expires: June 21, 2017

STATE OF SOUTH CAROLINA COUNTY OF GREENVILLE Lynn W Mulligan, Plaintiff. v. Frank A. Landgraff Defendant.	)	IN THE FAMILY COURT FOR THE THIRTEENTH JUDICIAL CIRCUIT C.A. No. 2010-DR-23-1359 AFFIDAVIT OF ANDREA GUM

BEFORE ME, an Officer authorized to administer oaths in the State of South Carolina, personally appeared ANDREA GUM, who being first duly sworn, deposes and says the following is true and correct based on her personal knowledge.

On Friday, February 12, 2010, I learned that Lynn's husband had given her a letter the night before demanding that she be out of his house in six days. I immediately asked what I could do to help.

Lynn had to be at one of her McDonald's stores for an operations review. She could not leave the store or make calls until the representative from corporate McDonald's left. Due to weather, school was already out. My children were at home, but my husband told me to stay to help Lynn.

I rented a truck and got some tape and boxes. Lynn called about 3:00 to tell me to meet her at the house. By the time we started packing, the snow was already coming down -- hard.

Lynn instructed me to pack everything in her closet and in her bathroom. She was very specific that I was not to touch anything in the bedroom or in her husband's bathroom.

From conversations, I knew that Lynn and Frank were having problems. However, I could tell that she loved him and often heard her say that she was committed to never leaving him. Helping Lynn move was easy. Watching her cry continuously as we worked ripped my heart out.

FURTHER AFFIANT SAYETH NOT.

Andrea Gum

Andrea Gum

Sworn to before me this 2nd day of August, 2010.

Robert L. Faulk

Notary Public for South Carolina
My Commission Expires: June 21, 2017

STATE OF SOUTH CAROLINA	)	IN THE FAMILY COURT FOR THE THIRTEENTH JUDICIAL CIRCUIT
COUNTY OF GREENVILLE	)	
Lynn W Mulligan,	)	C.A. No. 2010-DR-23-1359
Plaintiff.	)	
v.	)	AFFIDAVIT OF LYNN W MULLIGAN
Frank A. Landgraff	)	
Defendant.	)	

BEFORE ME, an Officer authorized to administer oaths in the State of South Carolina, personally appeared LYNN W MULLIGAN, who being first duly sworn, deposes and says the following is true and correct based on her personal knowledge.

Frank Landgraff and I have been in a relationship for almost 20 years the last 13 as husband and wife. I promised Frank that I would never leave him. About 5 months ago, Frank handed me a letter telling me to get out of his house in 6 days with just my clothes. He also said that if I continued to do my "job" in the family business that he would continue to pay my salary.

Frank and I dated for about a year before we began living together. In 1995, moved into the new home we built together and got married in Las Vegas, NV in 1996. Until two years ago, we were happy together – running the family business, entertaining in our home, socializing with friends, and traveling extensively overseas.

Frank is the majority owner of one of our companies that now owns two McDonald's restaurants. In 2001, the company owned 8 restaurants, but McDonald's "encouraged" Frank to sell 6 of them due to differences of opinion regarding how they should be managed. I am the majority owner of another company that owns one McDonald's restaurant. In addition, I am an equal partner with a third party in two corporations that own Mutt's restaurants and real estate.

Our marital problems started in 2008 when two things happened -- Frank pushed me to get approved as an owner/operator with McDonald's and Frank got unexplainably ill.

At the time, I was managing our two restaurants and enjoying my life with Frank. When we met, I was just a crew person in one of his stores. Over time, I became a shift manager then a store manager and began running the day-to-day operations in 2001. For our entire relationship and even now, I put on a McDonald's uniform almost every day and go to work in the stores.

Becoming an owner/operator is the highest level in McDonald's. I had to go through rigorous education and training to ensure that I could handle every aspect of a McDonald's

franchise. Once approved by McDonald's as an operator, I was approved as a partial owner of our two stores.

Shortly thereafter, we learned that McDonald's was going to build a new store in Taylors. Frank encouraged me to pitch for the store. I put together a comprehensive presentation of my plans to build, finance, staff, and manage the store. McDonald's granted me the franchise and we started building in 2008. I spent every day supervising all aspects of the store opening, including construction of the building, designing the interior with equipment and furniture, hiring the staff, and preparing for the grand opening in October 2008.

My becoming an owner/operator fundamentally changed our relationship. I was young and insecure when I married Frank. I was content to literally stand behind Frank and allow him to dictate all we did. He decided everything and I was perfectly happy to let him. I became more confident during our marriage, but believed that Frank's total control of our finances and time was normal. I trusted him completely and had no reason to believe he wasn't looking out for my best interest.

As I became a more confident as a businesswoman and matured as a woman, I started making some decisions for myself. The more I showed any sign of independence the unhappier Frank became. Even little decisions like what I ordered for dinner became points of contention. I was no longer willing to be totally controlled and Frank was not willing to give up control.

This impasse was alleviated by Frank's unexplained illness. For some reason, Frank lost a lot of weight. Having been Chairman of the Board of the Greenville Hospital System, he had access to the best of medical care. Even so, our main focus over the next months was his health. After a battery of tests, there seemed to be no medical reason for his weight loss and over time he began to feel good again.

While his illness slowed our struggle over control, it took a toll on our sex life. For the 16 months prior to June 2009, Frank showed no interest in touching me sexually. This was a huge change for us.

Although he is 22 years older than I, Frank has always been very active sexually. He directed our sex life to include new positions and various activities. He encouraged me to buy sex toys and use them on him. While some things seemed a little kinky, he was my husband and I was eager to please him.

Frank also uses pornography extensively. He has a very large library of pornographic videos which he kept in the cabinet in our bedroom. We had cable and satellite television in our house which gave him access to all adult programming. In addition, he had a shelf in his private bathroom for all his adult magazines. When we traveled overseas, he regularly wanted to visit exotic places of adult entertainment.

Virtually every year, he insisted that we visit the Hedonism resorts in Jamaica whose motto is "The Pleasure Seekers Ultimate Super-Inclusive Playground." We stayed in the all nude part of the resort. Frank pushed me to participate in the adult games with total strangers.

He also encouraged me to have sexual contact with the other women there, but I refused. Frank participated fully and won the toga contest. See the picture attached as Exhibit A.

I had never been sexually active with another woman. Frank seemed to have a fantasy about bringing another woman into our marriage. In the past, I tolerated a then-single woman named Nancy Sedlarz performing oral sex on him at our beach house, but I refused to touch her or participate in a threesome. On another occasion, another then-single woman, Frank, and I got in our hot tub naked. Frank then suggested that she and I take a shower together. We both refused.

In December 2008, Frank introduced me to a single, female acquaintance of his named Carol Simpson. Over the next several months, we talked to Carol at the Commerce Club. Frank seemed enchanted with her. I already knew he was intent on bringing someone else into our relationship. Even so, I did not pay much attention to Carol.

In May 2009, Frank strongly encouraged me to spend time with Carol. Then, the first weekend in June, he suggested that I take her to our beach house while he was at a football fantasy camp in Pennsylvania. Carol and I went to the beach. We had a great time and learned that we had the same values of being healthy, working hard, and taking care of our families. We started a walking routine that then that continues to be a big part of my life.

When Frank returned from Pittsburgh, he invited Carol to dinner. She met us at our house and we all went to dinner. When we returned home, Frank suggested that we all get in the hot tub nude. I was hesitant because I really liked Carol and thought she could be just my friend. In fact, I had asked Frank not to ask her to get in the hot tub. Carol was very hesitant, too. Frank assured her that our hot tub was completely private and no one would see us. She agreed. After the hot tub, we sat and talked.

Several days later on June 10th, Frank and I went to Italy. The trip was pleasant, but we talked about Carol every day. I texted her, but Frank insisted that I call her. When we came home, Carol came to our house for dinner.

Once again, Frank insisted that we get in the hot tub. We all laughed and talked. Frank and I left for a family reunion over the July 4th weekend and Carol went to see friends in Washington, DC. On July 8th, I threw a party for Frank at a local restaurant. Carol rode to the party with us and returned to our house. Frank suggested we get in the hot tub, but this time, he also suggested that we all give each other massages.

On July 9th, Frank finally got his wish of me being with him and another woman. We invited Carol over and Frank suggested we do the hot tub. Afterwards, he again suggested that we give each other massages. That evening began four days of Frank having two women, something he had wanted for a long time and I had always been hesitant to give him.

Carol got caught up in our problems. She was having some serious problems of her own, but Frank and I promised her we would be there for her. She and I were becoming friends and Frank seemed happy to have us both with him.

Frank did not realize that my brother and I had some serious conversations over the July 4th holiday. My brother had encouraged me to make some friends my own age or warned me that I would be alone if Frank died first. Carol happened to come along at that time. In addition, Frank seemed to want Carol in our life. I thought I had the best of both worlds. I did not realize that Frank was thinking the same thing.

Frank and I began having more and more problems. I told him I felt smothered. I told him that I felt like a baby bird that he was holding tightly in his hands. The more I wanted to fly the more he squeezed his hands. I begged him to go to counseling with me. When he refused, I told him that I would do what I needed to do to make myself whole. I also told him that no matter what, I would never leave him so he would have to divorce me to get rid of me.

The next six months were different parties and situations at different times, but all come down to the same thing. I wanted to be the person I am and Frank wanted me to be the person he wanted me to be. The more I tried to be me, the more he tried to control me and make me be who he wanted me to be.

By his own admission, Frank started to lay the groundwork for this divorce in October 2009. Before then, I had not worried about money for the 20 years we have been together. However, Frank decided that we would both draw $65,000 each year from the family business for spending money. He continued to pay all our living expenses and other bills. While we were theoretically equal, Frank had his retirement and social security.

In addition, Frank controls all the business checking accounts. I am the majority owner and sole managing partner of Franko, LLC. On the advice of my first attorney, I went to the Bank of Travelers Rest to ensure that I could sign checks. The bank refused to add my name to the checking account and froze a credit line when it discovered that Frank has fraudulently signed to open the account by representing himself as the managing partner. See Exhibit B attached.

Frank's lawyer accused me of trying to withdraw money from the credit line. I didn't even know that the company had a credit line. However, since then I have learned that last year Frank borrowed money on the line and also withdrew money from the company for personal reasons. According to the accountant he withdrew $15,665 for part of the more than $400,000 he spent on renovations at the beach house. Also, he withdrew $15,531 to pay part of the $78,000 it paid to have a 500 square foot closet added to our house for his clothes. Since he started moving funds in preparation the separation, he drew another $84,000 off the line. See Exhibit C.

Frank also started laying the groundwork for his accusations of adultery. He asked me every day whether Carol was coming over. For the most part, he would be very nice to Carol, but hateful to me when she wasn't around. He said I treated him the same way. In a strange way, I think we were both using Carol to keep things somewhat civil between us.

I was in the marriage for the long run and welcomed Carol's friendship. For part of October and virtually all of November, he refused to get in the hot tub with us. Carol and I were

on a vigorous exercise routine that included walking 5 miles a day, lifting weights with a personal trainer, and abdominal exercises with a video. So, a 15-minute stint in the hot tub was a welcome end to most days.

At the same time, Frank was making hateful remarks about me always being with Carol. He told all our friends that we were always together. Much later, I learned that he was asking them to watch us to see if they thought we were having an affair. I guess we played right into his hands, because we started to meet early in the morning at Carol's house to exercise or walk. We tried to meet the personal trainer in the middle of the day. As a result, I could be home with Frank alone at night. Then, Frank kept asking where Carol was.

Carol liked to cook so she and I started cooking for Frank. Then, we started cooking for our friends. After Thanksgiving, Frank was being nice again. He seemed to want Carol around all the time, but he was also being nice to me. He and Carol helped me put up our 13- foot Christmas tree in the living room and the smaller one in our bedroom. We went to dinner, movies, and parties together. He invited Carol to the McDonald's Gala, to the Ronald McDonald House Christmas party, and to Christmas Dinner with our family (and her father) at the Poinsett Hotel.

Frank also started getting in the hot tub again in mid-December. He even asked for massages. For several nights, he insisted that Carol come over after we had returned home from Christmas drop-ins. However, he stopped again when Carol and I both told him we were not interested in a sexual threesome. He said being around us was "like being in a candy store and not being able to eat the candy."

On February 7, 2010, Frank and I hosted our annual Super Bowl party. We had over 100 people at the house. We also had out-of-town guests. Carol and I cooked and set up for the party. Frank seemed to be happy entertaining.

Things were still strained, but I had hopes that Frank and I could work through our issues or at the very least learn to co-exist. I repeatedly told him that he would have to divorce me. I thought by removing divorce as an option, we would eventually focus on our problems. Little did I know what Frank had already planned.

Four days after the party, on February 11, 2010, Carol had a trial in federal court while her mother was having major surgery. I came home after spending 11 hours in the hospital with her mother. Frank greeted me with a letter from his lawyer that said I had to leave our house in 6 days. I asked Frank where I was supposed to live and what furniture I was I to use. He told me to move in with my parents who live in a one-bedroom apartment on Bob Jones property. Bottom line, leave in 6 days with just my clothes.

That night, I went online and found an apartment. The next morning, I rented the apartment, but had to go to our Cannon Drive McDonald's to meet Bob Kitterman, our McDonald's representative for an operations review. Frank was at the store talking to Bob when I arrived. After they finished talking, Frank left me alone to handle the operations review with Bob.

Bob told me that Frank had told him that we were separated. A short time later, we had a meeting with the other owner/operators in our region. Several people there told me that Frank told them about the separation. Not surprisingly, word of our separation made its way up the corporate chain.

While I was at the store, a friend rented truck. In one of the worse snow storms Greenville has seen in years, I started moving. My sister and brother-in-law drove up from Florida and arrived at 3:30 am. We got up the next morning and went back to the house. My brother-in-law took a video of the entire house to show the condition I left it in. We then went to my apartment to unload the truck.

I had no furniture or furnishings. I used the same credit cards I used for years to buy furniture, dishes, sheets, towels, lamps, pots and pans, etc. On Sunday evening, I was unpacking boxes while Frank was at a Valentine's Day party telling more people that I left him.

On Monday, I got a return call from the attorney I had called on Friday morning. I made an appointment for Thursday and began collecting information. This is where the real nightmare began.

Frank continued to tell friends and business associates that I had left him for a woman. Within days, I got calls from McDonald's people from Atlanta to Raleigh telling me they heard about our separation and my affair. Frank told his sons and former wife. He told our friends and acquaintances. I was even approached in a local store with a barrage of questions from a casual acquaintance.

I soon learned that our business holdings, specifically relating to the Mutt's companies, violate the Franchise Agreement that we have with McDonald's. So did McDonald's. Jeff Wilfong, our regional representative requested a meeting with Frank and me. He informed us that their routine investigation initiated upon their learning about our separation had revealed what appeared to be a violation of our Franchise Agreement.

Frank responded by saying that he only had an investment interest in the Mutt's companies and that the companies were in my name. After that meeting, Jeff requested additional information which I provided within the requested 7 days. Frank delayed his response for three weeks or more. The correspondence attached as Exhibit D tell the entire story.

Frank tried to take my interest in the Mutt's companies. He had the co-owner call me and ask me to sign over my interest the company to Frank. Despite this, at a follow up meeting, Frank told Jeff that he had no interest at all in the Mutt's companies.

Based on their investigation, McDonald's found us in violation of the Franchise Agreement for owning Mutt's. Based on the violation, McDonald's denying the rewrite to the Cannon Drive store. In addition, they made Frank and I both ineligible for growth and rewrite until we divest ourselves of Mutt's.

McDonald's and I now know the extent of my ownership of Mutt's. While I am ineligible for growth and rewrite with McDonald's, Jeff and Marty both know that I may have to look to the Mutt's companies for income. I was forced to explain to them that Frank has refused to increase my draw from our companies and refused to pay my attorney's fees. Thus, I may have to draw funds from the Mutt's companies simply to pay my day-to-day expenses and attorney's fees.

Frank has been moving and hiding money. He moved a large sum of money out of one bank account into a newly created account that only he controls. He closed our joint checking account. See Exhibit E attached. He forged my name to a document at Merrill Lynch to remove my name from one of our joint accounts. See Exhibit F attached. He also signed our tax returns and kept all the refunds.

Frank brought Carol into our lives and into our home. He is now lying to garner sympathy and create the impression of the wronged party. After all that, he couldn't even wait until after our first court date before committing adultery yet again with a woman named Janet Cancilla.

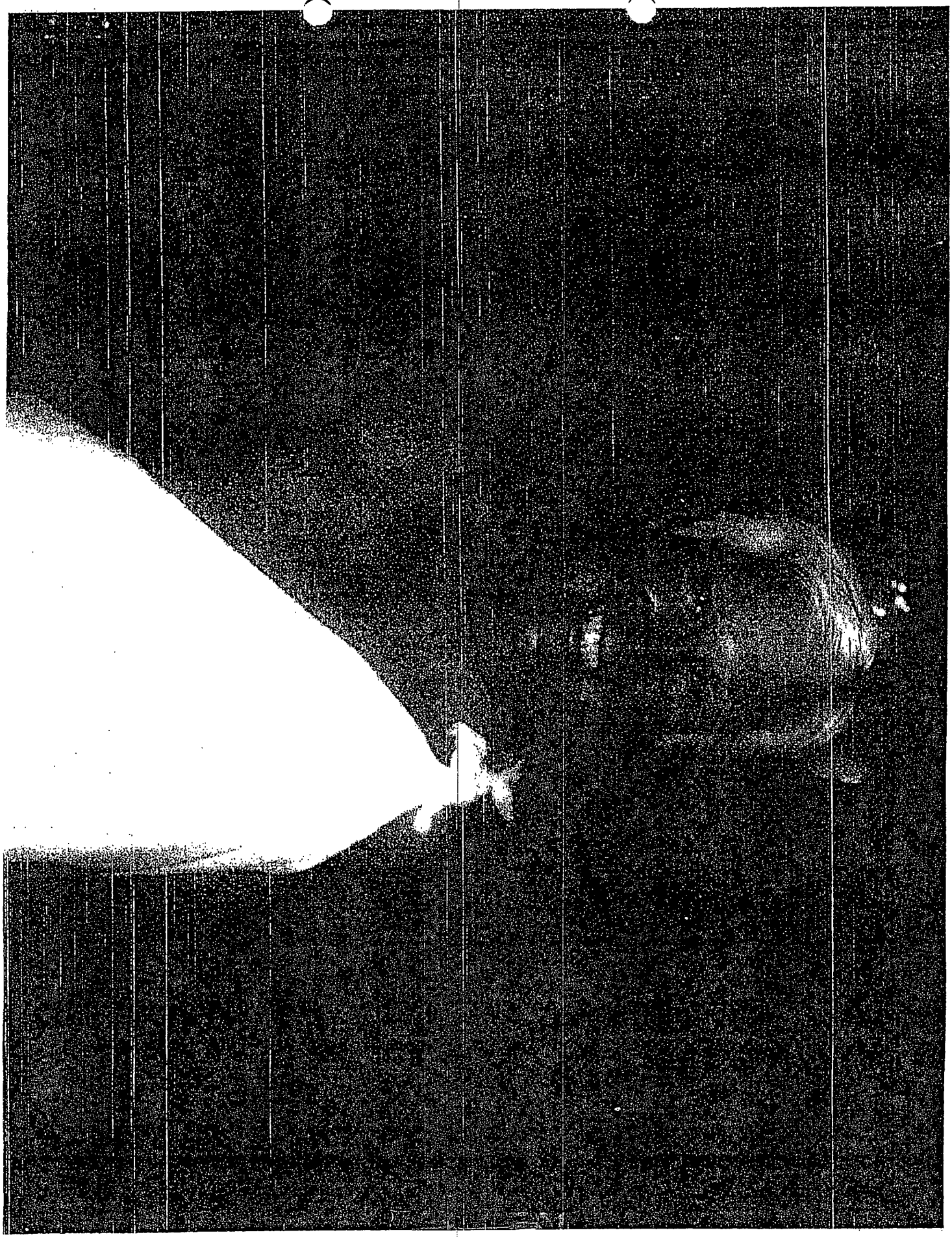
FURTHER AFFIANT SAYETH NOT.

Lynn W Mulligan

Lynn W Mulligan

Sworn to before me this 4th day of August, 2010.

Notary Public for South Carolina
My Commission Expires: June 21, 2010



STATE OF SOUTH CAROLINA COUNTY OF GREENVILLE Lynn W Mulligan, Plaintiff. v. Frank A. Landgraff Defendant.	)	IN THE FAMILY COURT FOR THE THIRTEENTH JUDICIAL CIRCUIT C.A. No. 2010-DR-23-1359 AFFIDAVIT OF CAROL A. SIMPSON

BEFORE ME, an Officer authorized to administer oaths in the State of South Carolina, personally appeared CAROL A. SIMPSON, who being first duly sworn, deposes and says the following is true and correct based on her personal knowledge:

As a member of the South Carolina and North Carolina bars, this is the hardest affidavit that I have ever had to write. While I have had to craft many legal arguments, I have never had to expose my personal life, especially to a judge before whom I represent clients. However, this case leaves me with no alternative.

When I first met Frank Landgraff, I believed him to be a moral person and an honest businessman. He and his wife made a handsome couple. Even though he is much older than she, I described their relationship as one that worked. I could not have been more wrong.

In May 2009, Frank began an affair with me. About a week after I refused to continue to see him, he encouraged his wife to take me to their beach house for the weekend. Up until that time, I had never even been to lunch with Lynn. Lynn and I became friends. Over time, Frank became jealous.

Here is the story.

I have known Frank for years as a fellow Rotarian. In early 2009, I began seeing Frank and Lynn at the networking event at Commerce Club on Thursday nights. They always greeted me with a hug. Frank added a kiss and the compliment, "You are a really good hugger." Over several months, we all sat together and talked at the Club. They seemed to be happily married so I thought nothing of his comments.

By April, we were making plans to have dinner together. Frank also said on multiple occasions that he would like to meet me for a drink to get to know me better. Because he said this in front of his wife, I did not think anything was strange about the idea. As it turned out, we met several times without Lynn present and became apparent that that Frank was interested in having an affair with me. The following encounters prove my point.

First, Frank and I met at a neighborhood bar for the long-requested drink on May 12, 2009. Lynn was out of town at a business meeting. I was hesitant to meet Frank, but he assured me that the meeting was innocent. We talked about our education and careers. At the end of the evening, Frank walked me to the car and gave me a kiss that was not much friendlier than when he greeted me at the club.

I called Frank at the next day at 11:50 am to thank him for the drink. He asked me to meet him again, but I had an earlier commitment. He asked me to meet him afterwards for a quick drink. I agreed. We talked until the bar closed and then Frank walked me to my car. What started as a kiss goodbye became intimate in my car for the next several hours. The attached phone records show that I called Frank at 2:37 am to let him know I made it home safely.

On May 18th, Frank called to see how I was doing. That night he showed up at my house with a bottle of wine and cheese. We talked for a while, but once again things got intimate. He left several hours later. Frank called me the next day at 10:59 am and we talked for 15 minutes. Lynn returned to Greenville that afternoon.

Finally, on Saturday, May 30th, I was at my office working in my vegetable garden. Frank called at 1:53 pm to see where I was and then dropped by. We went inside my office and again things got intimate. The attached affidavit confirms that the person who rents the other suite in my office building saw Frank arrive and then saw us go into the office for about 45 minutes.

The attached phone bills show that Frank and I talked frequently during May. While the phone calls were not too bad, the intimacy was wrong. I also knew that Lynn deserved better and told Frank that we could not continue to meet without her present. I did not tell Lynn about this affair until after she and Frank separated because of her commitment never to leave him. Only when Frank told her to leave his house in six days did I think she deserved to know of his adultery.

The first week in June 2009, Frank attended a Pittsburgh Steelers football camp. While there, Frank called me He suggested that Lynn and I go to their beach house while he was gone. Lynn and I later discussed how we were both apprehensive about spending the weekend with someone we didn't know. However, over the weekend, Lynn and I learned how much we had in common.

When we all returned to Greenville, Frank suggested that we go to dinner. He was very emphatic that I meet them at their house so we could ride to the restaurant together. When we got back to their house, Frank suggested that the three of us get in their hot tub -- naked.

The hot tub is on the second floor deck just outside their master bedroom. It is in a corner surrounded by large trees. Frank assured me that it was completely private and no one would see us. The attached pictures show just how private it is. We got into the hot tub naked and then sat on the deck wrapped in a towel and talked.

Two days later, Frank and Lynn left for a two-week trip to Italy. While they were gone, we maintained contact through text messages and phone calls. When they returned, I met them at their house again to go to dinner. Frank presented me with a very expensive silk scarf that he

purchased for me while overseas. Once again, we all got into the hot tub naked and then wrapped in a towel to sit on the deck and talk.

On July 8th, we celebrated Frank's birthday with a group of his friends and then returned to their house for another round in the hot tub – with a twist. They had a professional massage table. We took turns with two of us giving the third a full body massage.

On July 9th, things escalated with increased touching and Frank's encouragement for more active intimacy between Lynn and me. That began a four-day event of the three of us dining, shopping, relaxing, massaging, and sleeping together.

During this time, we shared our problems and dreams. Despite the horrific problems in my life, Frank assured me that he and Lynn were true friends that I could depend on. He promised that we would travel together and that he would put me on the board at Ronald McDonald House. Frank painted a picture of fun and travel for the three of us.

Frank seemed to be very happy with the three of us being together. He pushed the relationship while always demanding that he be the center of attention. He insisted on sitting between us at the movies and beside me in the booth at dinner. He even suggested that I sleep in the middle between the two of them and told Lynn to tell me to take a more active role in touching him.

I soon realized that Frank and Lynn were having severe marital problems that started long before I met Lynn. One night, Lynn begged Frank to go to counseling, but Frank told her that talking things out with me was all they needed. We all talked, but I fell out of favor with Frank the more I encouraged him to accept Lynn for the mature woman she had become over the almost 20 years they were together.

About three years earlier and with Frank's encouragement, Lynn had become an owner/operator for McDonald's. She was no longer the insecure young woman that Frank married, but was now an independent business woman. Frank told me he was not sure he could accept her that way. Lynn went to counseling alone and Frank continued to insist that I could help them.

Throughout July, we continued our pattern of dinners, visits to the hot tub, and massages. We seldom ever slept together until the three of us traveled to Key Largo, Florida on August 1st. Frank and Lynn argued for most of the trip. The only constant during all this time was Lynn's statement that she would never leave Frank. She consistently stated that he would have to divorce her because she was committed to staying married to him.

Throughout August, the tension between the two of them increased. Frank was unhappy that Lynn and I were unwilling to engage in any sexual activity with him. We still continued to relax in the hot tub, but stopped everything else. Frank soon lost interest in the hot tub, but told us to go ahead without him. Lynn and I would jump in for 10-15 minutes after exercising and before joining Frank to watch television.

By this time, Lynn and I had become even closer friends. Most days we met early in the morning to limit her time away from Frank. We began walking 4-5 miles virtually every day.

We had an appointment with our personal trainer four times a week. We are both the primary caretakers of our elderly parents and began working together to take care of them.

We did things like celebrating the birthday of Lynn's mother by cooking at my mother's house. We took our mother's to Biltmore House and then invited the husbands to join us for dinner. After Frank complained about eating out all the time, Lynn and I started cooking dinner for him. In addition, Lynn started going to church with her parents. She visited the church that I attend with my parents. She liked the service and started going to the early service with us and then going to brunch at Stax's with me and my parents. Frank was invited to these events, but chose not to attend.

I later learned that I was the third woman that Frank had attempted to get involved in relationship with him and Lynn. I have met both other women and one told me that I should realize that Frank "does not understand a relationship that is not sexual." This made sense to me. Frank had tried to get me to look at his Playboy at his house before we all went to dinner. Further, he had pornography on the television one night when Lynn and I joined him in the television room.

During October, November, and December, things grew worse between Frank and Lynn. The three of us spent some time together, but Lynn and I spent more time in the early mornings and at lunch so she could be home with Frank at night.

From time to time, Frank would invite me over and we continued to go to movies and dinner together. Sometimes Frank would be distant, but most of the time he would ask for his hug and kiss when I walked in.

On the Friday after Thanksgiving, I went to their house to help decorate for Christmas. Frank was uncharacteristically nice. He helped with the tree and then started bringing us crackers and dip. For a while, the tension disappeared and things were pleasant between us. This was extremely important to me since I had become best friends with Lynn and she had committed herself to growing old with Frank.

A strange incident happened on December 4. Lynn was attending the tree lighting at Bob Jones University with her parents. We were then going to meet Frank for dinner. I had to be at the office late so I could not go to the tree lighting. Frank was quite insistent that I come to his house to be with him alone while Lynn was at her parents. I felt uncomfortable and suspected that he would try something inappropriate. Frank was very upset with me for not coming over.

Instead of meeting him, I went to Brick City Grille. I told several friends why I was there killing time. They remembered Frank from a time that he, Lynn, and I had been there together. Their affidavit confirming this event is attached.

The Ronald McDonald House Gala was on December 11. Frank had invited me to attend with him and Lynn. I met them at the house and we attended the gala together. The next morning I got a call from them with an invitation to breakfast. Frank invited me to a party at their house that night. He told me to bring clothes and spend the day with them. They met me at a shoe store to help me find some shoes. We left there and went to several other stores to shop.

When we got to their house, we got things set up for the party. Then, the three of us got in the hot tub – again naked. When the caterer arrived, the three of us were sitting in towels in front of the fireplace in their master bedroom. We jumped in the shower together, dressed, and joined the caterer to get ready for the party.

Frank and Lynn had a series of Christmas events to attend. After an early event on December 16th, Frank invited me over to the house. We all got into the hot tub and Frank reached over to touch me sexually before Lynn joined us. Frank was having problems with very dry skin. When we got out of the hot tub, Frank asked for a massage. Lynn and I rubbed oil all over him, but only Lynn touched him his genitals.

Two days later on December 18th, Frank asked me to come over again. Lynn had told him that we could all do the hot tub and massages, but sexual touching was off-limits. Frank asked me if I agreed with the rule. I told him I did. Once again, we went in the hot tub and Frank asked for a massage. When Lynn left the room for a minute, Frank asked me to touch him sexually. I refused, but Lynn was standing in the doorway and got very upset that he even asked.

Frank kept telling us that he liked the idea of two women together. Because of this Lynn and I had explored the idea of touching each other for his benefit. We discussed whether we could continue anything physical between us on a regular basis, and if so, what. We went so far to experiment with touching while he was out of town a few days earlier.

Spending other nights with each other was not sexual. Neither of us had any prior same sex experiences and we were only considering it for Frank. On December 15th, we experimented with touching each other outside of Frank's presence since Frank had made it clear that this was one of his fantasies. However, after that experience, based on everything that had occurred between Frank, Lynn, and me, we knew that we could not and did not even want to try to appease Frank's fantasies. His thoughts that Lynn should even tolerate a sexual threesome became repulsive to me and I later learned to her.

The event on the 18th ended the three of us getting in the hot tub and the massages. Frank said massages without sexual touching was like being in a kid in a candy store and not being able to eat the candy. The hugs, kisses and friendliness did not end. I was even invited to bring my father and join Frank, Lynn, his sons and their families for Christmas dinner.

My mother got very ill and had to have an outpatient surgical procedure. Complications led to a hospital stay from January 21-29. When I could not be at the hospital, Lynn would stay with my mom or bring her mother up to sit with her. Lynn even offered to spend the night to give me some rest. One of those days, Frank came to the hospital. He walked out with me and in the elevator, pulled me to him towards kiss me.

Throughout January 2010, Frank continued to encourage me to come to their house and to cook dinner for him. Afterwards Lynn and I would work or watch television with him. Since Lynn and I had become close friends and she was committed to never leaving Frank, Frank wanting me around was important.

One night, Lynn, Frank, and I were talking. Lynn said she was tired and left the room to get ready for bed. Frank started a conversation about me and Lynn. He told me that he thought

she would rather spend time with me rather than with him. He then said that he really liked me so that was okay. I told him that I thought they could work things out if they really tried. He said he did not want to try. I then asked him, "Can Lynn could be my friend and your wife?" he said he didn't know. I said, "That is the most honest thing I have ever heard you say in a long time."

On February 7, 2010, Frank and Lynn had their traditional Super Bowl party. Over 100 hundred people attended. I was busy helping out with coats, directions, and helping the elderly guests like my parents. It was quite an event and Frank seemed happy. On Tuesday, I came over for dinner and Frank greeted me with "Where is my kiss?" He seemed to be very happy and glad for us all to be together.

Two days after that my mother had to have surgery. I had to be in court in Spartanburg. Lynn volunteered to be with my mother. After 11 hours at the hospital, Lynn arrived home. Shortly thereafter, she called me to say that Frank gave her a letter telling her she had 6 days to leave the house or he would expose our affair.

Since that day, I have talked to many people who confirmed that Frank had told them that Lynn and I were having an affair. Even as early as November, he was telling people to watch us. I soon learned that my alleged affair was known to many people including those in corporate McDonald's from Atlanta to Raleigh.

I guess I shouldn't feel special. Several of Frank's friends have told me about his new girlfriend, Jan Cancilla. I didn't introduce myself, but I saw her last Thursday at the Commerce Club. The next day, I got a call from a mutual friend who said that Jan is holding a "Frank and Jan" party on August 8th.

FURTHER AFFIANT SAYETH NOT.

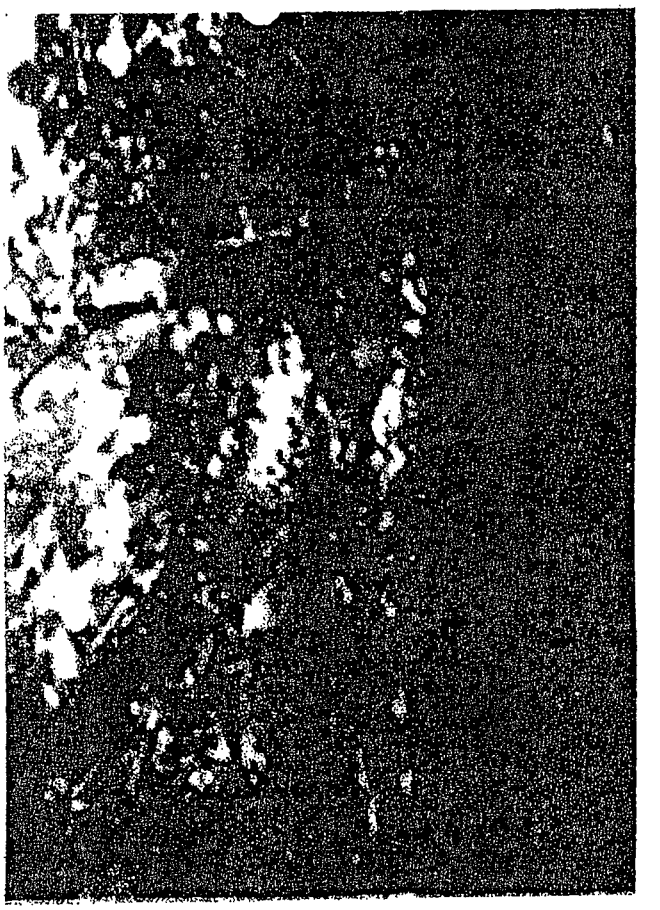
Carol A. Simpson

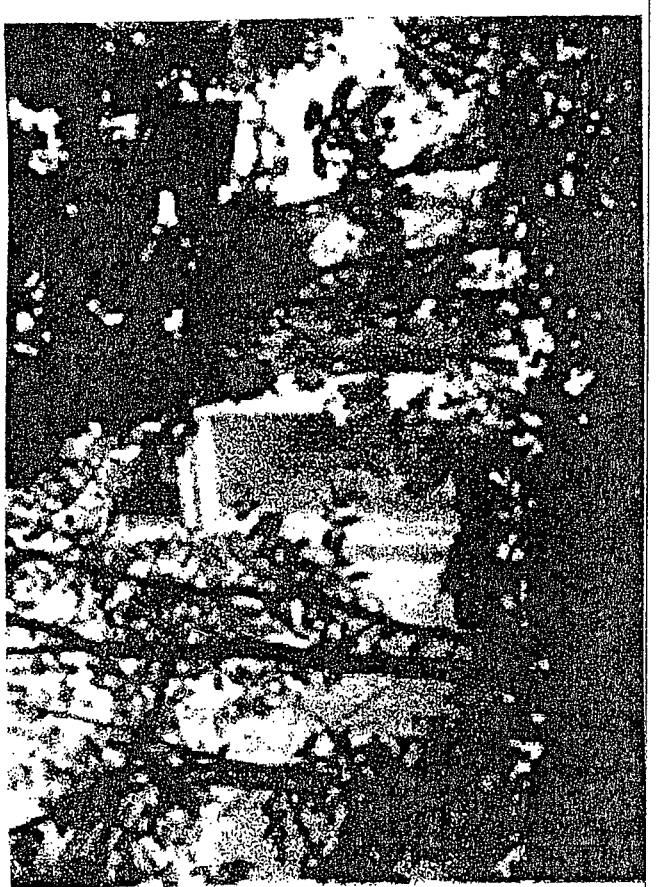
Carol A. Simpson

Sworn to before me this 4th day of August, 2010.

Andrea L. Gum

Notary Public for South Carolina
My Commission Expires: 6-15-2014





STATE OF SOUTH CAROLINA

COUNTY OF GREENVILLE

Mary R. McCorvey,

Plaintiff,

v.

Frank A. Landgraff, Carol Sutton, Sutton & Associates Investigations, Inc.

Defendants.

IN THE COURT OF COMMON PLEAS
C.A. 2013-CP-23-01762

AMENDED AFFIDAVIT OF WILLIAM G. MAYER TO FURTHER IDENTIFY DEFENDANTS

PERSONALLY APPEARED BEFORE ME, William G. Mayer, who after first being duly sworn testifies:

1. I am licensed to practice law in the state of South Carolina.

2. I am retained as counsel for Plaintiff Mary R. McCorvey (under pseudonym).

3. I have personally reviewed a report prepared by Detectives, Inc.

   a. The attached documents are taken from that report. The identifying information has been redacted to preserve Defendants' anonymity until the Court rules on their qualification to proceed under pseudonym.

   b. These documents are referencing the events involving Plaintiff.

   c. Upon request, I will present unredacted copies to the Court for its inspection.

4. I have also spent substantial time researching the facts of this case. I have determined the following to be true:

   a. Plaintiff was a guest in the home when the videotaping occurred;

   b. Plaintiff did not know Defendants had installed a hidden camera in a bedroom to secretly videotape her;

c. Plaintiff thought she could reasonably expect her privacy at the time of the videotaping;

d. Plaintiff did not consent to the secret videotaping;

e. On numerous occasions, Defendants have taken specific actions relating to the videotaping to embarrass and intimidate Plaintiff;

f. Based on their past actions, Defendants could escalate these actions if not enjoined.

5. I have witnessed Plaintiff's emotional distress and her efforts to repair the extensive damage Defendants' actions have caused her.

6. Plaintiff fears the attention and questions from the media, friends, co-workers, and the general community that public disclosure would inevitably bring.

7. Plaintiff has not told her family or close friends of the circumstances giving rise to or that she has filed this lawsuit. An extensive internet search revealed no postings regarding any aspect or the facts of this case. Plaintiff is not a public figure or a limited public figure so that the public would have a strong interest in knowing her identity.

8. Plaintiff said that she does not think she will proceed in this case if she is forced to make her real name public.

FURTHER AFFIANT SAYETH NOT.

William G. Mayer

SWORN TO BEFORE ME THIS
25th day of April, 2013.

Notary Public for South Carolina
My Commissions expires: 11-09-22

STATE OF SOUTH CAROLINA IN THE COURT OF COMMON PLEAS

FILED-CLERK OF COURT
GREENVILLE CO. S.C.
PAUL D. WICKENSIMER
2015 FEB 3 PM 4 48

C.A. 2013-CP-23-01762

COUNTY OF GREENVILLE

Carol Simpson,

Plaintiff,

v.

Frank A. Sutton, Carol Sutton, Carol Sutton & Associates - Investigations, Inc.

Defendants.

PLAINTIFF'S RESPONSE TO SUTTON'S FIRST INTERROGATORIES

Plaintiff responds to Carol Sutton and Carol Sutton & Associates - Investigations, Inc.'s ("Sutton") First Interrogatories as follows:

GENERAL RESPONSES AND OBJECTIONS

1. Plaintiff's investigation and development of all facts and circumstances relating to this action is ongoing. The following responses reflect plaintiff's current knowledge, understanding and belief respecting matters about which inquiry has been made. Plaintiff expressly reserves the right to supplement, clarify, revise, or correct any or all of the responses and objections herein, and to assert additional objections or privileges, in one or more subsequent supplemental responses. These responses and objections are made without prejudice to, are not a waiver of, and Plaintiff expressly reserves the right to rely on, at any time, including trial, subsequently discovered documents and/or materials.

2. Plaintiff objects to a request for all responses without appropriate limitation as to time, place, or subject matter as overbroad and amounting to a fishing expedition.

3. Plaintiff objects to the requests in their entirety to the extent that they are overbroad or purport to impose obligations upon her that exceed those set forth in South Carolina Rules Civil of Procedure, statutes, case law, and/or court rules.

4. Plaintiff objects to any to the extent the discovery sought is obtainable from some other source that is more convenient, less burdensome, or less expensive, such as
   a. Publicly available information and/or documents including, but not limited to, newspaper clippings, court papers, and documents available on the Internet which may be accessed and obtained by Sutton with less burden than the plaintiff identifying and providing requested information;
   b. Information and/or documents already in Sutton's possession, equally in Sutton's possession, custody or control, or otherwise readily available to Sutton; and
   c. Information and/or documents solely in the possession, custody, or control of third parties.

5. Plaintiff objects to the requests in their entirety to the extent that they are not reasonably calculated to lead to the discovery of admissible evidence in that the information sought would not be admissible pursuant to South Carolina Rules of Evidence.

6. Plaintiff objects to the requests in their entirety to the extent that they purport to call for the disclosure of information or the production of documents, that are (a) subject to the attorney work product protection including, but not limited to, the mental impressions, conclusions, opinions or legal theories of Plaintiff's counsel; (b) protected by the attorney-client privilege; (c) composed of information constituting or containing information prepared in anticipation of or as a result of litigation; or (d) subject to any other applicable privilege or protection.

7. If Plaintiff inadvertently provides information or documents containing information protected from discovery by the attorney-client privilege, work product doctrine or any other applicable privilege, such provision shall not constitute a waiver of such privileges with respect to that information or those or any other documents. Should such inadvertent production occurs, Defendants shall return all inadvertently produced documents to Plaintiff upon request, and/or shall make no use of the contents of such information or documents nor premise any further discovery on information learned therefrom.

8. Plaintiff objects to these interrogatories to the extent that they are overly broad, unduly burdensome, vague, ambiguous, confusing, require speculation to determine their meaning, use imprecise specifications of the information sought, or use terms whose meaning may be contrary to their plain meaning.

9. By responding to these requests, Plaintiff does not hereby admit, adopt or acquiesce in any factual or legal contention, presumption, assertion or characterization and does not in any way adopt Sutton's purported definitions of words and phrases contained in the requests. Plaintiff objects to those definitions to the extent they are inconsistent with either (a) the definitions set forth by Plaintiff in its answers, or (b) the ordinary and customary meaning of such words and phrases. Similarly, Plaintiff objects to Defendants' purported definitions to the extent they attempt to impose upon Plaintiff any obligations broader than, or inconsistent with, applicable discovery rules or common law.

10. Plaintiff objects to any request that uses the terms, "each and every" "any and all" "all" and/or "any" because such terms are global, overly broad, unduly burdensome, oppressive and harassing.

11. Plaintiff objects to any production request that subjects Plaintiff to an invasion of personal, constitutional, or property rights.

12. None of the objections or responses contained herein is an admission concerning the existence of any documents or materials, the relevance or admissibility of any documents, materials or information, or the truth or accuracy of any statement or characterization contained in Sutton's requests. The plaintiffs' written responses are made without

waiving, but, on the contrary, expressly reserving: (a) the right to object, on the grounds of competency, privilege, relevancy, materiality or any other proper grounds, to the use of the information provided herein, in whole or in part, in any subsequent proceeding in this action or any other action; (b) the right to object on any and all grounds, at any time, to other discovery requests involving or relating to the subject matter of these requests; and (c) the right at any time to revise, correct, add or clarify any of the responses provided herein.

13. Plaintiff objects to each request that seeks information that would violate her duty to her clients imposed by statute, case law, the Rules of Professional Conduct, including, but not limited to, attorney-client privilege and confidentiality.

14. Plaintiff incorporates by reference every general objection set forth above into each specific response set forth below. A specific response may repeat a general objection for emphasis or some other reason. The failure to include any general objection in any specific response does not waive any general objection to that request. Unless other indicated, Plaintiff will not provide information encompassed by her general responses and objections or by her specific objections set forth below.

15. Each response was prepared by and/or reviewed by Plaintiff and her attorney.

RESPONSES TO INTERROGATORIES

1. Give the names and addresses of persons known to the plaintiff or counsel to be witnesses concerning the facts of the case and indicate whether written or recorded statements have been taken from the witnesses and indicate who has possession of such statements, and provide a summary of the witness's anticipated testimony.

   RESPONSE: Plaintiff is the only known witness at this time. No written or recorded statements have been taken other than those prepared by or for law enforcement.

2. Please identify each expert that the plaintiff intends to call as a witness in this case, and summarize his opinions and the underlying facts which support his opinions.

   RESPONSE: At this time, plaintiff has not identified anyone she intends to call as an expert. She is considering experts in family law, criminal law, victims of adult sexual abuse, emotional damages, and re-victimization.

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

   RESPONSE: Plaintiff has affidavits and other documents filed in prior court cases.

4. If the plaintiff claims personal injury or damages cause by any act or omission attributed to the defendants, set forth the names, addresses and telephone numbers of all physicians

who have treated the plaintiff for these injuries, and all hospitals to which the plaintiff has been committed for these injuries.

RESPONSE: Plaintiff's injuries are not physical so she has been to no physicians to treat them.

5. Set forth a statement of all medical costs involved in connection with the claims set forth in the plaintiff's complaint.

RESPONSE: See invoices produced in response to Defendant's request for production.

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

RESPONSE: Plaintiff objects to this request in that it requires her to usurp the authority of the jury to determine the damages and amount of the damages for the intrusion into private affairs claim. Plaintiff also objects to this request in that it exceeds the scope of discovery by seeking information that will be determined by experts. Without waiving these objections, Sutton admits that damages are more than $25,000 by propounding more than standard interrogatories. Punitive damages would be based on Sutton's ability to pay. Plaintiff is working on a statement of her damages and will supplement this response when it is complete.

7. Please provide the individual plaintiff's Social Security Number, driver's license numbers, current address and date of birth.

RESPONSE: Plaintiff objects to the request to produce her social security number. Her driver's license number is 100015544. Her current address is 204 E. Park Avenue, Unit 401, Greenville, SC 29601. She was born on December 27, 1957.

8. Please provide the plaintiff's educational background, starting with High School and including any and all courses taken and degrees or certificates received from any institution or other source.

RESPONSE: Plaintiff has listed her high school and college education below. She became a licensed title insurance agent in connection with her law practice. This involved taking a test. She is also a Master Gardener which required classroom time and passing a certification exam.

Regarding classes taken, Plaintiff has taken at least 1,160 hours of continuing education for the her CPA licenses, at least 264 hours of continuing education for her law licenses, and at least 48 hours of continuing education for real estate licenses. This does not include the more than 80 hours of education to qualify to take the real estate exam or the preparatory classes to take the CPA exam or the LSAT. She is not required to keep the listing of those courses and did not. If Defendants would like to request Plaintiff's college transcripts, she will sign whatever release required for them to do so.

Reformed Theological Seminary, Charlotte, NC
No degree – classes taken for personal interest

George Mason University School of Law
J.D. with Honors, May 1994 (3.443 GPA, Top 10%)
George Mason Independent Law Review -- Citations Editor
Dean's Scholar -- Chosen by Dean to Teach Legal Research and Writing to First-Year Students
George Mason Moot Court Board -- Associate Justice and Chairman, Projects Committee
Law and Economics Moot Court Competition -- Organizer and Chairman
Moot Court Competition -- Finalist, Best Brief; Semi-finalist, First-Year Competition
Business Law Society -- Treasurer

University of North Carolina at Greensboro
B.S. Business Administration and Accounting, Minor in Economics, 1979
Cum Laude, Dean's List, Member of Omicron Delta Epsilon (Honor Society in Economics)

George Washington High School, Danville, Virginia, Graduated 1976

Bar Memberships – South Carolina (2002) and North Carolina (1994)

Licenses Held in South Carolina -- Certified Public Accountant (2002) and Real Estate Broker (2002)

Licenses Held in North Carolina -- Certified Public Accountant (1985) and Real Estate Broker (1982)

9. Please name and identify all employers of the plaintiff for the last ten years, providing the name, address and telephone number of each employer, the name of the supervisor of the plaintiff, the job titles of the plaintiff, the duration of employment, and the reason that the plaintiff is no longer employed at each place of employment.

RESPONSE: Not applicable.

10. Please provide the plaintiff's marital history, if any, identifying any and all spouses or former spouses by first, maiden, and current last name, the grounds for divorce, if any and the date of any marriage and divorce.

RESPONSE: Not applicable.

11. Does the plaintiff have any relatives, by blood or marriage, over the age of eighteen (18) years, residing in Greenville County? If so, please identify those persons by first and last name and by relationship to the plaintiff.

RESPONSE: Yes, Harold Simpson, father. Plaintiff's mother, brother, and grandparents are deceased. She has no children.

12. Has the plaintiff ever been treated for chemical substance abuse, alcohol substance abuse, and/or any other substance abuse or dependency? If so, please provide all information regarding medical treatment, counseling, and current status of said abuse and dependencies, and organizations or agencies where treatment was administered.

RESPONSE: No.

13. Please provide a list of any and all prescription and/or non-prescription drug(s) the plaintiff is currently taking or has taken within the past five (5) years, including the type of drug, dosage, frequency and reason prescribed and/or taken.

RESPONSE: Plaintiff objects to this request as overbroad. Without waiving her objection, Plaintiff is not currently taking any prescription drugs. She takes no non-prescription drugs other than ibuprophen and/or aspirin. Plaintiff has no record of the names and dosages of prescription drugs taken, but has taken antibiotics, appetite suppressants, drugs to prepare for a colonoscopy, and pain medication after elective surgery. Plaintiff procures her prescriptions from Walmart and/or Walgreens.

14. Please provide the name and address of the physician who has prescribed any prescription and/or non-prescription drug(s) to plaintiff within the past (5) years, along with the name and address of the pharmacy where the medications were purchased.

RESPONSE: Plaintiff objects to this request as overbroad and clearly irrelevant to the subject matter of this action in that Plaintiff makes no claim that she suffered physical damages.

15. Has the plaintiff participated in the purchase or consumption of marijuana, cocaine, or any drug of that nature (prescription or otherwise)? If so, please state the date, number of times you have participated in such activities and the amount consumed on each occasion.

RESPONSE: No.

16. Please state the amount of alcohol the plaintiff consumes on a weekly basis, including the number of times she consumes alcohol, the amount consumed on each specific occasion, and the number of times she has become intoxicated within the past five (5) years.

RESPONSE: Plaintiff objects to this question as overbroad. Plaintiff has no reason to keep a journal of her alcohol consumption so she cannot respond to this question. However, to accommodate this request, she recorded her consumption for one week. On Thanksgiving Day, she attended an event that began at 3:00 and she left about 9:30. She has a champagne toast upon her arrival. Over the course of the evening she had 3-4

glasses of wine with appetizers, dinner, and dessert. She consumed no alcohol on Friday, Saturday, or Sunday. On Monday, she drank 2 ½-3 glasses of wine at a Christmas Party that began at 6:00 and ended at 8:45. She consumed no alcohol on Tuesday. On Wednesday, she met friends and had 2 glasses of wine.

17. Please identify (with the dates, names, and addresses) all residences, apartments, homes, hotels, resorts or other places similar in nature that the plaintiff has resided, stayed, spent the night or slept, and identify the names of all people not related by blood or marriage who stayed, slept, resided, or spent the night with you at those locations within the past (5) years.

RESPONSE: Plaintiff objects to this question as overbroad. Plaintiff has no reason to keep a journal of where she sleeps each night. She also does not keep a calendar other than for her law practice. As a result, she cannot fully respond to this question. The address of the primary residence since 2005 is listed above. On October 25, 2013, Plaintiff stayed at her mother's house to take care of her until she died on February 20, 2014. She allowed her "nephew" (stepsister's stepson) to reside at her residence when he graduated from an alcohol recovery program. Plaintiff has travelled for business. She has also given details of trips that are relevant to Defendant Frank A.Landgraff ("Landgraff") in her affidavit previously submitted to the Court.

18. Please identify any and all litigation in which the plaintiff has been involved since reaching the age of majority, identifying each case or matter by caption, and providing the names of all parties, their respective counsel, and describing the resolution of each matter, including the date any matter was instituted and concluded, as well as any verdict rendered or settlement reached by or in favor of any party involved.

RESPONSE: Plaintiff objects to this interrogatory to the extent it seeks any information regarding her practice of law. Excluding all those cases, Plaintiff was an unpaid expert witness in Family Court, but has no records of the case and does not know the outcome of the case. Plaintiff was a party in two adversary proceedings in the United States Bankruptcy Court for the District of South Carolina pursuant to real estate investments in Key Largo, Florida (Case No. 06-1888-hb, Adversary No. 08-80034-hb and 09-80085-hb). Plaintiff also brought two actions in Florida essentially for the recovery of funds. Both settled on terms favorable to her. The appeal period for all cases has long since expired. Plaintiff did not retain the files, but Sutton should be able to find the name, court, etc. on the public websites.

19. Has the plaintiff ever sought the service of a private detective for any reason, whatsoever, within the past five (5) years? If so, please provide the name, address, and dates of employment of such person(s).

RESPONSE: Excepting her representation of her clients, Plaintiff has not sought the services of a private detective.

20. Has the plaintiff ever received any gift from any party related to this case, including but not limited to jewelry, money, real estate, clothing, or any other form of property, in the past five (5) years? If so, please identify the giver, provide the date received, provide a detailed description of the gift, and provide an approximate value of the gift, and provide the reason for receiving the gift.

RESPONSE: Plaintiff identifies (1) that Plaintiff received an iPod before Mulligan and Landgraff left for their trip to Italy; (2) that Landgraff gave Plaintiff an expensive silk scarf from his trip to Italy; (3) Landgraff purchased two shirts for Plaintiff at Costco; (4) Landgraff and Mulligan purchased an electric toothbrush for Plaintiff for Christmas; (5) Landgraff and Mulligan purchased several wall art pieces with candles for Plaintiff for her birthday; and (6) Mulligan purchased a Waterford crystal cross for Plaintiff for her birthday.

21. Has the plaintiff ever given any gift to any party related to this case, including but not limited to jewelry, money, real estate, clothing, or any other form of property, in the past five (5) years? If so, please identify the receiver, provide the date given, provide a detailed description of the gift, and provide an approximate value of the gift, and provide the reason for giving the gift.

RESPONSE: Plaintiff identifies that she gave Landgraff and Mulligan a carnival style popcorn popper purchased at Bed, Bath & Beyond. It was later returned and Plaintiff believes Mulligan received the refund.

22. Has any party, related to this case, ever paid any form of expenses incurred by the plaintiff, within the past five (5) years? If so, for each payment, please list the name of the person who made the payment, the date of the payment, a description of the payment, the amount paid, name and address of the person to whom payment was made, and the reason the payment was made.

RESPONSE: Plaintiff has never met Sutton so her answers are limited to payments made by Landgraff. Interpreting the term "expenses" to be broader than business expenses and to include payments for a social relationship, Plaintiff provides the following information. She kept no ledger so she cannot provide all the information requested. During most of the times that Plaintiff spent in a social relationship with Landgraff and Mulligan, Landgraff ("the threesome") paid virtually all the expenses.

Regarding dining in Greenville, Landgraff paid for dinner and drinks when the threesome visited restaurants such as California Dreaming, TGIF, Lieu's, Acropolis, Schwaben House, Bojangles, Bertolo's, and Corona's Mexican.

Regarding other events, Landgraff paid for drinks at the Rotary District Governor's installation. He also paid for drinks at the Rotary Health and Happiness event at Soby's before he and Plaintiff joined Mulligan at the Christmas party at the Hardy's house. Plaintiff met at Landgraff's house to ride to Christmas party's such as the Bates' party.

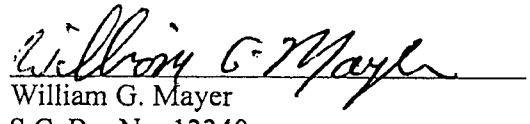
Regarding social events, Landgraff paid for tickets to the Ronald McDonald Gala and invited Plaintiff to his house for the special party at his house the next evening where Emile Pandolfi performed. A week before he told Mulligan to leave their home, he invited Plaintiff to spend the day at his house with the out-of-town guests before joining the Super Bowl Party.

Regarding the massages in Landgraff's master bedroom, Landgraff purchased scented oil at Whole Foods. He purchased unlimited wine at Total Wine along with special wine glasses and a tray to put them on. He also purchased new, large towels for the massage table.

Regarding traveling, when Landgraff suggested that Plaintiff and Mulligan go to his beach house while he was in Pittsburg, Plaintiff did not drive, pay for gas, or pay for any of the nice dinners. When she tried, Mulligan informed her that she had strict instructions to pay for everything. When the threesome went to Key Largo, Florida, Plaintiff did not pay for the flight, rental car, gas, food, or drinks.

This list does not include the wine and cheese that Landgraff brought to Plaintiff's house. As Plaintiff thinks of more examples she will supplement this Request.

Respectfully submitted,



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