

**FORM 15
RECORD ON APPEAL**

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas

Judge L. Casey Manning, Fifth Judicial Circuit

Case No:2016-CP-001239

Biafra Monique Curtis,

Appellant

V.

South Carolina Department of Public Safety,
Warren Ganjehsani, Mike Oliver, Leroy Smith,
Kenneth Phelps, Anthony Grice, William Taylor,
Nicklous King, Willie McCauley, Jr., Ada Schmidt,
Aaron Canzater and Cherie Young, individually
and in their official capacities, et al.,

Respondent(s)

RECORD ON APPEAL

Biafra Monique Curtis, Pro Se, Appellant
PO BOX 21294
Hilton Head Island, SC 29925
843-684-3118

Norma Jett, Esquire and
Allison D. Hood, Esquire
ATTORNEY'S FOR RESPONDENT(S)
Post Office Drawer 909
Bamberg, SC 29003
803-245-5178

RECEIVED

NOV 23 2016

SC Court of Appeals

INDEX

Original Complaint pg. 19, item #27 Filed August 24, 2015.....1

Notices of Scheduling for Hearing on Court Roster for May 18, 2016.....2-3

Order from hearing held May 18, 2016, dated & signed May 16, 2016.....4-10

SLED Letter from Cptn. John T. Bishop, dated May 6, 2015.....11

Chief K.D. Phelps Letter, dated June 05, 2015.....12

Chief Counsel for SC Dept. of Public Safety, Warren Ganjesani Letter dated June 10, 2015....13

Defendants Attorneys “Response & Objection” dated December 21, 2015 pg. 4, item #7....14-19

Certificate of Appellant.....20

Respondents “Motion To Exclude Matter from Record on Appeal”.....21-23

Appellants “Response Objection to Motion to Exclude Matter from Record on Appeal”24-27

Order to Deny Respondents Motion to Strike.....28

Appellants Initial Reply Brief.....29-37

Appellants Original Designation of Matter to be Included in Record on Appeal.....38-39

Appellants AMENDED Designation of Matter to Included in Record on Appeal.....40-42

Appellants Exhibits:

EXHIBIT 1-Transcript of Proceeding-

Pg 5 lines 23-25-

23 MS. HOOD: --- against the Department of Public Safety

24 and then a number of state employees ranging from the

25 General Counsel for the Department of Public Safety down to

1 the Freedom of Information Act officers. Essentially, Ms.
2 Curtis has named everyone who either responded to her
3 request for information or investigated an automobile
4 accident that occurred on September 27, 2012.

5 THE COURT: And it was her accident, I assume.

6 MS. HOOD: That is correct.

*7 And we -- we don't dispute that the accident took
*8 place or that Ms. Curtis was seriously injured in the
*9 accident. But there is some dispute about what happened.

10 The highway patrolman that responded to the scene
11 investigated at the roadside. There was some dispute about
12 whether or not -- there were three lanes of traffic --
13 about whether or not a blue car entering the interstate
14 forced the vehicle in the middle lane into Ms. Curtis' lane
15 and forcing her off the road or whether the vehicle in the
16 center lane forced Ms. Curtis off the road. We don't --
17 we're not here today to talk about what happened in the
18 accident.

19 But Ms. Curtis' assertion is that the Department of
20 Public Safety breached a duty of care in failing to
21 identify the drivers of those vehicles. Ms. Curtis was
22 unable to successfully bring a civil claim for personal

23 injury after the accident because the investigation at the
24 roadside did not determine who was driving the tractor-
25 trailer in the center lane or the blue vehicle that merged,

Pg 10 lines 17-23

17 PLAINTIFF CURTIS: The accident is not what my claim is
18 about, though.

19 THE COURT: Okay.

20 PLAINTIFF CURTIS: My claim is actually about the fact
21 that I submitted complaints to the Department of the Office
22 of Professional Responsibility against the officers that
23 were involved in the ---

Pg 11 lines 10-19

10 PLAINTIFF CURTIS: Okay. And I received a letter from
11 the Office of Professional Responsibility assuring that
12 there would be an investigation against the officers
13 involved in the investigation of the accident.

14 THE COURT: Okay.

15 PLAINTIFF CURTIS: Okay. From there, approximately
16 five days later I received a letter from the General
17 Counsel of the Highway Department telling me that there
18 would not be an investigation done into the accident and
19 that is, basically, what I'm here about.

Pg 11 lines 21-25

21 PLAINTIFF CURTIS: It's the fact that there -- it's not
22 a failure to investigate the accident itself. It is a
23 neglect to investigate the complaints that I submitted to
24 the Office of Professional Responsibility into the acts of
25 the officers.

Pg 12 lines 2-3

2 PLAINTIFF CURTIS: So it's not about the accident.

3 It's about the complaints that I submitted.

Pg 13 lines 23-25

23 PLAINTIFF CURTIS: The whole point of the complaint
24 that I submitted to the OPR was to reveal the fact that the
25 officer that investigated the accident did, in fact, do his

Pg 14 lines 1-14

1 job. In fact, in a meeting that I had with the officer and
2 his four superior officers he admitted in that meeting that
3 he did obtain the name and contact information of the
4 driver of the at-fault vehicle and he discarded it at the
5 time and deemed that information unimportant and that
6 person that gave the information non-credible; however,
7 four months later after re-investigating it was determined
8 that that driver was, in fact, responsible for the
9 accident.

10 So that is the whole point of having the OPR

11 investigation which would have revealed that that officer
12 did, in fact, have that information. He admitted it in a
13 meeting and I have information here -- documentation here
14 confirming what I'm telling you.

Pg 14 lines 24-25

*24 THE COURT: And Ms. Curtis, I'll think about the
*25 arguments that I heard here today. I'll review the file

Pg 15 line 1

*1 and I'll let you know my decision in due course, okay?

EXHIBIT 2-Accident reports-Included to prove Defendants Attorney was aware of the facts of accident and not accurate and forthcoming when she referenced accident in hearing (see Transcript Pg6 lines 7-25).

Original Accident Report-Dated 10-23-12

Original AMENDED Report-Dated 12-16-2012

Original CORRECTED Report-Dated 1-26-2013

Original CORRECTED Report-Dated 2-6-2013

EXHIBIT 3-Witness Statements/ Testimony- Included to prove Defendants Attorney was aware of the facts of accident and not accurate and forthcoming when she referenced accident in hearing (see Transcript Pg6 lines 7-25).

WITNESSES EXAMINED BY: CARL WOODS

Bobby Hudson	1
Stacey L. Olden	2-3
Erin Tyler	4-5
James	6-7
Carl Culpepper	8

Argument 1..... THE TRIAL COURT
ERRED BY DISMISSING ENTIRE CASE BY NEGLECTING TO REVIEW DOCUMENTS WHICH
VALIDATED THE MOST ESSENTIAL ELEMENTS OF THE ORIGINAL COMPLAINT,
SPECIFICALLY, PAGE 19, ITEM #27 (See Transcript pages supporting documentation Pg 5
lines 23-25 / Pg 6 lines 1-25 / Pg 10 lines 17-23 / Pg 11 lines 10-19 and lines 21-25 / Pg 12 lines
2-3 / Pg 13 lines 23-25).

Argument 2.....THE TRIAL COURT
ERRED BY ENDORSING THE ORDER TO DISMISS 2 DAYS PRIOR TO THE ACTUAL HEARING
OF THE CASE THEREFORE BLOCKING THE APPELLANT FROM THE OPPORTUNITY OF ANY
CHANCE OF A FAIR AND UNBIASED HEARING, REMOVING RIGHT TO DUE PROCESS. See
Notices for Hearing held on May 18, 2016 and Order signed and dated May 16, 2016 as well
as (Transcript Pg 14 lines 24-25 and Pg 15 line 1 for supporting documentation)

For all the foregoing reasons, the Order to Dismiss this case should be reversed and the
right to be heard by a jury should be granted.

JURY TRIAL DEMAND

Plaintiff hereby demands a jury trial on all issues so triable.

DATED: *NOVEMBER 21, 2016*

By *Biafra Monique Curtis*

biafra-monique; curtis

FORM 7
PROOF OF SERVICE OF RECORD ON APPEAL
AND CERTIFICATE FROM APPELLANT

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas

Judge L. Casey Manning, Fifth Judicial Circuit

Case No:2016-CP-001239

Biafra Monique Curtis,

Appellant

V.

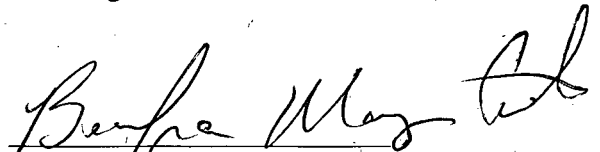
South Carolina Department of Public Safety,
Warren Ganjehsani, Mike Oliver, Leroy Smith,
Kenneth Phelps, Anthony Grice, William Taylor,
Nicklous King, Willie McCauley, Jr., Ada Schmidt,
Aaron Canzater and Cherie Young, individually
and in their official capacities, et al.,

Respondent(s)

PROOF OF SERVICE

I certify that I have served the Proof of Record on Appeal and Certificate from Appellant to the Respondent(s) by depositing a copy of it in the United States Mail, postage prepaid, on November 21, 2016, addressed to: Honorable Jenny Abbott Kitchings, Clerk South Carolina Court of Appeals PO BOX 11629 Columbia, SC 29211

November 21, 2016


Biafra Monique Curtis, Pro Se
PO BOX 21294
Hilton Head Island, SC 29925
843-684-3118

FORM 14
DESIGNATION OF MATTER TO BE
INCLUDED IN RECORD ON APPEAL (AMENDED)

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas

Judge L. Casey Manning, Fifth Judicial Circuit

Case No:2016-CP-001239

Biafra Monique Curtis, Pro Se

Appellant

V.

South Carolina Department of Public Safety,
Warren Ganjehsani, Mike Oliver, Leroy Smith,
Kenneth Phelps, Anthony Grice, William Taylor,
Nicklous King, Willie McCauley, Jr., Ada Schmidt,
Aaron Canzater and Cherie Young, individually
and in their official capacities, et al.

Respondent(s)

DESIGNATION OF MATTER TO BE
INCLUDED IN RECORD ON APPEAL (AMENDED)


Appellant proposes the following be included in the Record on Appeal

- 1.Original Complaint pg. 19, item #27 Filed August 24, 2015
- 2.Notices of Scheduling for Hearing on Court Roster for May 18, 2016
- 3.Order from hearing held May 18, 2016, dated & signed May 16, 2016
- 4.SLED Letter from Cptn. John T. Bishop, dated May 6, 2015
- 5.Chief K.D. Phelps Letter, dated June 05, 2015
- 6.Warren Ganjehsani Letter dated June 10, 2015
- 7.Respondents "Response & Objection" dated December 21, 2015 pg. 4, #7
- 8.Certificate of Appellant
- 9.Respondents "Motion To Exclude Matter from Record on Appeal"

10. Appellants "Response Objection to Motion to Exclude Matter from Record on Appeal"
11. Order Denying Respondents Motion to Strike
12. Appellants Initial Reply Brief
13. Appellants Original Designation of Matter to be Included in Record on Appeal
14. Transcript: Hearing held on May 18, 2016 but Signed and dated May 16, 2016
15. Accident Reports: Original Accident Report-Dated 10-23-12/Original AMENDED Report-Dated 12-16-2012/Original CORRECTED Report-Dated 1-26-2013/Original CORRECTED Report-Dated 2-6-2013
16. Witness Statements/ Testimony: Bobby Hudson, Stacey L. Olden, Erin Tyler, James Lamb and Carl Culpepper

I certify that this designation contains no matter that is not relevant to this appeal.

November 21, 2016


Biafra Monique Curtis, Pro Se
P.O. BOX 21294
Hilton Head Island, SC 29925
843-684-3118

FORM 7
PROOF OF SERVICE OF DESIGNATION OF MATTER TO BE
INCLUDED IN RECORD ON APPEAL (AMENDED)

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas

Judge L. Casey Manning, Fifth Judicial Circuit

Appellate Case No: 2016-001239

Biafra Monique Curtis, Pro Se

Appellant


V.

South Carolina Department of Public Safety,
Warren Ganjehsani, Mike Oliver, Leroy Smith,
Kenneth Phelps, Anthony Grice, William Taylor,
Nicklous King, Willie McCauley, Jr., Ada Schmidt,
Aaron Canzater and Cherie Young, individually
and in their official capacities, et al.

Respondent(s)

PROOF OF SERVICE

I certify that I have served the Designation of Matter to be included in Record on Appeal (AMENDED) to the Respondent(s) by depositing a copy of it in the United States Mail, postage prepaid, on November 21, 2016, addressed to: Honorable Jenny Abbott Kitchings, Clerk South Carolina Court of Appeals PO BOX 11629 Columbia, SC 29211


Biafra Monique Curtis, Pro Se
PO BOX 21294
Hilton Head Island, SC 29925
843-684-3118

COUNTY OF RICHLAND

BIAFRA MONIQUE CURTIS

Plaintiff(s)

vs.

South Carolina Department of Public Safety, Warren Ganjehsani, Mike Oliver, Leroy Smith, Kenneth Phelps, Anthony Grice, William Taylor, Nicklous King, Willie McCauley, Jr., Ada Schmidt, Aaron Canzater and Cherie Young, individually and in their official capacities, et al. Defendant(s)

Submitted By: Biafra Monique Curtis
Address: PO Box 21294
Hilton Head Island, SC 29925

IN THE COURT OF COMMON PLEAS

CIVIL ACTION COVERSHEET

2015CP400 5172

SC Bar #: Pro Se
Telephone #: 843-684-3118
Fax #:
Other:
E-mail:

NOTE: The coversheet and information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law. This form is required for the use of the Clerk of Court for the purpose of docketing. It must be filled out completely, signed, and dated. A copy of this coversheet must be served on the defendant(s) along with the Summons and Complaint.

DOCKETING INFORMATION (Check all that apply)

*If Action is Judgment/Settlement do not complete

- JURY TRIAL demanded in complaint.
This case is subject to ARBITRATION pursuant to the Court Annexed Alternative Dispute Resolution Rules.
This case is subject to MEDIATION pursuant to the Court Annexed Alternative Dispute Resolution Rules.
This case is exempt from ADR. (Proof of ADR/Exemption Attached)

NATURE OF ACTION (Check One Box Below)

- Contracts: Constructions (100), Debt Collection (110), Employment (120), General (130), Breach of Contract (140), Other (199)
Torts - Professional Malpractice: Dental Malpractice (200), Legal Malpractice (210), Medical Malpractice (220), Previous Notice of Intent Case # 20 -CP- -, Notice/ File Med Mal (230), Other (299) NEGLIGENCE, DERELICTION OF DUTY, CIVIL RIGHTS
Torts - Personal Injury: Assault/Stander/Label (300), Conversion (310), Motor Vehicle Accident (320), Premises Liability (330), Products Liability (340), Personal Injury (350), Wrongful Death (360), Other (399)
Real Property: Claim & Delivery (400), Condemnation (410), Foreclosure (420), Mechanic's Lien (430), Partition (440), Possession (450), Building Code Violation (460), Other (499)
Inmate Petitions: PCR (500), Mandamus (520), Habeas Corpus (530), Other (599)
Administrative Law/Relief: Reinstate Drv. License (800), Judicial Review (810), Relief (820), Permanent Injunction (830), Forfeiture-Petition (840), Forfeiture-Consent Order (850), Other (899)
Judgments/Settlements: Death Settlement (700), Foreign Judgment (710), Magistrate's Judgment (720), Minor Settlement (730), Transcript Judgment (740), Lis Pendens (750), Transfer of Structured Settlement Payment Rights Application (760), Confession of Judgment (770), Petition for Workers Compensation Settlement Approval (780), Other (799)
Special/Complex /Other: Environmental (600), Automobile Arb. (610), Medical (620), Other (699), Pharmaceuticals (630), Unfair Trade Practices (640), Out-of State Depositions (650), Motion to Quash Subpoena in an Out-of-County Action (660), Sexual Predator (510)
Appeals: Arbitration (900), Magistrate-Civil (910), Magistrate-Criminal (920), Municipal (930), Probate Court (940), SCDOT (950), Worker's Comp (960), Zoning Board (970), Public Service Comm. (990), Employment Security Comm (991), Other (999)

FILED AUG 24 AM 11:28 JENNIFER W. BRIDGES C.C.P. & C.V.

Submitting Party Signature: Biafra Monique Curtis Date: 8-24-15

Note: Frivolous civil proceedings may be subject to sanctions pursuant to SCRCP, Rule 11, and the South Carolina Frivolous Civil Proceedings Sanctions Act, S.C. Code Ann. §15-36-10 et. seq. SCCA / 234 (06/2013)

FOR MANDATED ADR COUNTIES ONLY

Aiken, Allendale, Anderson, Bamberg, Barnwell, Beaufort, Berkeley, Calhoun, Charleston, Cherokee, Clarendon, Colleton, Darlington, Dorchester, Florence, Georgetown, Greenville, Hampton, Horry, Jasper, Kershaw, Lee, Lexington, Marion, Oconee, Orangeburg, Pickens, Richland, Spartanburg, Sumter, Union, Williamsburg, and York

SUPREME COURT RULES REQUIRE THE SUBMISSION OF ALL CIVIL CASES TO AN ALTERNATIVE DISPUTE RESOLUTION PROCESS, UNLESS OTHERWISE EXEMPT.

You are required to take the following action(s):

1. The parties shall select a neutral and file a "Proof of ADR" form on or by the 210th day of the filing of this action. If the parties have not selected a neutral within 210 days, the Clerk of Court shall then appoint a primary and secondary mediator from the current roster on a rotating basis from among those mediators agreeing to accept cases in the county in which the action has been filed.
2. The initial ADR conference must be held within 300 days after the filing of the action.
3. Pre-suit medical malpractice mediations required by S.C. Code §15-79-125 shall be held not later than 120 days after all defendants are served with the "Notice of Intent to File Suit" or as the court directs. (Medical malpractice mediation is mandatory statewide.)
4. Cases are exempt from ADR only upon the following grounds:
 - a. Special proceeding, or actions seeking extraordinary relief such as mandamus, habeas corpus, or prohibition;
 - b. Requests for temporary relief;
 - c. Appeals
 - d. Post Conviction relief matters;
 - e. Contempt of Court proceedings;
 - f. Forfeiture proceedings brought by governmental entities;
 - g. Mortgage foreclosures; and
 - h. Cases that have been previously subjected to an ADR conference, unless otherwise required by Rule 3 or by statute.
5. In cases not subject to ADR, the Chief Judge for Administrative Purposes, upon the motion of the court or of any party, may order a case to mediation.
6. Motion of a party to be exempt from payment of neutral fees due to indigency should be filed with the Court within ten (10) days after the ADR conference has been concluded.

**Please Note: You must comply with the Supreme Court Rules regarding ADR.
Failure to do so may affect your case or may result in sanctions.**

into this matter. And finally, it suggested that she contact the Department of Public Safety Office of Professional Responsibility. This letter was signed by John T. Bishop, Captain of Investigative Services.

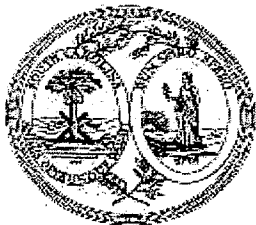
27. At the end of May, 2015, the Plaintiff sent a letter along with supporting documentation to the Department of Public Safety Office of Professional Responsibility and then spoke with Chief K.D. Phelps who was shocked to learn that there were four (4) accident reports and that neither of them were accurate or complete even though she was supposed to receive a true and accurate report within 30 days of the accident. He was also in awe of that fact that the trooper, McCauley Jr., did not have his video camera on while investigating an accident. Within a week of reviewing this package, the Plaintiff received a letter from Chief Phelps acknowledging receipt of the information and assuring her that the department would conduct a thorough inquiry into her complaint and will take appropriate action and notify her when the inquiry is completed. Then, five (5) days later, she received a letter from Warren Ganjehsani, General Counsel for the South Carolina Department of Public Safety informing her that she was attempting to reengage the Department on the same allegations that were the basis of her claim against the agency in 2014. He informed her that the Department deems the matter closed and will not be commenting further. Finally, he advised her to contact Marty Roberson, the insurance agent with the SC Insurance Reserve Fund if she has information that IRF should consider in revisiting her claim. After recovering from the emotional distress of being assured that the matter would be investigated and then informed that it wouldn't, the Plaintiff felt that it doesn't seem to matter that she included two additional, written, notarized statements and from one of the witnesses that Marty Roberson supposedly couldn't locate. In light of the fact that Phelps

2

STATE OF
SOUTH CAROLINA

NOTICE OF MOTION SCHEDULING

April 29, 2016



**Motion "MSTRIK - Motion to Strike" for Case: 2015CP4005172 -
Biafra Monique Curtis vs South Carolina Department Of Public Safety
, defendant, et al has been added to the following Motions Roster:**

958 - MOTION ROSTER MAY 18, 2016 COURTROOM

This hearing of this motion has been scheduled for 5/18/2016 at 9:30 AM.

RESCHEDULED The above referenced case is scheduled for a Motion Hearing before Judge L. Casey Manning in Courtroom 2-E. The Plaintiff's Attorney is to notify the Defendant in writing of the time and date of all Default and Damages Hearings. All requests for continuances must be in writing with a \$25.00 filing fee and received by the Chief Administrative Judge prior to the hearing. A request for a continuance does not guarantee that a case will be continued. Please notify the Court in writing if the Motions are resolved prior to the hearing. Please file any briefs or memorandum the Wednesday before the week of the hearing. **ALL ATTORNEYS MUST SEND A PROPOSED ORDER OR MEMORANDUM OF LAW BY Wednesday, May 11, 2016 FOR THE MOTION HEARING THAT IS BEING HEARD ON HARD COPY AND DISK:**to <mailto:cmanninglc@sccourts.org>

Mail Notice To:

Biafra Monique Curtis
P O Box 21294

Hilton Head, SC 29925

Court Info:

Richland County Common Pleas
Richland County Judicial Center
1701 Main Street
Columbia, SC 29201-9201

Judge Alison R. Lee
Chief Administrative Judge
Fifth Judicial Circuit

RECEIVED
AUG 10 2016
SC Court of Appeals

NOTICE OF MOTION SCHEDULING

April 29, 2016

3



Motion "MDISMS - Motion for Dismissal for failure to state a cause of action" for Case: 2015CP4005172 - Biafra Monique Curtis vs South Carolina Department Of Public Safety , defendant, et al has been added to the following Motions Roster:

958 - MOTION ROSTER MAY 18, 2016 COURTROOM

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Mail Notice To:

Biafra Monique Curtis
P O Box 21294
Hilton Head, SC 29925

Court Info:

Richland County Common Pleas
Richland County Judicial Center
1701 Main Street
Columbia, SC 29201-9201

Judge Alison R. Lee
Chief Administrative Judge
Fifth Judicial Circuit

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

JUDGMENT IN A CIVIL CASE

CASE NUMBER: 2015CP4005172

Biafra Monique Curtis

RECEIVED

South Carolina Department Of Public Safety

Warren Ganjehsani

DEFENDANT(S)

PLAINTIFF(S)

AUG 10 2016

Submitted by:

SC Court of Appeals

Attorney for : Plaintiff Defendant or 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), SCRPC; Rule 41(a), SCRPC (Vol. Nonsuit);
 Rule 43(k), SCRPC (Settled); Other _____
- ACTION STRICKEN (CHECK REASON):** Rule 40(j), SCRPC; 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

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
		\$
		\$
		\$

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.

Circuit Court Judge

Judge Code 206

Date 5-8-16

For Clerk of Court Office Use Only

This judgment was entered on the _____ day of _____, 2016 and a copy mailed first class or placed in the appropriate attorney's box on this 23 day of May, 2016 to attorneys of record or to parties (when appearing pro se) as follows:

Biafra Monique Curtis

Alison Dennis Hood

Biafra Monique Curtis

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

Court Reporter

Clerk of Court

Jeanette W McBride

5

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

FORM 4
RECEIVED

JUDGMENT IN A CIVIL CASE

AUG 10 2016

CASE NUMBER: 2015CP4005172

Biafra Monique Curtis

South Carolina Department Of Public Safety

SC Court of Appeals Sanjehsani

PLAINTIFF(S)

DEFENDANT(S)

Submitted by: _____

Attorney for : Plaintiff Defendant or 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), SCRPC; Rule 41(a), SCRPC (Vol. No. Suit); Rule 43(k), SCRPC (Settled); Other _____
- ACTION STRICKEN (CHECK REASON):** Rule 40(j), SCRPC; 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 _____

RICHLAND COUNTY
FILED
2016 MAY 20 AM 10:14
JENNETTE W. McBRIDE
Clerk of Court

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:

ORDER INFORMATION

This order ends does not end the case.

Additional Information for the Clerk :

Motion to Strike is moot. Motion for Dismissal has been granted.

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
		\$
		\$
		\$

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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.

Circuit Court Judge [Signature] Judge Code 2061 Date 5-18-16

For Clerk of Court Office Use Only

This judgment was entered on the _____ day of _____, 20____ and a copy mailed first class or placed in the appropriate attorney's box on this 23 day of May, 2016 to attorneys of record or to parties (when appearing pro se) as follows:

Biafra Monique Curtis

Alison Dennis Hood

Biafra Monique Curtis

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

Court Reporter _____

Clerk of Court [Signature]

STATE OF SOUTH CAROLINA)
)
 COUNTY OF RICHLAND)
)
 Biafra Monique Curtis, Pro Se,)
)
 v.)
)
 South Carolina Department of Public)
 Safety, Warren Ganjehsani, Mike)
 Oliver, Leroy Smith, Kenneth)
 Phelps, Anthony Grice, William)
 Taylor, Nicklous King, Willie)
 McCauley, Jr., Ada Schmidt, Aaron)
 Canzater and Cherie Young,)
 Individually and in their official)
 Capacities,)

IN THE COURT OF COMMON PLEAS
 FIFTH JUDICIAL CIRCUIT

Case Number: 2015-CP-40-05172

RECEIVED
 ORDER
 AUG 10 2016
 SC Court of Appeals

2016 MAY 20 AM 9:18
 JEANETTE H. HOBBS
 C.C.P. & G.S.
 RICHLAND COUNTY
 FILED

Plaintiff filed this action in Richland County on August 24, 2015. Defendants filed their notice of removal to federal court on September 18, 2015. The initial Complaint stated several causes of action under 42 USC §1983, as well as various state law causes of action. The March 31, 2016 Order of Judge Mary Geiger Lewis dismissed all federal causes of action, including portions of the First cause of action (to the extent it relied on 42 USC §14141), and the Third cause of action (civil rights violations) and the Fourth cause of action (federal conspiracy) in their entirety. The case was then remanded to the Richland County Court of Common Pleas. The named defendants were heard on the balance of the motion to dismiss, pursuant to Rule 12(b)(6), on May 18, 2016 in Richland County Courtroom 2-E at 9:30 a.m. All Defendants moved for dismissal of the remaining state court causes of action on the following grounds:

1. The action is barred, as to all state law causes of action, by the applicable statute of limitations, set forth in S. C. Code §15-78-100;

consider all well-pled allegations as true." *Fabian v. Lindsay*, 410 S.C. 475, 481, 765 S.E.2d 132, 136 (2014).

CONCLUSIONS OF LAW:

These Defendants are entitled to dismissal of plaintiff's state law causes of action, including the First Cause of Action (which includes Negligent Infliction of Emotional Distress, Negligent Supervision, and Negligence Per Se), Fifth cause of action (Dereliction of Duty), Sixth Cause of action (Crimes of Moral Turpitude), Seventh Cause of action (Violation of Policy), and Eighth Cause of action (Systemic Neglect of Duty) pursuant to S. C. Code of Laws, §15-78-100, as no verified claim was made within one year of the September 27, 2012, incident date alleged in the Complaint, pursuant to S.C. Code §15-78-80, and this action was not filed until August 24, 2015, more than two years after the date of the September 27, 2012, accident upon which Plaintiff's case is based. For this reason, even if the allegations are otherwise actionable, blanket dismissal of all state law causes of action is appropriate.

The individual Defendants are further entitled to dismissal from the First, Fifth, Seventh and Eighth Causes of Action, as they were all acting within the course and scope of their employment at all times alleged by Plaintiff. The South Carolina Tort Claims Act, S.C. Code §15-78-10, et seq., "is the exclusive and sole remedy for any tort committed by an employee of a governmental entity while acting within the scope of the employee's official duty." S.C. Code §15-78-200. Pursuant to S.C. Code §15-78-70, the individual government employees cannot be sued for causes of action related to conduct in the scope of their duty. The allegations described in the

SCANNED

First Cause of Action regard activity exclusively within the scope of employment of all individual defendants, and for this reason dismissal of the individual defendants from these state law causes of action is appropriate.

These Defendants are further entitled to dismissal of the plaintiff's Second (Violation of Oath of Office), Fifth Cause of Action (Dereliction of Duty of Elected Official), Sixth Cause of Action (Crimes of Moral Turpitude), Seventh causes of action (Violation of Department Handbook), and the Eighth Cause of action (Systematic Neglect of Duties), as these causes of action provide no private right of action upon which Plaintiff is entitled to seek relief. See also *Trask v Beaufort County*, 392 S.C. 560, 709 S.E.2d 536 (Ct. App. 2011); See also §23-6-30, §23-6-40, and §23-6-140, S.C. Code of Laws.

"The Public Duty Rule insulates public officials, employees, and governmental entities from liability for the negligent performance of their official duties by negating the existence of a duty toward the plaintiff." *Arthurs v. Aiken County*, 346 S.C. 97, 104, 551 S.E.2d 579 (2001). "The Public Duty Rule holds that public officials are generally not liable to individuals for their negligence in discharging public duties because the duty is owed to the public at large rather than to anyone individually." *Wells v. City of Lynchburg*, 331 S.C. 296, 306, 501 S.E.2d 746 (Ct. App. 1998). "Statutes which create or define the duties of a public office create no duty of care towards individual members of the general public." *Arthurs v. Aiken County*, 346 S.C. at 105-6 (2001). "Thus, where the duty is owed to the public in general, the official is not liable to an individual who may have been "incidentally injured" by the failure to perform the duty." *Wells v. City of Lynchburg*, 331 S.C. 296,

SCANNED

2. The individual defendants, as state employees, cannot be sued for the state law causes of action, pursuant to S. C. Code §15-78-70; and

3. Any duties of the defendants are public duties, and the plaintiff has no private right of action against defendants for Violation of Oath of Office, Dereliction of Duty of Elected Official, Crimes of Moral Turpitude, Violation of Department Handbook, or Systematic Neglect of Duties.

FINDINGS OF FACT:

This action arises from an automobile accident that occurred on September 27, 2012. Plaintiff alleges she was the victim of an accident on Interstate 26 in South Carolina, having been forced off the road by an unknown driver in a vehicle collision. Plaintiff alleges the failure of the South Carolina Highway Patrol, a division of the South Carolina Department of Public Safety, to properly investigate the wreck deprived her of her opportunity to sue the alleged at fault driver for her injuries. Plaintiff named each individual involved in processing the accident, maintaining records related to the accident, and all officers who responded to her requests for information as defendants in this matter. Defendants deny all allegations of wrongdoing, but assert that no private right of action arises even if the allegations were true. Defendants further assert the statute of limitations and the South Carolina Tort Claims Act bars the state law causes of action.

APPLICABLE STANDARD OF REVIEW:

"A ruling on a motion to dismiss pursuant to Rule 12(b)(6) must be based solely on the factual allegations set forth in the complaint, and the court must

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307, 501 S.E.2d 746 (Ct. App. 1998), quoting *Parker v. Brown*, 195 S.C. 35, 10 S.E.2d 625 (1940); See also *Steinke v. S.C. Dep't of Labor, Licensing, & Regulation*, 336 S.C. 373, 520 S.E.2d 142 (1999).

In this case, the essential purpose of the cited oaths, regulations, statutes, handbooks, and guidelines is not to preserve civil actions on behalf of the public. See *Rayfield v. South Carolina Department of Corrections*, 297 S.C. 95, 374 S.E.2d 910 (Ct.App.1988), cert. denied, 298 S.C. 204, 379 S.E.2d 133 (1989). Therefore, these Defendants owed no particular duty to Plaintiff, and any alleged violation is not actionable.

WHEREFORE, Plaintiff's cause of action is untimely, improperly alleged against individual governmental employees acting well within the course and scope of their employment, and premised on concepts that do not give rise to individual causes of action. These defendants are entitled to dismissal of this action, in its entirety, under §15-78-100 and §15-78-80, S.C. Code of Laws, and pursuant to the Public Duty Rule.

THEREFORE, IT IS ORDERED, Plaintiff's causes of action are hereby dismissed in their entirety, under SCRCP 12(b)(6), as the Complaint fails to state a claim upon which relief can be granted. This action is hereby dismissed, with prejudice.

AND IT IS SO ORDERED!

Chambers, S.C.
May 16, 2016

[Signature]
The Honorable I. Casey Manning
Fifth Judicial Circuit

SCANNED

(11)

SOUTH CAROLINA LAW ENFORCEMENT DIVISION

NIKKI R. HALEY
Governor



MARK A. KEEL
Chief

May 6, 2015

Biafra M. Curtis
Post Box 21294
Hilton Head, SC 29925

Dear Ms. Curtis:

The South Carolina Law Enforcement Division (SLED) is in receipt of your letter dated April 29, 2015, in which you made a complaint against a S.C. Highway Patrol Trooper and the way he conducted a traffic collision.

SLED enters matters of *criminal misconduct* by government agencies, corporations or individuals only after a review by a Solicitor, the Attorney General's Office, or at the request of the law enforcement agency of jurisdiction. Therefore, SLED will not conduct a criminal investigation into this matter.

You may be best assisted in this matter by contacting the S.C. Department of Public Safety's Office of Professional Responsibility as the S.C. Highway Patrol is a division of the agency.

With best regards,

A handwritten signature in cursive script that reads "John T. Bishop".

John T. Bishop, Captain
Investigative Services
South Carolina Law Enforcement Division

JTB/sce



An Accredited Law Enforcement Agency

P.O. Box 21398 / Columbia, South Carolina 29221-1398 / (803) 737-9000 / Fax (803) 896-7588



(12)

South Carolina Department of Public Safety
Office of Professional Responsibility

June 5, 2015

Ms. Biafra Curtis
P. O. Box 21294
Hilton Head, SC 29925

RE: OPR File #DI-2107-15-0087-C

Dear Ms. Curtis:

This letter will acknowledge receipt of the information you provided to the South Carolina Department of Public Safety (DPS). The DPS will conduct a thorough inquiry into your complaint.

As part of the Department's commitment to providing law enforcement services that are fair, effective, and impartially applied, the Office of Professional Responsibility (OPR) was established to provide citizens with a fair and effective avenue for redress of their legitimate grievances against employees, and, by the same token, to protect employees from false charges of misconduct or wrongdoing.

You can be assured that the Department takes these matters seriously and you can have confidence that the Department will take appropriate action and will notify you when the inquiry is completed.

If I can be of any further assistance, please do not hesitate to contact me at 803-896-8240.

Sincerely,

Chief K. D. Phelps

/ss

C: Colonel M. R. Oliver
Captain A. K. Grice

13



South Carolina Department of Public Safety

OFFICE OF GENERAL COUNSEL

P.O. Box 1993 • Blythewood, S.C. 29016
Tel: (803) 896-7965 • Fax: (803) 896-7967

June 10, 2015

Ms. Biafra Monique Curtis
P.O. Box 21294
Hilton Head Island, SC 29925

Re: Claim No. 87232

Dear Ms. Curtis:

You contacted the Department of Public Safety's Office of Professional Responsibility ("OPR") recently and sent OPR Chief K. D. Phelps an e-mail on June 8, 2015 in connection with an incident involving you on September 27, 2012. In your June 8th e-mail, you attempted to reengage the Department on the same allegations that formed the basis of a claim you made against this agency last year.

As you will recall from my October 29, 2014 letter to you, the Insurance Reserve Fund ("IRF") is the entity responsible for evaluating claims such as yours that are asserted against state agencies. Consequently, the Department forwarded your claim regarding this incident to the IRF for evaluation on October 3, 2014.

By letter dated November 18, 2014 (a copy of which is enclosed), the adjuster assigned to investigate your claim notified you that he was "unable to establish any liability on behalf of the SC Department of Public Safety for this incident." Insofar as the IRF has found that no liability exists in this matter, the Department declines to undertake further investigative efforts that would duplicate those already performed by the IRF.

For the foregoing reasons, the Department deems this matter closed and will not be commenting further on the circumstances surrounding your claim. Should you have any information that you believe the IRF should consider in revisiting your claim, you can contact the adjuster shown on the enclosed letter.

Sincerely,

Warren V. Ganjensani
General Counsel

WVG/md

Encl.

cc: Chief K. D. Phelps

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
COLUMBIA DIVISION

Biafra Monique Curtis, Pro Se,)
)
v.)
)
South Carolina Department of Public)
Safety, Warren Ganjehsani, Mike)
Oliver, Leroy Smith, Kenneth)
Phelps, Anthony Grice, William)
Taylor, Nicklous King, Willie)
McCauley, Jr., Ada Schmidt, Aaron)
Canzater and Cherie Young,)
Individually and in their official)
Capacities,)
)

Case Number: 3:15-cv-03753-MGL-PJG

RESPONSES AND OBJECTIONS TO
PLAINTIFF'S DISCOVERY REQUESTS
MISCHARACTERIZED AS MOTION
FOR DISCOVERY

TO: BIAFRA CURTIS, *pro se*, PLAINTIFF:

The defendants hereby respond and object to plaintiff's discovery requests, mischaracterized as a Motion for Discovery and improperly filed in the Court, dated November 20, 2015, mailed November 23, 2015, received at some time between November 25 and 30, 2015, as follows:

Defendants note that the documents included in the package contain a reference to FRCP 36, however, no requests for admissions were included in the package. No item within the package constitutes a request for an admission. To the extent plaintiff considers any of her discovery requests to constitute requests for admissions, the defendants object and deny all requests for admissions.

Notwithstanding any objection herein, defendants assert all nonprivileged relevant information responsive to the plaintiff's requests and in the possession of defendants has been provided pursuant to the Freedom of Information Act.

[Handwritten signature]

Defendants object to the discovery requests as exceeding the scope and limits set forth in FRCP 26(b)(1).

Defendants object to a "prayer" being included with discovery requests, as such is not a proper discovery request.

Defendants object to the Requests for Production as overly broad, unduly burdensome, and vague.

Defendants object to the Interrogatories, in that the plaintiff, in violation of FRCP 33(a)(1), has served interrogatories exceeding the allowed number of twenty-five. Rather than simply respond to the first twenty-five (25) discrete subparts, defendants invite the plaintiff to trim her interrogatories to the allowed number or seek the Court's leave to serve additional interrogatories.

Defendants object to the interrogatories and requests for production to the extent they seek information which constitutes attorney-client privileged communication, or materials prepared in anticipation of litigation or for trial by any defendant, its attorneys, consultants, sureties, indemnitors, insurers, or agents, or communications with experts except to the extent specifically rendered discoverable by FRCP 26.

Defendants and their counsel object to being "instructed" how to respond to discovery requests, when responses are governed not by the plaintiff but by the Federal Rules of Civil Procedure.

Defendants assert all materials responsive to any proper discovery request have been provided to the plaintiff pursuant to a Freedom of Information Act request. Pursuant to FRCP 33(d), the defendants crave reference to those records for the information responsive to plaintiff's discovery requests.

Specific Responses and Objections to Requests for Production

1. Defendants object to Request 1, on the grounds the request is overly broad, vague, unduly burdensome, and unduly intrusive, in that it seeks, without limit of time or scope: a. "All" records concerning a South Carolina state agency, the South Carolina Department of Public Safety; and its individual employees who are defendants to this action;

b. "All" records, without limit of time or scope, concerning the individual defendants in this action, including "all" records every individual defendant has about himself or herself, whether or not those records are relevant to this action or likely to lead to the discovery of admissible evidence;

c. Records about, or perhaps records in possession of, nonparties, Adair Home Insurance Company, South Carolina Insurance Reserve Fund, and South Carolina Department of Motor Vehicles;

d. Records of insurers, all or part of which are protected and privileged from discovery under FRCP 26(b)(3)(A).

2 and 3. Defendants object to Requests 2 and 3, on the ground they are unduly burdensome, overly broad, and vague, and may be construed to seek information privileged from disclosure as attorney-client communications, and attorney work product and case and trial preparation materials protected from discovery by FRCP 26(b)(3)(A). Notwithstanding the objection, defendants have provided all nonprivileged relevant information to the plaintiff in compliance with a Freedom of Information Act request.

4 and 5. Defendants object to Requests 4 and 5, to the extent they seek information of nonparties, to the extent it seeks attorney-client communications, and to

the extent it seeks information from the nonparty insurer for these defendants (protected under FRCP 26(b)(3)(A)). Defendants further object to the extent the discovery request implies any crime was committed by any defendant. Defendants further object to Request 5 as argumentative and not intended to elicit discovery. These defendants assert no crime nor misconduct was committed. These defendants do not bear the burden of proof in this action. Notwithstanding the objection, defendants believe all nonprivileged responsive material has been produced to the plaintiff pursuant to FOIA.

6. Defendants object to Request 6 as argumentative and not intended to elicit any discovery.

7. Defendants object to Request 7, as a Request to Produce may not be used to compel an Affidavit from any person, nor can an Affidavit ever be compelled.

Defendants assert the nonprivileged information, if any, responsive to 7B, 7D, 7F, and 7G is included in the materials produced to plaintiff pursuant to FOIA. Defendants deny that defendant Ganjehsani can refuse or did refuse to allow an ethics investigation.

Defendants object to the characterization in 7E of "false" vehicle tag, and assert any error in data entry was a human error. Defendants object to producing any information protected by FRCP 26(b)(3)(A). Defendants deny the accident should have been deemed criminal. Defendants deny any liability or causative role in any injury to the plaintiff.

8. There is no Request 8, but counsel is unaware why a list of witnesses is included in the discovery requests. If plaintiff's intention is to seek the direct contact information for any employee of the SCDPS, this information will not be provided, as SCDPS employees, whether or not named as individual defendants, should be contacted only through their undersigned counsel. If plaintiff's intention is to seek information held

1764

by nonparties, it will not be provided by these defendants and should be sought directly from its source. If plaintiff's intention is to seek information from defendants' insurer concerning this action, that information is protected from discovery by FRCP 26(b)(3)(A), and will not be disclosed by defendants.

Specific Responses and Objections to the Interrogatories

1 and 2. All information responsive to Interrogatories 1 and 2, which is in the possession of defendants and nonprivileged, has been produced pursuant to FOIA.

3. Objection is made to Interrogatory 3 on the ground it seeks information concerning attorney-privileged communications and trial preparation materials not discoverable under FRCP 26(b)(3)(A). Notwithstanding the objection, and without waiving any privilege but expressly reserving same, counsel discloses only that the responses are made in reliance on information provided to counsel by the defendants.

4 through 10. Objection is made as Interrogatories 4 through 10 are not proper interrogatories, but are argumentative and accusatory. Each defendant has been forthright in their conduct. Furthermore, each defendant is available for deposition by the plaintiff.

11. Objection is made to Interrogatory 11, as plaintiff is not permitted to dictate how a defendant answers a Complaint in a civil action.

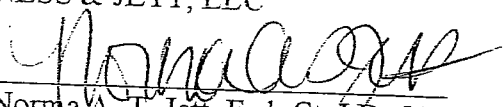
12 through 29. Defendants object to interrogatories 12 through 29 on the grounds they are not proper interrogatories. Defendants further object as the interrogatories seek already in the possession of the plaintiff and information already provided pursuant to FOIA. Defendants further object to interrogatories 23 and 24 as seeking an opinion from defendants, and, at that, an opinion some of the defendants would be unqualified to state.

Defendants object to all interrogatories seeking standards, laws, or other information available to plaintiff through review of publicly available research materials. Defendants object to Interrogatories 25 and 26 as not proper interrogatories. Defendants object to Interrogatory 27 as not a proper interrogatory but a legal argument. Defendants object to Interrogatory 28 as not a proper interrogatory. Defendants object to Interrogatory 29 as not an interrogatory but an accusation, which defendants deny.

December 21, 2015

Bamberg, SC

NESS & JETT, LLC

By: 

Norma A. T. Jett, Fed. Ct. I.D. 5101
Alison Dennis Hood, Fed. Ct. I.D. 11078
Post Office Box 909
Bamberg, SC 29003
(803) 245-5178
normajett@bellsouth.net
alisondhood@gmail.com
ATTORNEYS FOR ALL DEFENDANTS

12/6

FORM 16
CERTIFICATE FROM APPELLANT

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas

Judge L. Casey Manning, Fifth Judicial Circuit

Case No:2016-CP-001239

Biafra Monique Curtis,

Appellant

V.

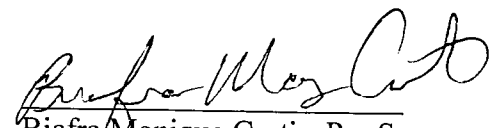
South Carolina Department of Public Safety,
Warren Ganjehsani, Mike Oliver, Leroy Smith,
Kenneth Phelps, Anthony Grice, William Taylor,
Nicklous King, Willie McCauley, Jr., Ada Schmidt,
Aaron Canzater and Cherie Young, individually
and in their official capacities, et al.,

Respondent(s)

CERTIFICATE FROM APPELLANT

The undersigned certified that the Record on Appeal contains all material proposed to be included by the Appellant and not any other material.

November 21, 2016



Biafra Monique Curtis, Pro Se
PO BOX 21294
Hilton Head Island, SC 29925
843-684-3118

IN THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas

Judge L. Casey Manning, Fifth Judicial Circuit

Appellate Case No. 2016—001239

Biafra Monique Curtis.....Appellant

v.

South Carolina Department of Public Safety, Warren Ganjehsani, Mike Oliver, Leroy Smith, Kenneth Phelps, Anthony Grice, William Taylor, Nicklous King, Willie McCauley, Jr. Ada Schmidt, Aaron Canzater and Cherie young, individually and in their Official Capacities.....Respondents

MOTION TO EXCLUDE MATTER FROM RECORD ON APPEAL

YOU WILL PLEASE TAKE NOTICE, RESPONDENTS, by and through their undersigned attorneys, will move the Court for an Order striking portions of the Record on Appeal, as designated by Appellant, pursuant to Rule 210 (c), SCACR, as the designated matter was not submitted to the lower court and is therefore extraneous and should not properly be included within the Record on Appeal.

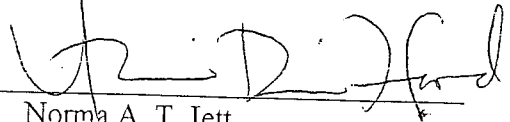
Particularly, Respondents request the following matter be stricken from the Record on Appeal:

1. Defendants' Attorneys Discovery "Response and Objection" dated December 21, 2015

This motion is based upon the Transcript of the Hearing on this matter, dated May 18, 2016, which contains no clear reference to this discovery documentation being submitted to the Court for consideration. The undersigned has no record of the discovery responses ever having been submitted to the court or to the clerk. Upon information and belief, this particular matter was not submitted to the lower court, and Rule 210(c), SCACR prohibits its inclusion within the Record on Appeal.

September 2, 2016

Respectfully submitted,

By: 

Norma A. T. Jett
Alison Dennis Hood
NESS & JETT, LLC
P.O. Box 909
Bamberg, South Carolina 29003
Telephone (803) 245-5178
Fax (803) 245-5384
ATTORNEY FOR ALL RESPONDENTS

CERTIFICATE OF SERVICE

This is to certify that I, Alison Dennis Hood, Attorney for ALL RESPONDENTS, along with Richard B. Ness of Ness & Jett, LLC, have this date mailed via the U.S. Postal Service with first class postage prepaid, a true and correct copy of the within **RESPONDENTS' INITIAL BRIEF AND INITIAL DESIGNATION OF MATTER, along with a MOTION TO EXCLUDE MATTER FROM RECORD ON APPEAL** in the matter captioned *Biafra Monique Curtis, Pro Se v. SCDPS, et al.*, Appellate Case Number: 2016-001239 to the following parties, at the following addresses:

Biafra Monique Curtis
P.O. Box 21294
Hilton Head, SC 29925

Bamberg, S.C.
Sept 2, 2016



Norma A. T. Jett
Alison Dennis Hood
Ness & Jett, LLC
P.O. Box 909
Bamberg, SC 29003
Phone: (803) 245-5178
Fax: (803) 245-5384
Attorneys for All Respondents

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas

RECEIVED

SEP 19 2016

Judge L. Casey Manning, Fifth Judicial Circuit SC Court of Appeals

Case No:2016-CP-001239

South Carolina Department of Public Safety,
Warren Ganjehsani, Mike Oliver, Leroy Smith,
Kenneth Phelps, Anthony Grice, William Taylor,
Nicklous King, Willie McCauley, Jr., Ada Schmidt,
Aaron Canzater and Cherie Young, individually
and in their official capacities, et al.

Respondent(s)

V.

Biafra Monique Curtis, Pro Se

Appellant

RESPONSE TO MOTION TO EXCLUDE MATTER FROM RECORD ON APPEAL

YOU WILL PLEASE TAKE NOTICE, APPELLANT, moves the court for an Order objecting to striking any portions of the Record on Appeal and if, as stated in the defense attorneys motion to strike matter which was prepared, addressed to the United States District Court, signed, dated and mailed to the Appellant by use of the United States Postal Service, but not submitted to the lower court, then it seems to this writer that there is a possibility of fraud on the court or at least or evidence that the judicial process may have been polluted by way of fraudulent actions and ommissions, as per; "McNally v. U.S., 483 U.S. 350, 371-372 (1987), Quoting U.S. v Holzer, 816 F.2d. 304, 307: ""**Fraud in its elementary common law sense of deceit - and this is one of the meanings that fraud bears in the statute, see United States v. Dial, 757 F.2d 163, 168 (7th Cir. 1985) - includes the deliberate concealment of material information in a setting of fiduciary obligation. A public official is a fiduciary toward the public, including, in the case of a judge, the litigants who appear before him, and if he deliberately conceals material information from them he is guilty of fraud or evidence that false representation does not**

constitute fraud. "Any false representation of material facts made with knowledge of falsity and with intent that it shall be acted on by another in entering into contract, and which is so acted upon, constitutes 'fraud,' and entitles party deceived to avoid contract or recover damages." Barnsdall Refining Corn. v. Birnam Wood Oil Co. 92 F 26 817 or evidence that defendants attorney(s) are not guilty of Sham Pleading. "Those which are inherently false and must have been known by interposing party to be untrue." Pentecostal Holiness Church, Inc. v. Mauney, Fla App., 270 So.2d 762, 769. or evidence that defense attorney(s) did not promote the functions of Aider and Abettor. "One who advises, counsels, procures, or encourages another to commit a crime, himself being guilty of some overt act or advocacy or encouragement of his principal, actually or constructively present when crime is committed, and participating in commission thereof by some act, deed, word, or gesture, Turner v Commonwealth, 268 Ky. 311, 104 S.W. 2D 1085, and sharing the criminal intent of the principal."

This writer is now concerned with Offenses Against Public Justice.

SECTION 16-9-10. Perjury and subornation of perjury.

(A)(1) It is unlawful for a person to wilfully give false, misleading, or incomplete testimony under oath in any court of record, judicial, administrative, or regulatory proceeding in this State.

(2) It is unlawful for a person to wilfully give false, misleading, or incomplete information on a document, record, report, or form required by the laws of this State.

(B)(1) A person who violates the provisions of subsection (A)(1) is guilty of a felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than five years, or both.

(2) A person who violates the provisions of subsection (A)(2) is guilty of a misdemeanor and, upon conviction, must be imprisoned not more than six months or fined not less than one hundred dollars, or both.

(C) A person may be convicted under this section if he induces, procures, or persuades another person to commit perjury or if he commits perjury by his own act, consent, or agreement.

HISTORY: 1962 Code Section 16-201; 1952 Code Section 16-201; 1942 Code Section 1397; 1932 Code Section 1397; Cr. C. '22 Section 332; Cr. C. '12 Section 340; Cr. C. '02 Section 253; G. S. 2531; R. S. 217; 1712 (2) 487; 1993 Act No. 184, Section 89.

SECTION 16-9-20. Subornation of perjury in civil actions.

(A) It is unlawful for a person to:

(1) wilfully induce, procure, or persuade another person by any means to commit perjury in initiating a civil action or proceeding; or

(2) wilfully induce, procure, or persuade another person to give false, misleading, or incomplete testimony while under oath in a civil action or proceeding.

(B) A person who violates the provision of this section is guilty of a misdemeanor and, upon conviction, must be imprisoned not more than six months and fined not less than two hundred dollars.

HISTORY: 1962 Code Section 16-202; 1952 Code Section 16-202; 1942 Code Section 1398; 1932 Code Section 1398; Cr. C. '22 Section 333; Cr. C. '12 Section 341; Cr. C. '02 Section 254; G. S. 2532; R. S. 218; 1712 (2) 487; 1993 Act No. 184, Section 90.

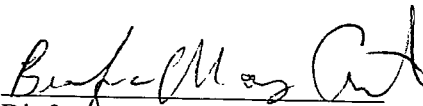
SECTION 16-9-30. False swearing before persons authorized to administer oaths. It is unlawful for a person to wilfully and knowingly swear falsely in taking any oath required by law that is administered by a person directed or permitted by law to administer such oath. A person who violates the provisions of this section is guilty of a felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than five years, or both.

HISTORY: 1962 Code Section 16-203; 1952 Code Section 16-203; 1942 Code Section 1400; 1932 Code Section 1400; Cr. C. '22 Section 335; Cr. C. '12 Section 343; Cr. C. '02 Section 256; G. S. 2534; R. S. 220; 1833 (2) 485; 1993 Act No. 184, Section 166.

My response to this motion is based on the fact that documents were indeed referred to during the final hearing regarding the information which had previously been submitted to the court and were repeatedly overlooked and ignored. Now that the defense has gotten caught with their pants down, it would be an atrocity and a continuation of the biased and one-sided treatment that represents the continued victimization of the appellant. They had both the letter from Phelps and Ganjesani in hand at the time that they prepared that fictitious document and they knew that it was false. Now that it is being pointed out, they want to strike it. No. Absolutely Not.

I certify that this response to motion contains no matter that is not relevant to this appeal.

September 16, 2016


Biafra Monique Curtis, Pro Se
PO BOX 21294
Hilton Head Island, SC 29925

FORM 7
PROOF OF SERVICE OF RESPONSE TO MOTION TO EXCLUDE
MATTER TO BE INCLUDED ON APPEAL

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

RECEIVED

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas

SEP 19 2016
SC Court of Appeals

Judge L. Casey Manning, Fifth Judicial Circuit

Appellate Case No: 2016-001239

South Carolina Department of Public Safety,
Warren Ganjehsani, Mike Oliver, Leroy Smith,
Kenneth Phelps, Anthony Grice, William Taylor,
Nicklous King, Willie McCauley, Jr., Ada Schmidt,
Aaron Canzater and Cherie Young, individually
and in their official capacities, et al.

Respondent

V.

Biafra Monique Curtis, Pro Se

Appellant

PROOF OF SERVICE

I certify that I have served the Proof of Service of Response to Motion to Exclude Matter on Appeal to the Respondent(s) by depositing a copy of it in the United States Mail, postage prepaid, on September 16, 2016, addressed to: Honorable Jenny Abbott Kitchings, Clerk South Carolina Court of Appeals PO BOX 11629 Columbia, SC 29211

September 16, 2016

Biafra Monique Curtis
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Hilton Head Island, SC 29925
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The South Carolina Court of Appeals

Biafra Monique Curtis, Appellant,

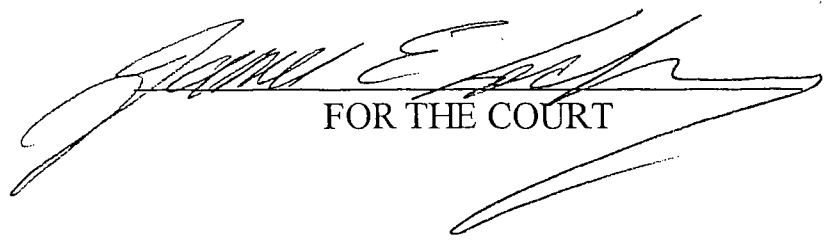
v.

South Carolina Department of Public Safety, Warren Ganjehsani, Mike Oliver, Leroy Smith, Kenneth Phelps, Anthony Grice, William Taylor, Nicklous King, Willie McCauley, Jr., Ada Schmidt, Aaron Canzater and Cherie Young, individually and in their official capacities, et al., Respondents.

Appellate Case No. 2016-001239

ORDER

After careful consideration, Respondents' motion to strike is denied. Within thirty days of the date of this order, Appellant shall serve the record on appeal on Respondents and file a proof of service with this court.


FOR THE COURT

Columbia, South Carolina

cc:
Biafra Monique Curtis
Norma Anne Turner Jett, Esquire
Alison Dennis Hood, Esquire

FILED
October 26, 2016

29

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

RECEIVED

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas

SEP 19 2016

Judge L. Casey Manning, Fifth Judicial Circuit

SC Court of Appeals

Appellate Case No. 2016-001239

South Carolina Department of Public Safety,
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and in their official capacities, et al.

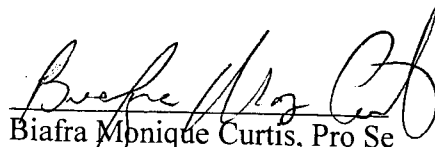
Respondent(s)

V.

Biafra Monique Curtis, Pro Se

Appellant

APPELLANTS INITIAL REPLY BRIEF



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TABLE OF CONTENTS

Table of Cases.....3

Table of Authorities.....3

Statement of Issues on Appeal.....4

Statement of the Case.....5-6

Arguments.....6-7

1. THE TRIAL COURT ERRED BY DISMISSING ENTIRE CASE BASED BY
 NEGLECTING TO REVIEW DOCUMENTS WHICH VALIDATED THE MOST
 ESSENTIAL ELEMENTS OF THE ORIGINAL COMPLAINT, SPECIFICALLY,
 Pg. 19, ITEM #27. *See June 5, 2015 Letter from Chief K.D. Phelps, June 10,
 2015 Letter from Warren Ganjensani and document signed by Norma Jett ,
 dated December 21, 2015, titled "RESPONSES AND OBJECTIONS TO
 PLAINTIFF'S DISCOVERY REQUESTS MISCHARACTERIZED AS MOTION FOR
 DISCOVERY" specifically on page 4, item# 7 AS ITS SUPPORTING
 DOCUMENTS.....6-7*

2. THE TRIAL COURT ERRED BY ENDORSING THE ORDER TO DISMISS 2 DAYS
 PRIOR TO THE ACTUAL HEARING OF THE CASE THEREFORE BLOCKING THE
 APPELLANT FROM THE OPPORTUNITY OF ANY CHANCE OF A FAIR AND
 UNBIASED HEARING AND REMOVING ANY OPPORTUNITY OF DUE PROCESS *See
 Notice to Appear to May 18, 2016 hearing and Final Order signed and dated
 May 16, 2016.....7*

Conclusion.....7

TABLE OF AUTHORITIES

Cases

Fleming v. Rose, et al.....7

Ford v. Hutson, 276 S.C. 157, 276 S.E.2d 776 (1981).....7

Other Authorities

South Carolina Rules of Civil Procedure Rule 43(k).....8

SC Code Ann. 16-17-410 Conspiracy.....5

SC Code Ann. 15-78-50 Negligence.....5

Trial Court Transcripts Page 11/ lines 10-19.....5

SC Code Ann. 17-28-350 Unlawful Conduct.....6

STATEMENT OF ISSUES ON APPEAL

1. Whether the trial court's May 16/May 18, 2016 order dismissing the underlying action should stand and be enforced even though there is valid and well documented proof which has been presented to the court, but overlooked or if the case should be allowed to move forward to be heard by a fair and unbiased jury?
2. Whether the trial court's order which was signed and dated on May 16, 2016, two days prior to the actual hearing date of May 18, 2016, further questions if the plaintiff ever had a true opportunity for due process and equal protection under the law?

STATEMENT OF THE CASE

This appeal arises from an order dismissing complaints of misconduct of multiple troopers of the South Carolina Highway Patrol and efforts of supervising officers to conceal these acts and omissions. It has been argued that certain elements of the complaint have surpassed certain statues, however, page 19, item#27 of the original complaint presents the events that occurred in 2015, well within the timeframe of statues and undisputable to this fact and are further supported by (ITEM "I") ***See June 5, 2015 Letter from Chief K.D. Phelps, June 10, 2015 Letter from Warren Ganjensani and (ITEM "J") document signed by Norma Jett, dated December 21, 2015, titled "RESPONSES AND OBJECTIONS TO PLAINTIFF'S DISCOVERY REQUESTS MISCHARACTERIZED AS MOTION FOR DISCOVERY" specifically on page 4, item# 7.***

By way of brief background, these issues arose after the trooper, Willie McCauley, Jr., assigned to investigate the accident never turned his camera on or activated his front lights which would have activated his camera, then discredited an alleged witness, "discarded" his name, contact information and statement, whom it was later to be determined to be the at fault truck driver.

There was a meeting held with myself, Trooper Willie McCauley, Sgt. Nicklous King, Lt. William Taylor and Captain Anthony Grice in which Trooper Mc Cauley admitted that he discarded this information. There was supposedly an investigation in the effort to retrieve this information and the accident report was revised 3 times, but after a year, it was unsuccessful and the (IRF) Insurance Reserve Fund insurance company for the highway patrol found no liability on the part of their officer even though they never interviewed the key witness from all 4 accident reports(the IRF is not the proper investigative authority when assigned with the task of officer misconduct, this is the sole responsibility of the Office of Professional Responsibility). During this time, I contacted each and every person (Leroy Smith, Mike Oliver & SLED) that I could to get assistance from. I received a response from SLED suggesting that I contact Chief KD Phelps at the Office of Professional Responsibility.

On May 29, 2015, I sent an email containing all 4 Accident Reports, Witness Statements and other correspondence Chief KD Phelps and after a brief phone call, I received a letter in the mail from him, dated June 5, 2015 (See EXHIBIT "I" **Phelps Letter**), informing me that the department would conduct an investigation. However, on June 10, 2015, I received a letter from Warren Ganjehsani (See EXHIBIT "I" **Ganjehsani Letter**), informing me that the IRF found no liability and the department declines to take further investigative efforts SC Code Ann. 15-78-50 and will not be commenting further SC Code Ann. 16-17-410 Conspiracy to defeat enforcement of the laws. Under the Doctrine of Acquiescence as well as the Maxim in Law which states that "silence shows consent" 6 Barb. [N.Y.] 2B, Qui non negat, fatetur and "He who does not deny, agrees," (Trayner, Maxim 503). Preventing officer from performing duties. If two or more persons in any State or Territory conspire to prevent, by force, intimidation, or threat, any person from accepting or holding any office, trust, or place of confidence under the United States, or from discharging any duties thereof. On or around the end of December 2015, I received a document from Norma Jett , dated December 21, 2015, titled "RESPONSES AND OBJECTIONS TO PLAINTIFF'S DISCOVERY REQUESTS MISCHARACTERIZED AS MOTION FOR DISCOVERY" (See EXHIBIT "J") **document signed by Norma Jett , dated December 21, 2015, titled "RESPONSES AND OBJECTIONS TO PLAINTIFF'S DISCOVERY REQUESTS MISCHARACTERIZED AS MOTION FOR DISCOVERY" specifically on page 4, item# 7** where she states that "Defendants deny that defendant Ganjehsani can refuse of did refuse to allow an ethics investigation" SC Code Ann. 17-28-350.

The remaining part of the case is the fact that originally, both the front judgement page and the last page of the order both were signed and dated on May 16, 2016 (See **Exhibit "A" Notice to Appear to May 18, 2016 Hearing**) even though my hearings were not

held until May 18, 2016 (See EXHIBIT "B" Final Order, last page, signed and dated May 16, 2016). Later, I received a completely new copy of the front, judgement page with the date May 18, 2016, however, the last page of the FINAL ORDER remained as signed and dated on May 16, 2016, two days prior to my hearing.

ARGUMENT

- I. **The trial court erred by prematurely dismissing the case because had the judge even read the complaint (See complaint, page 19, item#27) itself, there is enough information to support its own merit.**

This court unwaveringly renounced reviewing any documents presented in this case other than those presented by the defense. This court's unwillingness to stop the defense from manipulating all of the elements of the case into one and then claiming statute of limitations about all elements was uncompromising. How can one claim statute of limitations regarding occurrences which happened in May and June of 2015? In all fairness, there are (3) three sheets of paper that support my claim that the trial court's decision was incorrect.

THE STATE OF SOUTH CAROLINA

In The Court of Appeals FACTS and Procedural Backgrounds

Fleming v. Rose, et al : In this tort action, Lt. J. A. Fleming, Jr., formerly of the South Carolina Highway Patrol, appeals from the trial court's order granting summary judgment to Boykin Rose of the South Carolina Department of Public Safety and James Caulder of the South Carolina Highway Patrol. At the conclusion of the investigation, Ivey submitted a summary report to Rose. A few days later, Ivey presented a memo to Rose which contained recommendations for disciplinary actions against the troopers involved in the accident. This memo included a recommendation that Lt. James Fleming, who was not involved in either the accident or any of the subsequent investigations, be suspended for five days for allegedly failing to thoroughly interview Trooper Jerry Cobb. Additionally, the memo contained the allegation that Fleming failed to pass on crucial details regarding the accident.

Ford v. Hutson, 276 S.C. 157, 276 S.E.2d 776 (1981) as to his cause of action for intentional infliction of emotional distress.

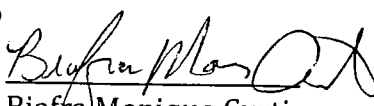
II. The fact that my hearing wasn't until May 18, 2016, yet both the first page of the judgement and final page of the order were both signed and dated May 16, 2016 and then later, I received only the front page of the judgement May 18, 2016 seems very suspicious considering all that I have endured.

Rule 43 (K), provides in relevant part, no agreement between cousin affecting the proceedings in an action shall be binding unless reduced to the form of a consent order or written stipulation signed by counsel and entered into the record, or unless made in open court and noted upon the record, or reduced to writing and signed by the parties and their counsel. This application presents the standard on review that Courts in this State will not enforce and order pursuant to Rule (43)k unless the terms of the settlement are set forth within the order.

CONCLUSION

For the foregoing reasons, appellant request that that this Court finds that the May 16/May 18, 2016 order as dictated by the trial court unenforceable. Further, appellant respectfully requests that this court review the three documents which the appellant has submitted previously, which have been overlooked by the trial court (EXHIBIT "I") *See June 5, 2015 Letter from Chief K.D. Phelps, June 10, 2015 Letter from Warren Ganjensani and (ITEM "J") document signed by Norma Jett, dated December 21, 2015, titled "RESPONSES AND OBJECTIONS TO PLAINTIFF'S DISCOVERY REQUESTS MISCHARACTERIZED AS MOTION FOR DISCOVERY" specifically on page 4, item# 7.* Finally, the appellant requests of this Court to move to Oral Argument since simply submitting documents and exhibits have proven to be fatal to this appellant.

Respectfully submitted this 16th day of September, 2016


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37

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas

Judge L. Casey Manning, Fifth Judicial Circuit

Appellate Case No. 2016-001239

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SEP 19 2016

SC Court of Appeals

South Carolina Department of Public Safety,
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Respondent(s)

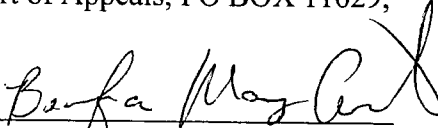
V.

Biafra Monique Curtis, Pro Se

Appellant

CERTIFICATE OF SERVICE

I certify that I have served the Appellants Initial Reply Brief to the Respondent(s) by depositing a copy of it in the United States Mail, postage prepaid, on September 16, 2016, addressed to: Jenny Abbott Kitchings Clerk of Court, South Carolina Court of Appeals, PO BOX 11629, Columbia, SC 29211


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38

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

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

RECEIVED

SEP 19 2016

SC Court of Appeals

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas

Judge L. Casey Manning, Fifth Judicial Circuit

Case No:2016-CP-001239

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Respondent(s)

V.

Biafra Monique Curtis, Pro Se

Appellant

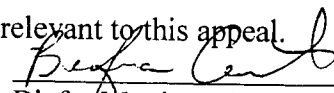
DESIGNATION OF MATTER TO BE
INCLUDED IN THE RECORD ON APPEAL

Appellant proposes the following be included in the Record on Appeal

1. Original Complaint pg. 19, item #27
2. Phelps Letter June 05, 2015 and Ganjesani Letter June 10, 2015
3. Transcript of Proceedings pg 11, lines 10-19
4. Defendants Attorneys "Response & Objection" dated December 21, 2015
5. Final Order from hearing held May 18, 2016, dated & signed May 16, 2016

I certify that this designation contains no matter that is not relevant to this appeal.

September 16, 2016


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 Hilton Head Island, SC 29925
 843-684-3118

39

**FORM 7
PROOF OF SERVICE OF DESIGNATION OF MATTER
TO BE INCLUDED IN THE RECORD ON APPEAL**

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

RECEIVED

SEP 19 2016

SC Court of Appeals

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas

Judge L. Casey Manning, Fifth Judicial Circuit

Appellate Case No: 2016-001239

South Carolina Department of Public Safety,
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Respondent

V.

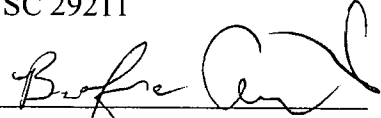
Biafra Monique Curtis, Pro Se

Appellant

PROOF OF SERVICE

I certify that I have served the Proof of Service of Designation of Matter to be Included in Record on Appeal to the Respondent(s) by depositing a copy of it in the United States Mail, postage prepaid, on September 16, 2016, addressed to: Honorable Jenny Abbott Kitchings, Clerk South Carolina Court of Appeals PO BOX 11629 Columbia, SC 29211

September 16, 2016


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40

**FORM 14
DESIGNATION OF MATTER TO BE
INCLUDED IN RECORD ON APPEAL (AMENDED)**

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas

Judge L. Casey Manning, Fifth Judicial Circuit

Case No:2016-CP-001239

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SC Court of Appeals

Biafra Monique Curtis, Pro Se

Appellant

V.

South Carolina Department of Public Safety,
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Aaron Canzater and Cherie Young, individually
and in their official capacities, et al.

Respondent(s)

**DESIGNATION OF MATTER TO BE
INCLUDED IN RECORD ON APPEAL (AMENDED)**

Appellant proposes the following be included in the Record on Appeal

- 1.Original Complaint pg. 19, item #27 Filed August 24, 2015
- 2.Notices of Scheduling for Hearing on Court Roster for May 18, 2016
- 3.Order from hearing held May 18, 2016, dated & signed May 16, 2016
- 4.SLED Letter from Cptn. John T. Bishop, dated May 6, 2015
- 5.Chief K.D. Phelps Letter, dated June 05, 2015
- 6.Warren Ganjesani Letter dated June 10, 2015
- 7.Respondents "Response & Objection" dated December 21, 2015 pg. 4, #7
- 8.Certificate of Appellant
- 9.Respondents "Motion To Exclude Matter from Record on Appeal"

- 10.Appellants "Response Objection to Motion to Exclude Matter from Record on Appeal"
- 11.Order Denying Respondents Motion to Strike
- 12.Appellants Initial Reply Brief
- 13.Appellants Original Designation of Matter to be Included in Record on Appeal
- 14.Transcript: Hearing held on May 18, 2016 but Signed and dated May 16, 2016
- 15.Accident Reports: Original Accident Report-Dated 10-23-12/Original AMENDED Report-Dated 12-16-2012/Original CORRECTED Report-Dated 1-26-2013/Original CORRECTED Report-Dated 2-6-2013
- 16. Witness Statements/ Testimony: Bobby Hudson, Stacey L. Olden, Erin Tyler, James Lamb and Carl Culpepper

I certify that this designation contains no matter that is not relevant to this appeal.

November 21, 2016



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