

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

RECEIVED

DEC 28 2016

SC 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., **Respondent(s)**

APPELLANTS FINAL REPLY BRIEF

Biafra Monique Curtis, -Pro Se Appellant
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- NOTICE OF RIGHT OF SUBROGATION**
- NOTICE OF OPERATION OF LAW**
- NOTICE OF ULTIMATE FACTS BEING ESTABLISHED**
- NOTICE OF RIGHT TO BE HEARD**

STATEMENT OF ISSUES ON APPEAL

***PLEASE NOTE: THE Appellant holds that these occurrences are independent of others, and not merely an outgrowth of another traditional tort, the six-year limitation period of § 15-3-530 (5) is controlling and the limitation has not run.

1. THE TRIAL COURT ERRED BY DISMISSING THE CASE IN ITS ENTIRITY AND NOT ADDRESSING ALL OF THE ELEMENTS IN THE COMPLAINT, THEREFORE OVERLOOKING KEY ELEMENTS THAT REPRESENTED ACTIONS THAT ARE STILL SO TRIABLE AND WERE INDEED FILED IN SAID COMPLAINT WELL WITHIN THE STATUE OF LIMITATIONS. Please see:

- **EXHIBIT 1**-Original Complaint PG 19, #27
- **EXHIBIT 2**- Letter from Chief K.D. Phelps, dated June 5, 2015 (Entire Letter)
- **EXHIBIT 3**- Letter from General Counsel Warren Ganjehsani, dated June 10, 2015 (Entire Letter)
- **EXHIBIT 4**-Responses and Objection to Plaintiff's Discovery Requests Mischaracterized as Motion for discovery, prepared and submitted by Attorney Norma Jett and Attorney Alison D. Hood Pg 4 Item #7

The complaint contains a through explanation of the background and specifically identifies remaining causes of action which were not addressed. This background information was the only information argued by the defense attorneys and was relied on to dismiss the case without addressing the remaining actions that are still so triable.

A. DID THE APPELLANT HAVE A RIGHT TO AN INVESTIGATION INTO COMPLAINTS SUBMITTED TO THE OFFICE OF PROFESSIONAL LIABILITY

- **EXHIBIT 5**-H. 3158 SC Section 23-6-175 Lines 28-39
- **EXHIBIT 6**-Letter from SLED Chief John T. Bishop, dated May 29, 2015 (Entire Letter)
- **EXHIBIT 2**- Letter from Chief K.D. Phelps, dated June 5, 2015 (Entire Letter)
- **EXHIBIT 3**- Letter from General Counsel Warren Ganjehsani, dated June 10, 2015 (Entire Letter)

- **EXHIBIT 4**-Responses and Objection to Plaintiff's Discovery Requests
Mischaracterized as Motion for discovery, prepared and submitted by Attorney Norma Jett and Attorney Alison D. Hood Pg 4 #7
 - **EXHIBIT-10** CALEA Law Enforcement Accreditation Standards Pgs 3-36 (Entire Pages)
- B. WERE THERE LAWS IN PLACE AT THE TIME OF THE OCCURRENCE OF SAID VIOLATIONS**
- **EXHIBIT 23** –Section 1 Article 3, Chapter 6, Title 23 of the 1976 Code H. 3158 Lines19-20
 - **EXHIBIT-12**- SCDPS Code of Ethics Pg 1
 - **EXHIBIT-13**-SC Constitution Article III Section 26 Oath of Office Pg 2
 - **EXHIBIT-14** CALEA Law Enforcement Accreditation standard 52.1.1
 - **EXHIBIT 5**-H. 3158 SC Section 23-6-175 Lines 28-39
- C. WAS THE APPELLANT DAMAGED BY THESE "OCCURENCES"?**
- **EXHIBIT 3** –Letter from Georgia Outreach Mental Health (Entire Letter)
 - **EXHIBIT 23**- Specific damages, i.e. medical bills, etc. to be provided at trial since they are continuously accruing daily
- D. WAS THE COMPLAINT TIME BARRED BY THE STATUE OF LIMITATIONS IN THE SC TORT CLAIM'S ACT?**
- **EXHIBIT 7**- Letter from Chief K.D. Phelps, dated June 5, 2015 (Entire Letter)
 - **EXHIBIT 8**- Letter from General Counsel Warren Ganjehsani, dated June 10, 2015 (Entire Letter)
 - **EXHIBIT 1**-Original Complaint PG 19, #27 FILED August 24, 2015
 - **EXHIBIT-10** CALEA Law Enforcement Accreditation Standards Pgs 3-36 (Entire Pages)
 - **EXHIBIT 11**-SECTION 15-78-110. Statute of limitations
- E. ARE INDIVIDUAL DEFENDANTS IMMUNE FROM SUIT UNDER THE SC TORT CLAIMS ACT?**
- **EXHIBIT-15**- SC Code Ann. 15-78-30 "Agency & Claim

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SC Code Ann. 16-17-410 Conspiracy
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SC Code Ann. 15-78-50 Right of Injured Party to File Claim to Recover Damages
SC Code Ann. 17-28-350 Unlawful Conduct
SC Code Ann. 15-78-10 Tort Claims Act
SC Code Ann. 15-78-20 Waiver of Immunity

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 Notices to Appear to May 18, 2016 hearing and Final Order signed and dated May 16, 2016*

- A. The First Notice of Scheduling for the Hearing states that the hearing is scheduled for May 18, 2016 at 9:30am for "Motion to Strike"
- **EXHIBIT-16** Notice of Scheduling for the Hearing states that the hearing is scheduled for May 18, 2016 at 9:30am for "Motion to Strike"
- B. The Second Notice of Scheduling for the Hearing states that the hearing is scheduled for May 18, 2016 at 9:30am for "Motion to Dismiss"
- **EXHIBIT-17** Notice of Scheduling for the Hearing states that the hearing is scheduled for May 18, 2016 at 9:30am for "Motion to Dismiss"
 - **EXHIBIT-17 (A)** FINAL ORDER, signed by Judge L. Casey Manning and dated May 16, 2016.
- C. The Appellant received the Judgement Coversheets with original date of May 16, 2016 which was changed to May 18, 2016 (handwritten) along with the final order which is signed by Judge L. Casey Manning and dated May 16,

2016 FROM THE RESPONDENTS ATTORNEYS. A few days later, Appellant received said Coversheet which handwritten dates changed with the final order, which was signed and dated by Judge L. Casey Manning signed and dated May 16, 2016, from Jeanette McBride, Clerk of the SC Court of Appeals.

- **EXHIBIT-18** Appellant received by US POSTAL MAIL Judgement Coversheets with original date of May 16, 2016 which was changed to May 18, 2016 (handwritten) along with the final order which is signed by Judge L. Casey Manning and dated May 16, 2016 (RECEIVED FROM RESPONDENTS ATTORNEY?)
- **EXHIBIT-19** . A few days later, Appellant received said Coversheet which handwritten dates changed with the final order, which was signed and dated by Judge L. Casey Manning signed and dated May 16, 2016, from Jeanette McBride, Clerk of the SC Court of Appeals.
- **EXHIBIT-12** Approximately 3 days later, Appellant received a “Revised “ Judgement Cover page (only) with the signature date of May 18, 2016 from the SC Court of Appeals
- **EXHIBIT-20** Respondents Initial Brief Pg. 3, 4th paragraph, 2nd sentence, Respondent’s Attorney states that” A signed order was sent to counsel for the Respondents by Judge Mannings Office, bearing the date May 16, 2016”. It goes on to say “Counsel forwarded the order on to Appellant, proceeding pro se, that same day, by letter dated May 25, 2016”. A few days later, the Clerk of Court sent a copy of the recorded Order to all parties, along with the executed Form 4, bearing the date May 18, 2016. Counsel forwarded that copy along to Appellant as well, by letter dated June 3, 2016.
- **EXHIBIT-21 Canon 3, Items 2, 3, (7), 5, 7(ii), 7(b)(d)(C)(1)(2)** To the extent reasonably possible, all parties or their lawyers shall be included in communications with a judge. A judge must make reasonable efforts, including the provision of appropriate supervision, to ensure that Section 3B(7) is not violated through law clerks or other personnel on the judge's staff.
- **EXHIBIT 22-** South Carolina Rules of Civil Procedure Rule 43(k)

3. THE TRIAL COURT ERRED BY DISMISSING THE CASE IN ITS ENTIRITY AND NOT ADDRESSING ALL OF THE ELEMENTS IN THE COMPLAINT, THEREFORE OVERLOOKING KEY ELEMENTS THAT REPRESENTED ACTIONS THAT ARE STILL

SO TRIABLE AND WERE INDEED FILED IN SAID COMPLAINT WELL WITHIN THE STATUE OF LIMITATIONS.

A. The complaint contains a through explanation of the background and specifically identifies remaining causes of action which were not addressed. This background information was the only information argued by the defense attorneys and was relied on to dismiss the case without addressing the remaining actions that are still so triable.

- **EXHIBIT 1**-Original Complaint PG 19, #27
- **EXHIBIT 2**- Letter from Chief K.D. Phelps, dated June 5, 2015 (Entire Letter)
- **EXHIBIT 3**- Letter from General Counsel Warren Ganjehsani, dated June 10, 2015 (Entire Letter)
- **EXHIBIT 4**-Responses and Objection to Plaintiff's Discovery Requests Mischaracterized as Motion for discovery, prepared and submitted by Attorney Norma Jett and Attorney Alison D. Hood Pg 4 Item #7

B. Did judge l. Casey manning have a duty to review the complaint in it's entirety and address all actionable items so remaining which are still triable and are with the statue of limitations for such actions?

- **EXHIBIT-21 Canon 3** (Entire Document)
- **EXHIBIT 7**- Letter from Chief K.D. Phelps, dated June 5, 2015 (Entire Letter)
- **EXHIBIT 8**- Letter from General Counsel Warren Ganjehsani, dated June 10, 2015 (Entire Letter)
- **EXHIBIT 1**-Original Complaint PG 19, #27 FILED August 24, 2015
- **EXHIBIT-10** CALEA Law Enforcement Accreditation Standards Pgs 3-36 (Entire Pages)
- **EXHIBIT 11**-SECTION 15-78-110. Statute of limitations
- **EXHIBIT 23** -Section 1 Article 3, Chapter 6, Title 23 of the 1976 Code H. 3158 Lines19-20
- **EXHIBIT-12**- SCDPS Code of Ethics Pg 1
- **EXHIBIT-13**-SC Constitution Article III Sec.# 26 Oath of Office Pg 2

D. Did Judge L. Casey manning violate appellant's rights by dismissing the case in it's entirety without address all actionable items so remaining

which are still triable and are with the statute of limitations for such actions?

- **EXHIBIT-21 Canon 3** (Entire Document)
- **EXHIBIT 7-** Letter from Chief K.D. Phelps, dated June 5, 2015 (Entire Letter)
- **EXHIBIT 8-** Letter from General Counsel Warren Ganjehsani, dated June 10, 2015 (Entire Letter)
- **EXHIBIT 1-**Original Complaint PG 19, #27 FILED August 24, 2015
- **EXHIBIT-10** CALEA Law Enforcement Accreditation Standards Pgs 3-36 (Entire Pages)
- **EXHIBIT 11-**SECTION 15-78-110. Statute of limitations
- **EXHIBIT 23** -Section 1 Article 3, Chapter 6, Title 23 of the 1976 Code H. 3158 Lines19-20
- **EXHIBIT-12-** SCDPS Code of Ethics Pg 1
- **EXHIBIT-13-**SC Constitution Article III Sec.# 26 Oath of Office Pg 2

E. Was appellant damaged by judge I. Casey Manning refusal to address all actionable items so remaining which are still triable and are with the statute of limitations for such actions??

- **EXHIBIT 3** -Letter from Georgia Outreach Mental Health (Entire Letter)
- **EXHIBIT 23-** Specific damages, i.e. medical bills, etc. to be provided at trial since they are continuously accruing daily

F. Did judge I. Casey Manning, by his own acts and omissions become a participant in the appellants alleged "systematic pattern of neglect and attempted concealment of acts and omissions"?

1. SECTION 8-1-10. "Public officers" defined.

The term "public officers" shall be construed to mean all officers of the State that have heretofore been commissioned and trustees of the various colleges of the State, members of various State boards and other persons whose duties are defined by law.

HISTORY: 1962 Code Section 50-1; 1952 Code Section 50-1; 1942 Code Sections 1512,

3042; 1932 Code Sections 1512, 3042; Civ. C. '22 Section 733; Cr. C. '22 Section 460; Civ. C. '12 Section 649; Cr. C. '12 Section 535; 1901 (23) 754

2. SECTION 8-1-60. Neglect of duty.

Any clerk of the court of common pleas and general sessions, sheriff, judge of probate or register of deeds in this State who shall wilfully fail or neglect to discharge all the duties and perform all the services which are required of him by law shall, in addition to his liability to the person aggrieved, be liable to be indicted as for a misdemeanor and upon conviction thereof shall be fined, at the discretion of the court, not exceeding five hundred dollars.

HISTORY: 1962 Code Section 50-6; 1952 Code Section 50-6; 1942 Code Section 1527; 1932 Code Section 1527; Cr. C. '22 Section 474; Cr. C. '12 Section 548; Cr. C. '02 Section 391; G. S. 2558; R. S. 308; 1837 (6) 577; 1997 Act No. 34, Section 1, eff January 1, 1998

G. Is Judge L. Casey Manning, as an agent for SC Judicial system, responsible for damages that appellant suffered through infliction of emotional distress and continued victimization?

1. SECTION 15-78-50. Right of injured person to file claim; non-liability of governmental entity where employee would not be liable if a private person; injunctions against governmental entities.

(a) Any person who may suffer a loss proximately caused by a tort of the State, an agency, a political subdivision, or a governmental entity, and its employee acting within the scope of his official duty may file a claim as hereinafter provided.

(b) In no case is a governmental entity liable for a tort of an employee where that employee, if a private person, would not be liable under the laws of this State.

(c) Nothing herein shall affect the power of a court of equity at the suit of a party complainant to enjoin unlawful acts committed by governmental entities or mandate lawful action by government.

STATEMENT OF THE CASE

This appeal arises from an order from the SC Court of Common Pleas dismissing a Summons and Complaint filed in August 2015 (Please see **EXHIBIT 1-Original Complaint PG 19, #27**), regarding the agreement, in writing, dated June 5, 2015, by OPR (Office of Professional of Responsibility) Chief K.D. Phelps (Please see **EXHIBIT 2- Letter from Chief K.D. Phelps, dated June 5, 2015-Entire Letter**) to conduct a thorough investigation into complaints of misconduct against multiple agents with the SC Department of Public Safety, hence, also the SC Highway Patrol. The action was initiated after the Appellant received a letter, dated June 10, 2015, just (5) five days later from General Counsel and Ethics Officer for the SC Department of Public Safety stating the IRF (SC Insurance Reserve Fund) is the agency assigned to investigate such complaints (Please see **EXHIBIT 3- Letter from General Counsel Warren Ganjehsani, dated June 10, 2015-Entire Letter**), which is mis-leading and not accurate protocol into officer misconduct and refusing to allow the OPR Department to conduct the already promised investigation. These complaints submitted to OPR were with reference to acts and omissions of a trooper, trained in accident investigations, and acts and omissions that were committed and efforts of supervising officers to conceal these acts and omissions and should have been investigated and since Phelps refused to investigate at the instruction of Ganjehsani, both are guilty of refusing to investigate valid claims which their failure to do so causing severe depression, mental anguish, emotional distress, anxiety and inability to cope with daily life, they both have violated SC Code 16-78-50 Negligence, SC Code 16-17-410 Conspiracy, SC CODE 17-28-350 Unlawful Conduct creating the climate for violations of SC CODE 15-78-10 Tort Claims Act, they have 15-70-40 Tort Liability and

said liability SC CODE 15-78-70 Liability establishes that the Appellant should exercise her right of protections under SC CODE 15-78-30 for Claims thereby SC CODE 15-78-50 ensures her Right as an Injured party to Recover Damages and because of these violations, Respondents are subject to SC Code 15-78-20 and have waived any possible immunity by stepping outside of their duties , existing law and protocol. It has been argued that certain elements of the complaint have surpassed certain statues and those are not the focus of this appeal, 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 supports future denials by Ganjehsani, by and through his Attorney's Norma Jett and Alison D. Hood (Please see **EXHIBIT 4-Responses and Objection to Plaintiff's Discovery Requests Mischaracterized as Motion for discovery, prepared and submitted by Attorney Norma Jett and Attorney Alison D. Hood Pg 4 Item #7**) in which this statement was proven to be false, further supporting the Appellants position that there was a "systematic pattern of neglect and intentional attempts to conceal acts and omissions committed". (Please see **EXHIBIT 6-Entire Letter from SLED Chief John T. Bishop, dated May 29, 2015, EXHIBIT 23 – Section 1 Article 3, Chapter 6, Title 23 of the 1976 Code H. 3158 Lines19-20, EXHIBIT-12- SCDPS Code of Ethics Pg 1, EXHIBIT-13-SC Constitution Article III Section 26 Oath of Office Pg 2, EXHIBIT-14 CALEA Law Enforcement Accreditation standard 52.1.1 and EXHIBIT 5-H. 3158 SC Section 23-6-175 Lines 28-39**). (Conspiracy to defeat enforcement of the laws.) The liability of the K.D. Phelps referred to in this case is distinguishable from cases alleging vicarious liability on the part of an overseer of deeds. Rather, there were two sets of duties involved. First, the duty to investigate the complaints with the "duty to protect, reasonably investigate and record those findings." Second, the mis-leading

information provided by General Counsel Warren Ganjehsani which intentionally stated that the IRF (Insurance Reserve Fund) was the proper investigative agency, when indeed, as confirmed by SLED Captain John T. Bishop, SC General Assembly H. 3158 SC Section 23-6-175 and CALEA Law Enforcement Accreditation Standards Pgs 3-36 (Entire Pages), confirmed that the OPR was indeed the proper agency as indicated in Policy and Procedure as well as by regulational requirements of accreditation by CALEA. Under the Doctrine of Acquiescence as well as the Maxim in Law which states that "silence shows consent" 6 Barb. [N.Y.] 2B, 35. Qui non negat, fatetur and "He who does not deny, agrees," (Trayner, Maxim 503) and so K. D. Phelps participated in the conspiracy by ceasing to conduct the investigation at the instruction of Warren Ganjehsani.

Tacit. Existing, inferred, or understood without being openly expressed or stated; implied by silence or silent acquiescence, as a tacit agreement or a tacit understanding. Done or made in silence, implied or indicated, but not actually expressed. Manifested by the refraining from contradiction or objection; inferred from the situation and circumstances, in the absence of express matter.

proc·u·ra·tor n. 1. One authorized to manage the affairs of another; an agent. 2. An employee of the Roman emperor in civil affairs, especially in finance and taxes, in management of imperial estates and properties, and in governing minor provinces. Middle English *procuratour*, from Old French, from Latin from *procurre*, to take care of

***PLEASE NOTE: THE Appellant holds that these occurrences are independent of others, and not merely an outgrowth of another traditional tort, the six-year limitation period of § 15-3-530 (5) is controlling and the limitation has not run.

Only, for the sake of brief background, but independent of this appeal and its remaining triable actions, 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, informing me that the department would conduct an investigation. However, on June 10, 2015, I received a letter from Warren Ganjehsani, informing me that the IRF found no liability and the department declines to take further investigative efforts **(SC Code Ann. 15-78-50 Negligence)** 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 where she states that "Defendants deny that defendant Ganjehsani can refuse or did refuse to allow an ethics investigation" **(SC Code Ann. SC Code Ann. 17-28-350 Unlawful Conduct)** and **(Please see EXHIBIT 11- SECTION 15-78-110. Statute of limitations).**

Dereliction of Duty- "Could have known and should have known"

All duly sworn "officials", public "servants", and others who allow violations to be executed and continue without objection "could have known and should have known" according to common logic, general understanding, and competency certifications by legislative authorities. Note this early use of the established doctrine, "could have known and should have known", ruled in the case of Lashley v. Koerber, California, 1945. In this 1945 case, the appellant court held a physician liable because he could have known and should have known. It was summarized that a physician could be expected to exercise a "... reasonable degree of skill and learning and care ordinarily exercised by other doctors of good standing in the community" Considered was the doctrine of res ipsa loquitur (the thing speaks for itself), where the Appellant does not cause the problem, and the Defendant(s) is assumed guilty if Defendant(s) knowingly allowed or caused the harm to happen, or was negligent in preventing that harm when Defendant(s) should have and could have prevented it.

This precedent implies and applies to all people licensed by the public to be trusted by that

public to perform in a capacity demanded of their profession and licensed to be rated as "competent". This precedent, then, reaches out to all professionals licensed by the public. Furthermore, those licenses are for the protection of that public. All professional people, bankers, real estate agents, car salesmen and certainly all government workers (politicians, Congress Persons), especially those elected to offices of trust and power, are affected by that court ruling, which must be considered a precedent of the land.

All elected officials, certainly, could have known and should have known, or they must suffer the consequences of incompetency and dereliction of duty.

() The above is an abstract of Lincoln's monetary policy from Mayor McGeer's Conquest of Poverty and has been certified as correct by the Legislative Reference Service of the Library of Congress at the instance of Hon. Kent Keller, Member of the House of Representatives. See 76th Congress, 1st Session, Jan 3 - Aug 5, 1939, Senate Documents #10304, Vol 3, Senate Document 23, "National Economy and the Banking System of the United States" by Robert L. Owen, presented by Mr. Logan on January 24, 1939, page 91.*

STANDARD OF REVIEW

It is this writer's position that the following are essential facts which MUST be evaluated for justice to prevail:

1. DID THE APPELLANT HAVE A RIGHT TO AN INVESTIGATION INTO COMPLAINTS SUBMITTED TO THE OFFICE OF PROFESSIONAL LIABILITY

EXHIBIT 5-H. 3158 SC Section 23-6-175 Lines 28-39

EXHIBIT 6-Letter from SLED Chief John T. Bishop, dated May 29, 2015 (Entire Letter)

EXHIBIT 2- Letter from Chief K.D. Phelps, dated June 5, 2015 (Entire Letter)

EXHIBIT 3- Letter from General Counsel Warren Ganjehsani, dated June 10, 2015 (Entire Letter)

EXHIBIT 4-Responses and Objection to Plaintiff's Discovery Requests Mischaracterized as Motion for discovery, prepared and submitted by Attorney Norma Jett and Attorney Alison D. Hood Pg 4 #7

EXHIBIT-10 CALEA Law Enforcement Accreditation Standards Pgs 3-36 (Entire Pages)

2. WERE THERE LAWS IN PLACE AT THE TIME OF THE OCCURRENCE OF SAID VIOLATIONS

EXHIBIT 23 –Section 1 Article 3, Chapter 6, Title 23 of the 1976 Code H. 3158 Lines 19-20

EXHIBIT-12- SCDPS Code of Ethics Pg 1

EXHIBIT-13- SC Constitution Article III Section 26 Oath of Office Pg 2

EXHIBIT-14 CALEA Law Enforcement Accreditation standard 52.1.1

EXHIBIT 5-H. 3158 SC Section 23-6-175 Lines 28-39

3. WAS THE APPELLANT DAMAGED BY THESE “OCCURENCES”?

EXHIBIT 3 –Letter from Georgia Outreach Mental Health (Entire Letter)

EXHIBIT 23- Specific damages, i.e. medical bills, etc. to be provided at trial since they are continuously accruing daily

4. WAS THE COMPLAINT TIME BARRED BY THE STATUE OF LIMITATIONS IN THE SC TORT CLAIM’S ACT?

EXHIBIT 7- Letter from Chief K.D. Phelps, dated June 5, 2015 (Entire Letter)

EXHIBIT 8- Letter from General Counsel Warren Ganjehsani, dated June 10, 2015 (Entire Letter)

EXHIBIT 1-Original Complaint PG 19, #27 FILED August 24, 2015

EXHIBIT-10 CALEA Law Enforcement Accreditation Standards Pgs 3-36 (Entire Pages)

EXHIBIT 11-SECTION 15-78-110. Statute of limitations

NOTICE OF DISABILITY, Dated February 4, 2013 (ATTACHED AS EXHIBIT 9) with reference to the dismissal of this case in the SC Court of Common Pleas due to Statute of Limitations. Accordingly, per Title 15 - Civil Remedies and Procedures, CHAPTER 3, Limitation of Civil Actions, ARTICLE 1, SECTION 15-3-20. General rule as to time for commencement.

SECTION 15-3-40. Exceptions as to persons under disability. If a person entitled to bring an action mentioned in Article 5 of this chapter or an action under Chapter 78 of this title,

except for a penalty or forfeiture or against a sheriff or other officer for an escape, is at the time the cause of action accrued either:

(1) within the age of eighteen years; or

(2) insane;

the time of the disability is not a part of the time limited for the commencement of the action, except that the period within which the action must be brought cannot be extended:

(a) more than five years by any such disability, except infancy; nor

(b) in any case longer than one year after the disability ceases.

HISTORY: 1962 Code Section 10-104; 1952 Code Section 10-104; 1942 Code Section 359; 1932 Code Section 359; Civ. P. '22 Section 342; Civ. P. '12 Section 148; Civ. P. '02 Section 122; 1870 (14) 448 Section 124; 1918 (30) 715; 1976 Act No. 695, Section 1; 1988 Act No. 352, Section 1; 1996 Act No. 234, Section 1.

SECTION 15-3-50. Disability must exist when right accrued.

No person shall avail himself of a disability unless it existed when his right of action accrued.

HISTORY: 1962 Code Section 10-105; 1952 Code Section 10-105; 1942 Code Section 364; 1932 Code Section 364; Civ. P. '22 Section 347; Civ. P. '12 Section 153; Civ. P. '02 Section 127; 1870 (14) 448 Section 129.

SECTION 15-3-60. Effect of two or more disabilities.

When two or more disabilities shall coexist at the time the right of action accrues the limitation shall not attach until they all be removed.

HISTORY: 1962 Code Section 10-106; 1952 Code Section 10-106; 1942 Code Section 365; 1932 Code Section 365; Civ. P. '22 Section 348; Civ. P. '12 Section 154; Civ. P. '02 Section 128; 1870 (14) 448 Section 130.

5. ARE INDIVIDUAL DEFENDANTS IMMUNE FROM SUIT UNDER THE SC TORT CLAIMS ACT?

EXHIBIT-15- SC Code Ann. 15-78-30 "Agency & Claim

SC Code Ann. 15-70-40 Tort Liability

SC Code Ann. 15-78-70 Liability

SC Code Ann. 16-17-410 Conspiracy

SC Code Ann. 15-78-50 Negligence

SC Code Ann. 15-78-50 Right of Injured Party to File Claim to Recover Damages

SC Code Ann. 17-28-350 Unlawful Conduct

SC Code Ann. 15-78-10 Tort Claims Act

SC Code Ann. 15-78-20 Waiver of Immunity

SECTION 8-1-80. Misconduct, habitual negligence and the like of public officer; office declared vacant. Any public officer whose authority is limited to a single election or judicial district who is guilty of any official misconduct, habitual negligence, habitual drunkenness, corruption, fraud, or oppression shall be liable to indictment and, upon conviction thereof, shall be fined not more than one thousand dollars and imprisoned not more than one year.

As each day passes and I have to continue to fight for my clearly assured rights, my physical health, mental and emotional health continue to deteriorate. As this point, the acts of ALL of the Responding side are seemingly intentionally inflicting duress when they know beyond a shadow of a doubt that I was wronged and have suffered irreparably. They have in their possession as well as the courts, in it's filings, documents that prove my position, yet they continue to attempt to get valid documents, most of which were prepared by the respondents and their attorneys themselves, stricken from the record. WHY? To conceal the systematic pattern of neglect and acts and omissions committed said Respondents. The facts are the facts, the law is the law and the truth shall be revealed.

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, even though my hearings were not held until May 18, 2016 ***Notice to Appear to May 18, 2016 Hearing for Motion to Strike, Notice to Appear to May 18, 2016 Hearing for Motion to Dismiss and 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 and supporting documents, there is enough information to support its own merit. Even the Respondent's Attorney's stated that Defendant Ganjehsani "CAN NOT AND DID NOT REFUSE AN ETHICS INVESTIGATION".**

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, I beg of you to take the time to read the following documents that support Appellant's claim that the trial court's decision was incorrect and when required statutes and codes are actually read and not looked over, it's clearly factual and documented.

Please see:

EXHIBIT 1-Original Complaint PG 19, #27

EXHIBIT 2- Letter from Chief K.D. Phelps, dated June 5, 2015 (Entire Letter)

EXHIBIT 3- Letter from General Counsel Warren Ganjehsani, dated June 10, 2015 (Entire Letter)

EXHIBIT 4-Responses and Objection to Plaintiff's Discovery Requests Mischaracterized as Motion for discovery, prepared and submitted by Attorney Norma Jett and Attorney Alison D. Hood Pg 4 Item #7

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.

I. INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS IN SOUTH CAROLINA

Recovery for mental or emotional disturbance based upon violation of a legal right for which other damages are recoverable has long been accepted in this state. Perhaps the most common example occurs when damages for mental suffering are allowed in a personal physical injury suit. See Mack v. South Bound R. Co., 52 S.C. 323, 29 S.E. 905 (1898). Also, compensation for mental shock and suffering, wounded feelings, grief and sorrow has beyond question been allowed in wrongful death actions under Lord Campbell's Act. Mishoe v. Atlantic Coast R. Co., 186 S.C. 402, 197 S.E. 97 (1938). However, the concept of bringing an action seeking damages for mental and emotional injury outside the scope of some traditionally recognized tort (e. g. assault battery, false imprisonment) is a relatively novel one in this country. See William L. Prosser, Law of Torts (4th ed. 1971). Professor Prosser states the following at § 12:

*"It has gradually become recognized that there is no magic inherent in the name given to a tort, ... and that the infliction *160 of mental injury may be a cause of action in itself. Its limits are as yet ill defined, but it has been extended to its greatest length in the case of intentional acts of a flagrant character, whose enormity adds special weight to the plaintiff's claim, and is in itself an important guarantee that the mental disturbance which follows is serious and not feigned."*

Numerous jurisdictions today have recognized that infliction of mental suffering is, in fact, a cause of action in itself.

In *Padgett v. Colonial Wholesale Distributing Co.*, 232 S.C. 593, 103 S.E. (2d) 265 (1958), we affirmed recovery *161 of damages for shock, fright, and emotional upset despite the absence of any physical impact between the plaintiff and defendant. In that case, the plaintiff alleged that his skin rash resulted from his emotional distress proximately caused when the truck of defendant collided with plaintiff's house.

In a series of more recent cases, this court has recognized, either expressly or impliedly, that one's wilful, malicious conduct proximately causing another's emotional distress may be actionable. *Turner v. ABC Jalousie Co. of N.C.*, 251 S.C. 92, 160 S.E. (2d) 528 (1968); *Rhodes v. Security Finance Corp. of Landrum*, 268 S.C. 300, 233 S.E. (2d) 105 (1977); *Bellamy v. General Motors Acceptance Corp.*, 269 S.C. 578, 239 S.E. (2d) 73 (1977); *Hudson v. Zenith Engraving Co., Inc.*, 273 S.C. 766, 259 S.E. (2d) 812 (1979). For example, where plaintiff alleged that she suffered a nervous breakdown after defendant had used vile, profane, and abusive language, we held that a cause of action had been stated. *Turner, supra*. However, we have been careful to distinguish between legally stating a cause of action and successfully proving the claim. Thus, we have said: "[T]here is no liability for emotional distress without a showing that the distress inflicted is extreme or severe ... [and no recovery is justified where] [t]here is no showing that [the defendant's conduct was] unreasonable or abusive, nor that [plaintiff's] emotional upset was other than transient and trivial." *Rhodes, supra*.

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 confirms that the documents were signed on May 16, 2016 therefore removing any right of due process.

Rule 43 (K), provides in relevant part, no agreement between counsel 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

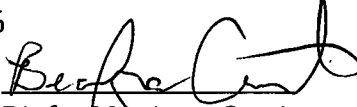
reduced to writing and signed by the parties and their counsel. This application presents the standard on review that Courts in this State will not enforce and order pursuant to Rule (43)k unless the terms of the settlement are set forth within the order.

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 due to remaining triable actions and violations of existing statues and laws.

Further, appellant respectfully requests that this court review the documents which the appellant has submitted previously along with the supporting EXHIBITS provided to accompany this brief, which have been overlooked by the trial court 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. Appellant also moves for a trial by jury as originally requested on the initial Civil Action coversheet and in the Original Complaint on PG 44.

Respectfully submitted this 22nd day of December, 2016


Biafra Monique Curtis
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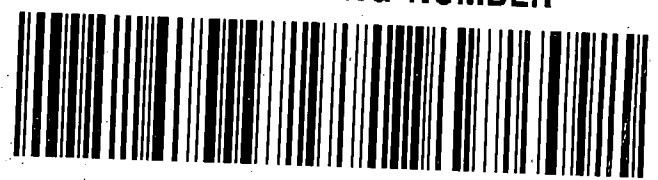
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