FORM 13

BRIEF OF APPELLANT

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

APPEAL FROM CHARLESTON COUNTY
9th Circuit Court of Common Pleas

Markley Dennis, Circuit Court Judge

Case No. 2013-CP-00-1331

Medical University of South Carolina — Respondent,

v.

Jack Powell, — Appellant,

Appellants Final Brief

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STATUTES

1. SCTCA 15-78-120 (A)(3)

2. SCTCA 15-78-10 ?

3. SCTCA 15-78-60 (25)

4. SCTCA 15-78-40

5. Rule 56 (d)

6. Rule 56 (e)

7. Rule 56 (f)

8. Rule 56 (g)

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10. Rule 56 Subdivision (c)(4)

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20. Rule 56 Subdivision (e)(4)

21. 28 USC 1746

22. SCRCP Rule 60 (a)

23. SCRCP Rule 60 (b)(1)(2)(3)(4)(5)(6)

24. S.C. Code Ann 15-78-70 (b)

25. S.C. Code Ann 15-78-40 (1)(2)(3)(4)(5)

OTHER AUTHORITIES

1. Court Records of; State/Public Safety v Jack Powell

2. Admissions from first MUSC case

3. Interrogatories from first MUSC case.

4. MUSC Public Safety Incident Report

5. MUSC Doctor Instructions for Jack Powell

6. MUSC Medical Report of Jack Powell's injuries

7. MUSC Nursing Assessment of Jack Powell

8. Order Reversing Appellants Conviction for Trespassing

STATEMENT OF ISSUES ON APPEAL

I. Lower Court erred when failing to agree with new Reversed ruling of false arrest

II. Lower Court erred when allowing Defendant Attorney to make inflammatory & untruthful statements and then not allow Pro se to submit an argument about the untruths.

III. Lower Court erred because the zero discovery rendered the motion premature.

IV. Lower Court's Clerk erred by overloading with too many motions & made mistakes.

V. Lower Court erred when not knowing the state entity's legal procedures to follow.

VI. Lower Court erred when failing to rule on False Arrest during the MSJ & the Order.

VI1. Lower Court erred when failing to state in the Order that the summary judgment was granted because the Pro se didn't respond to their memorandum in support for MSJ.

V111. Lower Court erred when stating the Plaintiff needed an expert affidavit.

IX . Lower Court Judge Markley Dennis erred when he repeatedly chastised the 56 year old Pro se during another hearing, just minutes before this MSJ hearing on 7-30-14.

X. Lower Court erred when failing to recognize MUSC committed assault & battery, intentional infliction of emotional distress, gross negligence, false arrest & imprisonment.

STATEMENT OF CASE

On 9-16-2013 Jack Powell brought this action against the Medical University of South Carolina in the Charleston Court of Common Pleas for the Ninth Judicial Circuit for False Arrest, False Imprisonment, Assault & Battery, Gross Negligence, Intentional Infliction of Emotional Distress, Slander & Libel and was heard by the Honorable Judge R. Markley Dennis who granted Summary Judgment after Appellant had stated he had zero discovery so far in this case.

On July 30th, 2014 this Motion for Summary Judgment hearing was held.

On Sep. 22nd 2014 the Order for Granting Summary Judgment was signed.

On Nov. 12th Plaintiffs Response to Defendants Supplemental Memorandum

On May 6th 2014 Motion to Recuse was filed before Appellants Motion to Amend Reconsideration but was filed improperly and Judge Dennis never ruled on the Recuse.

On June, 19th 2015 Appellant's Notice of Appeal was filed.

On Sept. 24, 2015 Appellant mailed a Motion for Relief of Judgment to the South Carolina Court of Appeals and was misplaced and was never filed.

ARGUMENTS

Reversed ruling by Judge J.C. Nicholson Jr.
I, X

1. Plaintiffs Motion to Amend the Reconsideration notified the Lower Court the Pro se's complaint of False Arrest was verified when his appeal of trespassing was reversed and during his appeal, False Imprisonment, Intentional Infliction of Emotional Health, Gross Negligence became relevant, because Judge Nicholson requested Defendant to prove they had the right to arrest Mr. Powell for Trespassing at a public place with a Supplemental Memorandum in Support of Motion. Then the Pro se Plaintiff submitted his response to their Memorandum and was filed 11-12-2014. R. p.54, R. p.32-45, R. p.47. L.1, R. p.79., R. p.54. Jinks v Richland County (S.C. 2003) 15-78-40.

Appellant won his Appeal of Trespassing and Judge Dennis ruled against the Reversal in the Motion to Amend Reconsideration, rendering void 60(b)(2)(5), Rule 56 (e), 15-78-60(5)(25). Papa v Brunswick Gen. Hosp. (1987)

Personal attack by Judge Dennis
IX

2. Judge Markley Dennis engaged biased conduct by repeatedly chastising Pro se in a public setting, displayed prejudice when rulings and he also made many errors with his opinions that weren't supported by fact during the Motion for Summary Judgment hearing that prevented the Plaintiff from receiving fair and impartial administration of justice, because Plaintiff became very apprehensive, embarrassed, confused and still had to try and continue with the next case which was this Appeal. Therefore, ref. Transcript R. p.85, L. 19-25, R. p.86, L. 1-10 also in Plaintiffs Motion to Amend Reconsideration R. p.61, no.19. Rule 60 (b)(1)(3)(4) Mictronics, Inc. v. South Carolina Dept Revenue,345 S.C. 506, 510-11,548 S.E. 2D 223, 226 (Ct. App. 2013). Abuse of discretion.

Unflammatory Untruth
II, X

3. Attorney John "Jay" Jones was allowed by Judge Dennis to misrepresent and even recreate the actual event concerning when Plaintiff was to receive his first pain shot that resulted in the Pro se stating "that's the stupidest question a Doctor has ever asked me" which was to create the same inflammatory opinion towards the Pro se during the Motion for Summary Judgment hearing as the night of 6-21-12 when Mr. Powell was forced to endure unwarranted pain for about 2 hours in the MUSC ER, during his discharge in the parking lot & transport to Public Safety parking lot where he was left alone. Ref. Complaint p.6, 7 & 8.and Motion to Amend Reconsideration p.50, 51, 52 also Tran. p.87, L. 18-25 and Pursuant 56 (g).

Improper ruling about false statements by Judge Dennis
II

4. Judge Dennis stated, Trans. R. p.95, "and other matters which have been part of the record" and "I don't know about false statements" "for you to say it's false, that's your position. I don't have anything that contradicts it by way of affidavit" The Pro se submits part of the record, ref. Complaint p.4, par. 2 & Plaintiff stated on the Transcript R. p.95, L. 11-19 "I can prove it right here" and Pro se wasn't allowed to submit the Defendants documented statements from their Memorandum for Summary Judgment. Ref. evidence on Plaintiffs Motion to Amend Reconsideration R. p.43 no.2 & 50, 64, 65 & 66 and citing Rule 56 (2), 15-78-60 (5) & 15-78-60 (25). Also Pursuant Rule 56 (g)(f) Subdivision (c)(1)(A)(2) and 28 U.S.C. 1746 a statement subscribed in proper form as true under penalty of perjury to substitute for an affidavit and Rule 60 (b)(3) and Rule 56 subdivision (c)(1)(a)(4).

Judge Dennis erred because he should have known this untruth since he is

required to read the Complaint and Plaintiffs Motion to Amend Reconsideration that Judge Dennis denied. The truth is part of the record and Supporting and opposing affidavits shall be made on personal knowledge, shall set forth such facts as would be admissible in evidence.

Untruth about hostile discharge
V, V111, X

5. Attorney Jay Jones specifically stated R. p.89, L. 8-11 "that is essentially that the medical staff at MUSC didn't properly discharge him." Judge Dennis has made the error of overlooking relevant evidence submitted into the record. Ref. Motion to Amend Reconsideration R. p.64, Q & A pulling my arm out of the socket. R. p.65, no. 3 why did you stop trying to pull Mr. Powell from the top of the bed & Trans. p.57, L. 25 "Answer, yes. After they yanked and pulled on me two different times, trying to force me off the bed and I'm screaming and hollering, yes" and the Pro se Plaintiffs Motion to Amend Reconsideration p.21-31 & p.53-54, 56., p.65 A, B, C, E, G, H, I, J, K, L

Pending medication Dispute
V, VIII

6. Attorney Jay Jones stated "There are some issues with whether or not he should have been discharged with pain medication pending. Those are all questions of medical negligence. There's been no expert affidavit." Appellant submits there wasn't any pending medication and this entrance of an affidavit from an expert was improperly submitted with an untruth. Judge Dennis erred because he should have known this because of all the facts that submitted into the record when Mr. Powell received his pain shot & his pain pill Ref. Tran. R p.89, no. 8-16, p.49, 2., p.52, 6-7., p.56., A-B., p.59, D., p.9, 2.,p.12, 2-3.. p.14, 1., p.21, 40 & Mot. to amend recon. Exh. N-O, 56 Subdivision (c)(4) (c)(1)(a) (c)(2)

Omission of Security Guards & Public Safety
II, V, X

7. Ref. Resp. Memorandum p.6 and top of p.7 from Dep. Jack Powell. p.152-154 is where Defendant submits an untruth; Therefore, Plaintiff's cause of action and gross negligence must be dismissed to the extent that he asserts that the negligence resulted from the actions of the physician and other medical personnel working in the Emergency Department during his admission. (Resp Record on Appeal wasn't submitted before 2-8-17) Ref. Resp. Memorandum p. 6, Q & A no. 4 which proves these individuals were not just medical personnel and the Court erred when not recognizing this. R. p.10, 21-42. no. 41, 48 R. p. 58-59, 64 & 65 and also when the Plaintiff was handcuffed in front because of his medical issues. Therefore this was an attempt to confuse the court about the actual facts of the case, Pursuant Rule 56 (f)(g).

Omission of Security Guards & Public Safety's Assaults
V, VIII, X

8. Also Respondent stated on p.7 of their Memorandum in Support for Summary Judgment that Plaintiff alleged a cause of action for medical negligence due to the actions of the emergency department physicians but failed to offer testimony establishing a deviation from the standard of care. Plaintiff submitted on p.96 L. 7-12 of Tran. "I couldn't get any expert to say they could testify under oath why these officers kept trying to pull me off the bed when I was screaming in pain" which is a deviation from the standard of care & Pro se did not need the testimony to establish his claim because jurors can easily evaluate facts & law by exercising common knowledge & understand that the second attempt to pull Pro se who was not under arrest a second time after he was already yelling in pain, was not a medical decision but purely gross negligence, assault & battery, intentional infliction of emotional distress. See R. p. 21-35and Pursuant S.C. Tort Claims Act 15-78-60(25), Jinks v Richland County (2d Dep't. 1987), Sarah Dawkins v Union

Hospital District (2012), Papa v Brunswick Gen. Hosp. (2d Dep't 1987) and Pro se's motion to amend reconsideration p.64 Q& A, p.65 no.3. Appellant submits the court erred when failing to recognize all of the evidence submitted during the first MUSC case and other evidence on record along with the compelled evasive discovery that was heard the same day and Judge Dennis instructed the Plaintiff to go out in the hallway with the Defendants and make more arrangements to receive discovery because he had not called the Defendants about responding properly before he filed his 10 day notice to respond or be compelled. see R. p.96. no. 3., p.47-49, 52-57, p.64-67.

Untruth "Simply Refused to leave"
II, III, X

9. Attorney Jay Jones states "When he was discharged he quite simply refused to leave. He said he was in pain, he couldn't move, he couldn't get up off the bed in the ER. Not public safety, but the hospital staff person came over to try and assist him. He screamed out. He tried to assist him again. He yelled again he was in pain, so they stopped. Public Safety was called. At this time Mr. Powell admits in his complaint that he asked them to help him off the bed. They did."

Appellant submits he did not simply refuse to leave and Respondent proved this with his above statements, but attempts to confuse the Court by describing the assist was made by one hospital staff, but actually the attempt was made by the two security guards who attempted to pull Mr. Powell from the bed both 2 times when he was not under arrest and was proven when the Defendant stated "they stopped" and then the Plaintiff had to be given more pain medication because of the Assault & Battery, Intentional Infliction of Emotional Distress and Reckless Gross Negligence. Ref. Trans. R. p. 88, L. 3-8, and also Pursuant South Carolina Tort Claims Act 15-78-60 (25) except when the responsibility or

duty is exercised in a grossly negligent manner. Also, ref. Plaintiffs Motion to Amend Reconsideration R. p.52 – p.56, Dep. J. Powell R. p.9. L.12-25, p.86 no. 6, Resp. Memorandum p.6 & Plaintiffs Complaint p. 7-9, 12, 13, 18, 27, 29.

Gross Negligence in the context of liability by a government entity is the intentional conscious failure to do something which is incumbent upon one to do or the doing of a thing intentionally that one ought not to do it is the failure to exercise slight care. Jinks v Richland County, 335 S.C. 341, 581 S.E.2d 281 (S.C. 2003) and this act was an unlawful because the 56 year old Mr. Powell was in too much pain to remove himself from his ER bed and it is unnecessary that the contact be by a blow, as any foreseeable contact is sufficient. The second intentional attempt was in fact foreseeable and harmful.

There must be just and reasonable ground for fear; hence a vain or idle threat is not sufficient. It must be of such nature and made under such circumstances as to affect the mind of a person of ordinary reason and firmness, so as to influence his conduct; or it must appear that the person against whom [the threat] is made was peculiarly susceptible to fear and that the person making the threat knew or took advantage of the fact that he could not stand as much as an ordinary person. See Brooker v Silverthorne, 111 S.C. 553, 558-559, 99 S.E.350, 352 (1919) and Jones v Winn-Dixie Greenville, Inc., 318 S.C. 171, 456 S.E.2d 429 (Ct. App. 1995) Mr. Powell was yelling in pain before the second attempt.

Untruth about pain medication
II, III, V, VIII, X

10. Also the Respondent stated "Very briefly the negligence and gross negligence, the basis of this is essentially that the medical staff and the staff at MUSC didn't properly discharge him. There were some issues with whether or not he should have been discharged with pain medication pending." Those are all questions of medical negligence.

There's been no expert affidavit.

Appellant submits this statement was an untruth, because there wasn't any pain medication pending when he was taken from the bed and discharged. ref. Trans. p.89, L. 8-16 and therefore there wasn't any need for an expert affidavit. Appellant wasn't allowed to follow his Doctor Instructions because of the security, public safety, nurses and Doctors didn't enforce their own Instructions which is a dispute that could have only been determined with the proper responses of to Discovery concerning the state entity's legal procedures for them to follow, Ref. Motion to Amend Reconsideration R. p.62., 6-7. R. p.95, p.2., 2, 3, 4, 5, 7. 9., p.20., p.11. Bottom, pill at 0100, p14. 1., p.16 & 17 & Rule 56 Subdivision (c)(1)(a)(2)

Untruth about Plaintiff admitting to leave hospital
II, V, X

11. Attorney stated "He admitted he refused to leave" and the Appellant enters Respondent hasn't submitted any statement where the Pro se admitted he refused to leave see Tran. p.93, L 14-19 and again Defendant has submitted an untruth for the purpose to continue trying to create a biased opinion towards the Plaintiff to divert the fact that the MUSC staff and Public Safety were angry and it is common knowledge they did not follow proper procedures. But Defendant attempts to convince the Court that it was necessary and justified and the "reasonable victim should have anticipated that they may be escorted into a police car or be arrested" Mr. Powell was told he would be taken home. Appellant respectfully reminds the Court, Pro se was on the ER bed after given a second dose of pain medication & after Security Guards tried to pull Pro se from the bed a second time and stopped because of his yelling from pain and with Mr. Powell pleading multiple times he was still in pain and needed help into the wheelchair after the Public

Safety stated they would take him to Roper Hospital for his second opinion. Naturally the Appellant admits he said he was getting pissed after being harmed and was threatening to sue MUSC and that is why he wasn't taken to Roper hospital for his second opinion, because of their anger and they did not want to explain to Roper what had happened. Ref. Motion to Amend Reconsideration R. p. 52 & 53 & p.59 no. 12 A, B, C & D also p. 88, no.1-21.

Untruth concerning Appellant refused to leave
II, X

12. Attorney states "Very briefly, the negligence and gross negligence, the basis of that is essentially that the medical staff at MUSC didn't properly discharge him." Trans. p.89, no 9-11 is where Defendant attempts to convince Judge Dennis that the initial complaint wasn't when the medical staff allowed the not under arrest Mr. Powell to be assaulted & battered twice after he was discharged and then give more medication for pain. See R.. p. 88. L. 2-8 then L. 9 &10 is where Mr. Powell agreed to try and get off the bed because he stated he wanted a second opinion and was then told by Public Safety that they would take him to Roper Hospital. L.11-14 another untruth when stating "He said he could not get out of the wheelchair because he was in too much pain" is not refusing to leave. Rule 56 Subdivision (c)(2) (c)(4) (1)(a).

Untruth concerning a statement by an EMT
II

13. Attorney stated "After Mr. Powell fell on the night of June 21st, 2012 he was transported by EMS to MUSC. EMS noted he was verbally abusive en route. It was also documented in medical records he was verbally abusive to the staff at MUSC. This is another untruth to create more bias towards Appellant by Mr. Jones when he describes case 2013-CP-10-6566 which was settled. Mr. Jones said "EMS noted he was verbally

abusive en route." Then Mr. Jones states "It was also documented in medical records he was verbally abusive to staff at MUSC."

Abusive en route wasn't documented because it was an untruth, because there never was a noted statement about cursing while being taken to MUSC. Respondent attorney knows there was only a complaint about Appellant stating one curse word when he was on the side of the road face down in the dirt and had complained he was there for an unreasonable amount of time in pain because he couldn't tell the EMT which hospital he wanted to go to. Therefore, again the Respondent recreated the facts to influence the court to have a biased opinion towards Appellant. Trans. R. p.87, L. 14-18 Trans. p.86, L. 12-14 & Trans. p.91, L.12-25 and Rule 56 (f)(g) Subdivision (c)(1) (a)(2)

Untruth by trying to convince the Court the touching was only defensive
II, V, X

14. Trans. R. p.93, L. 1-4 & 9-11 where Mr. Jones attempts to state the all alleged touching was privileged if done in defense of others. Ref. Trans. R. p.88, L. 1-8 where Mr Jones has already proven to the court that there was in fact harmful touching, no evidence of fearful employees with about 6 or 7 officers in the room who needed defending from a patient that couldn't get off the bed without the help from two officers. Respondents Memorandum in Support of MSJ, p.17, para. 2; "There is no evidence of hostile confrontations." R. p.7-10., p.12.-13., p.18, p.25-31. Rule 56 Subdivision (c)(1)(a)(2(e)

Untruth about when Appellant was touched
II, V, X

15. Trans. p. 93, L. 6-10 where attorney Jay Jones submits stating; "The times he was touched, he asked to be helped up not only from the hospital bed but from the wheelchair." Pro se didn't ask 2 security guards to grasp him and they chose to attempt to pull him from the bed a second time while he was yelling in pain, before he asked for

help. He was told he would be taken to Roper Hospital by MUSC Public Safety and then they stated "he had to go" he then Appellant asked for help off of the bed. Ref. Motion to Amend Reconsideration Exh. I. or R. p.25, 1st para., Exh. E or R. p.29., no. 2, 3, 7, p. 19 Q & A no. 2, R. p.6-8, p. 88, no. 1-20 & nurse Pentz states he can't move R. p.11 1st para.

Untruth pattern by Respondent.
II, V

16. The Circuit Court failed to recognize the pattern of untruths including the retraction by nurse Pentz on p. 53-55 of Appellants Motion to Amend Reconsideration Exhibit H, Interrogatory no. 20, she also stated on R. p. 11 "can't move" & she also stated Appellant was arrested because of his condition, next question no. 24 discovered from first MUSC case. This created genuine disputes because she didn't protect him from harm SCTCA 15-78-40 and Dawkins v Union Hospital District (S.C. 2014), (Pye v Aycock S.C. App 1997), Papa v Brunswick Gen. Hosp., (2d Dep't 1987)

Untruth about Appellant who was still in pain "wouldn't leave"
I, II, III,V, VI, X

17. "Public Safety was called. At this time Mr. Powell admits in his complaint that he asked them to help him get off the bed. They did. They put him in a wheelchair and took him outside, where again he refused to leave the premises after being medically discharged. He said he was in too much pain. They told him he had to leave. They offered to take him home, take him somewhere else, take him to Roper Hospital. They offered to take him anywhere he wanted to go. He wouldn't leave."

Appellant submits Respondents statements prove they did not properly discharge Appellant when they kept harming him on the bed when he wasn't under arrest and when they did not push him to the side of their car and take him to Roper Hospital since he asked for a second opinion. Public Safety stated they would take him home. Then out-

side they harassed their patient repeatedly to get up & walk from the premises & Pro se won his Appeal for Trespassing: Loiter about premises. Respond. is guilty of False Arrest &Imprisonment and then Mr. Powell was intentionally taken to their parking lot and was left alone in the back seat lying down and handcuffed for 34 minutes after he was handcuffed in the front because of medical issues & he couldn't get out of his wheelchair so he wouldn't be arrested. R. p.7-10.,17, 21,25, 26, R. p.80,88, L.9-24. Papa v Brunswick (2d Dep't1987), Mellen v Lane (S.C. App. 2008), Dawkins v. Union Hospital District (2012) Jinks v. Richland County (S.C. 2003) & 15-78-40, 15-78-60(5)(25).

Judge Dennis erred during the hearing because he overlooked evidence that was submitted as part of the record in Pro se's Complaint & also when denying his motion to amend reconsideration. 15--78-60(25) except when the responsibility or duty is exercised in a grossly negligent manner. Judge Dennis doesn't know what the legal procedures are for the state entity. Judge J.C. Nicholson Jr. continued Plaintiffs appeal of Trespassing until Attorney Jay Jones could retrieve legal MUSC procedures. See MUSC Medical Center Policy Manuel p. 41, 42, the Reversal was because of proper discovery. Rule 56 (3) Subdivision (c)(1)(a) (c)(2) (e) (e)(4) (f) (g)

Circuit Court does not know the proper procedures
I, V, X

18. Officer Radford stated "handcuffed the patient in front because of his medical issues" R. p.,19, 32, 33, 37-41, 57-59, 64, 79, 92 , 98 Motion to Amend Recon. Exh. F & K when outside & L, Public Safety v Jack Powell & Officer Radford stated he was "not a Doctor" p. 35 bottom right no. 18-24. Then Appellant was forced to lay in the back seat of their patrol car for 34 minutes in a parking lot alone, just minutes after they stated they handcuffed him. Public Safety had the Doctors medical Instructions in their

possession which they ignored and were never legally followed. This was intentional infliction of emotional distress, Ref. Exhibit C the Video when Appellant was wheeled into the Al Cannon Detention Center and presence of Mr. Powell's Doctor Instructions. Judge Dennis failed to understand the negligence of a policeman to make a medical decision & ignore the MUSC Doctor Instructions while allowing Pro se to suffer in pain by taking him to their parking lot & forcing him to lay in the back seat for 34 minutes after they had agreed to take Appellant to Roper Hospital. Jinks v Richland County (S.C. 2003), SCTCA 15-78-40, Papa v Brunswick Gen. Hosp. (1987).

Improper ruling because of Evasive Discovery
I, III, VII,

19. Tran. p. 94, L. 4-25 Appellant tells Judge Dennis that there is an upcoming Appeal of Trespassing charge and Pro se has cooperated with a 4 hour deposition and his proper return of answered Admissions & he had to compel evasive Interr., Prod. & Admit after Defendant was given a 10 day notice to properly respond. Then L.10-19 Appellant states "I've got some things I'd like to point out right here that I need" and after this the Pro se wasn't allowed to submit what he needed & then Judge Dennis changes the subject and asked the Pro se "Did you file any affidavits in response to the motion for summary judgment" He behaved unfocused & ignored the relevant subject of discovery. 37(3) & 56 Subdivision (c)(e)(f). Plaintiff wasn't allowed to pursue his compelled discovery that was on the docket the same day. p. 44-47, 53, 60-63, 67, 79

Explanation mistake of why Summary Judgment was granted
I, V, VII, X

20. Judge Dennis stated right after the Appellant submitted he had received zero discovery so far in this case that Summary Judgment was granted because Mr. Powell had not responded to their Memorandum, which was omitted from the transcript. Appellant

filed a complaint concerning this problem since Judge Dennis discussed and pointed out multiple times throughout the hearing about the Plaintiffs responsibility to respond. Judge Dennis did not state the proper reason on the Judgment to grant Summary Judgment. Ref. Motion to Amend Reconsideration R. p.61, p.18-19, 47, 94., 95., L.5-20. Pursuant 56 Subdivision (a) the Court should state on record the reasons for granting Summary Judgment, therefore this judgment is improper and void.

Improper scheduling by Clerks Office

IV

21. Appellant submits evidence of why there wasn't a Response to Respondents Memorandum in Support of Motion for Summary Judgment in Appellants Motion to Amend Reconsideration R. p.60, no.14, 15, 16, Pursuant 56 (b)(d)(f) and no. 17, also p.67 para. 2 & 3 where Judge Dennis was notified and aware the Pro se was overwhelmed. Noting 56 (e) some Courts take extra care of the Pro se to let them know they need to respond, but the Clerks Office did not and they were also careless when shot gunning the schedule and then they made a mistake by allowing Defendant to file their Motion for Summary Judgment on 7-14-14. Then they filed their Memorandum in Support of the MSJ on 7-17-14 and then was allowed to get on the roster on 7-23-14 after a request from Attorney Jay Jones to do so via e-mail, which it was nice of the Clerk Caroline Leonard to state to him "I know Mr. Powell has numerous cases filed." and then filed it. R. p.100 Pro se didn't receive their Memorandum until the afternoon of 7-24-14 and appear 5 days later and Pro se was unaware he had to respond because of his overwhelming and stressful weeks for one person to prepare for the motions. Pro se was never notified by Clerk Caroline Leonard about any concern or scheduling situation that may occur for an inexperienced litigant. The Pro se wasn't given proper time to respond. R. p. 60, 61, 67 &

Exh A. Reference the following cases;

On 7-28-14 MUSC Appeal of Trespassing
On 7-30-14 Appellants Motions to Compel Interrogatories, Production and Admit
On 7-30-14 Case 2013-CP-10-6019 Appellants Motion to Compel Production & Admit
On 7-30-14 Case 2013-CP-10-6566 Appellants Motion to Compel Admit
On 7-30-14 Case 2013-CP-10-5876 Defendants Motion to Dismiss

THEN ADDED TO DOCKET ON 7-23-14;
On 7-30-14 Defendants Motion for Summary Judgment

On 7-31-14 Case 2013-CP-10-6566 Defendants Motion for More Definite Statement

Improper opinion about statements
III, VII

22. Tran. p. 95, L. 5-8 Is Judge Dennis explaining again Plaintiff not responding to the Memorandum and L.9 Judge Dennis states "Your statements are not sufficient" Pursuant Rule 56 (f)(g) subdivision (c)(2) (c)(1)(a) and (e) is where Judge Dennis made the mistake of not allowing the Pro se to plead with relevant evidence from the previous MUSC case and Judge Dennis signed the Order and did not state he dismissed the case because Appellant failed to Respond to their memorandum.

Inconsistent Memorandum rulings
VII

23. Motion to Amend Reconsideration p.51 no 3, 4, 5 is evidence of either inconsistent rulings concerning the Memorandum for Summary Judgment or bias exercised towards Plaintiff during this MSJ. The Pro se was just told outside of Judge Dennis's office by Attorney in another case that he had just put the Memorandum in Support for Summary Judgment in the mail that morning. Pro se asked a few minutes later in a meeting in his office on April 1st 2015 how was he supposed to Respond to the Memorandum when the case was the next day. Judge Dennis responded that it's no big deal, because it was just the same issues. The next day Pro se was blindsided with a new argument and photo and because of this the Pro was unprepared, because he was denied

his right to read their memorandum.

Also the Pro se Plaintiff met with same case & Judge Dennis in the Plaintiffs 2nd Motion for Summary Judgment and Pro se stated that in the previous case that the Judge didn't rule on the Plaintiffs submission that the Defendant didn't respond to the Plaintiffs Memorandum and still Judge Dennis denied Appellants Motion for Summary Judgment. Therefore, Judge Dennis has either erred in his rulings or he is biased against the Pro se in this case. R. p.51, 61. L.19. and p.68.

Improper Rulings
III, VII

24. Tran. p.97, no. 11-23 is where Judge Dennis will not let Plaintiff submit any evidence even though he could earlier and then makes the mistake of granting the SJ, because of positions stated in Defendants memorandum when he is already granting summary judgment because of the nonresponse. Judge Dennis made the mistake of not considering the only evidence the Plaintiff had, which was from the first MUSC case and consisted of relevant evidence. Then Judge Dennis states that all other motions are moot which was also a mistake, concerning the subject of zero discovery. R. p.46-50, 55. L. D p. 60-63, 64. Q&A, p. 66, 3rd para., p.67. last para., p.79. and p.94. and 56(c)(e) (e)(4)(f) 56 subdivision (a)

Charleston County Clerk Mistake
IV

25. On 5-6-15 at 3:07 pm Plaintiff filed a Motion to Recuse Judge Dennis from entering any biased ruling concerning the Plaintiffs Motion to Amend the Motion to Reconsideration that was filed 2 minutes later. Plaintiff received notice that Judge Dennis had denied the Plaintiff's Motion to Amend Reconsideration before he ruled on the Pro se's Motion to Recuse. Mr. Powell called and asked why had they filed the Motion

to Amend before the Recuse. Mr. Powell questioned the clerk's office back & forth many times and was never given a reason for their mistake and then the Clerk's office told the Plaintiff, In forma Pauperis Pro se should get an attorney. Pursuant 60 (b)(1) the Clerks office made the mistake which allowed Judge Dennis to not rule on the Recusal of himself because of his bias manner displayed multiple times towards Plaintiff. p.60, 17.

Failure to properly state the Record
VI, VII

26. Pursuant 56 subdivision (a) the court should state on record the reasons for granting the Motion. Judge Dennis failed to state the original reason he Granted Summary Judgment and signing the Order to Grant Medical University Of South Carolina Summary Judgment which was when he stated he grants Summary Judgment because Appellant failed to respond to the Memorandum. Trans. R. p.94, L. 12-25, Trans. p.95 L. 1-11 and p.17, L. 11-23 is where Judge Dennis expresses his completely different opinion concerning Response to Memorandum which was a mistake by the Court.

Overlooked Issue
I, V, X

27. Ref. Respondents Memorandum for Summary Judgment p.5, para. 2 down to Q &A where Defendant admits in their own question 56 year old Mr. Powell was not properly discharged and this an issue of dispute the Court did not recognize.

Failure to Rule on False Arrest
I, VI

28. Judge Dennis made a mistake when he failed to rule on false arrest during the MSJ hearing on 7-30-14. See p.96-98, 32, 79. He made a mistake when failing to rule on false arrest in his signed Order Granting Medical University of South Carolina's Motion for Summary Judgment. p.69-78.

CONCLUSION

Pro se had compelled the Defendants evasive Interrogatories, Production and Admissions and was on the docket the very same day the Defendant MUSC was granted summary Judgment, even after the Plaintiff had complained to the court he had received Zero discovery, so far in this case.

Also there were numerous and relevant submissions of evidence listed above that proves there were genuine disputes overlooked by the lower court. Including the reversal of the Pro se's trespassing charge that Judge Dennis stated during the MSJ hearing, p.97 where Judge Dennis stated "you were convicted and all they had to prove was probable cause. Clearly they had probable cause because it resulted in a trial, so that motion is granted."

Pro se submits the charge of trespassing; to loiter about the premises was reversed and therefore MUSC didn't have probable cause because they violated their own rules and regulations proven by their own MUSC Policy Manuel p. 41 and p.80 where Judge J.C. Nicholson Jr. stated "In this Courts opinion the jury erred when it found Appellant guilty of trespassing." Pro se submits by using the argument by Judge Dennis the MSJ shouldn't have been be granted because he was found not guilty of trespassing because there wasn't any legally reasonable probable cause.

Judge Dennis and Judge Nicholson made mistakes and that makes it easier to understand why Judge Dennis made mistakes during the MSJ. Judge Dennis erred with the decision of false arrest & imprisonment because he didn't order the Defendant to submit the Production discovery, which would have included the MUSC Policy Manuel and Judge Nicholson made mistakes because he hadn't seen all the evidence of this case

and then Judge Nicholson made statements in his reversal that were improper. He stated Mr. Powell was discharged because he refused to leave, which was incorrect. Then he stated he was causing a disturbance in the emergency room and appeared to be irate and potentially intoxicated, which was incorrect. He also stated he was escorted outside and was given the choice of leaving under his own free will or he would be arrested and the Appellant refused to leave, which was incorrect. He also stated he refused to leave, Pro se stated he wouldn't inflict anymore pain on himself which is not against the law to not assault yourself because of fear. Judge Dennis didn't have the MUSC Manuel and this is why he made multiple mistakes, because he hadn't read the state entities legal procedures and this is also why erred when he signed the Order to Grant Summary Judgment after reading Plaintiffs motion to amend reconsideration. 56 subdivision (c) (c)(2)(e)(4) 56 (f) (g).

Pro se request the Honorable Court of Appeals to Reverse this granted Motion for Summary Judgment.

Feb. 10th 2017

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cc; V. Claire Allan, Deputy Clerk
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