

THE SOUTH CAROLINA COURT of APPEALS

Anthony Derone Richardson

v.

Jackie Swindle , Chief of police, Newberry, County

Municipal Police, Respondent.

RECEIVED

MAY 04 2017

SC Court of Appeals

Motion for Supplemental Record

Appellate Case No. 2014-002532

Appellant submit Supplemental Record including, Defendant Answer, Defendant Amended Memorandum in support of summary judgement, and deposition transcript.



Date 5/3/2017

Anthony Derone Richardson

P.O. Box 221 Newberry, Sc 29108

Kassi B. Sandifer, Esquire

David Leon Morrison, Esquire

Robert G. Cooper

7453 Irmo Dr Ste B, Columbia, SC 29212

Certificate of Service

Appellate place in the mail Supplemental record Defendant Answer, Defendant Amended Memorandum in support of summary judgement, and deposition transcript in the mail to below address



..... Date 5/3/2017

Anthony Derone Richardson

P.O. Box 221 Newbery, Sc 29108

Kassi B. Sandifer, Esquire

David Leon Morrison, Esquire

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7453 Irmo Dr Ste B, Columbia, SC 29212

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MAY 04 2017

**SC Court of Appeals**

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF NEWBERRY )

IN THE COURT OF COMMON PLEAS

Anthony Derone Richardson, )  
 )  
Plaintiff, )

C/A #: 13-CP-36-00321

v. )

ANSWER  
(Jury Trial Demanded)

Jackie Swindler, Chief of Police, )  
Newberry County Municipal Police, )  
 )  
Defendant. )

FILED  
CLERK OF COURT

2013 JUL 22 AM 10:31

NEWBERRY COUNTY

The Defendant answers the Complaint of the Plaintiff as follows:

**FOR A FIRST DEFENSE**

1. The Summons and Complaint fails to state facts sufficient to state a cause of action. The Defendant reserves the right to file a motion pursuant to Rule 12(b)(6), SCRPC.

**FOR A SECOND DEFENSE**

2. The Defendant denies each and every allegation of the Plaintiff's Complaint not hereinafter specifically admitted.

3. The paragraphs in the Plaintiff's Complaint are not properly enumerated, and therefore, the Defendant denies the material allegations in the section of the Plaintiff's Complaint entitled "Jurisdictional Basis."

4. The paragraphs in the Plaintiff's Complaint are not properly enumerated, and therefore, the Defendant denies the material allegations in the section of the Plaintiff's Complaint entitled "Factual Background."

5. The paragraphs in the Plaintiff's Complaint are not properly enumerated, and therefore, the Defendant denies the material allegations in the Plaintiff's Complaint.

**FOR AN ELEVENTH DEFENSE**

14. The Defendant is immune from suit pursuant to the South Carolina Tort Claims Act, including but not limited to South Carolina Code Ann. Section 15-78-40.

**FOR A TWELFTH DEFENSE**

15. The Defendant is immune from suit pursuant to the South Carolina Tort Claims Act, including but not limited to South Carolina Code Ann. Section 15-78-50.

**FOR A THIRTEENTH DEFENSE**

16. This Defendant alleges that the Plaintiff's claim for punitive damages violates both the Fourteenth Amendment of the United States Constitution and Article I, Section 3 of the South Carolina Constitution in one or more of the following particulars:

- (a) That the jury's unfettered power to award punitive damages in any amount it chooses is wholly devoid of a meaningful standard and is inconsistent with due process guarantees.
- (b) That, even if a standard governing the award of punitive damages does exist, this standard is void for vagueness.
- (c) That the amount of punitive damages awarded is based upon the wealth of the Defendants in violation of their right to equal protection of the laws.

**FOR A FOURTEENTH DEFENSE**

17. That this Defendant would show that an award of punitive damages violates the Fifth, Sixth and Fourteenth Amendments of the United States Constitution and Article I, Section 3, of the South Carolina Constitution in that:

- (a) The judiciary's ability to correct a punitive damage award only upon a finding of passion, prejudice or caprice is inconsistent with due process guarantees;
- (b) Any award of punitive damages serving a compensatory function is inconsistent with due process guarantees;
- (c) Any award of punitive damages based upon the wealth of the Defendant violates due process guarantees;

- (d) The jury's unfettered power to award punitive damages in any amount it chooses is wholly devoid of meaningful standards and is inconsistent with due process guarantees;
- (e) Even if it could be argued that the standard covering the imposition of punitive damages exists, the standard is void for vagueness; and
- (f) The Plaintiff's claim for punitive damages violates the equal protection clause of the Fourteenth Amendment of the United States Constitution and Article I, Section 3 of the South Carolina Constitution in that the amount of punitive damages is based upon the wealth of the Defendant.

In addition, the Plaintiff's claim for punitive damages violates the Federal Doctrine of Separation of Powers and Article I, Section 8, of the South Carolina Constitution for the reason that punitive damages are a creation of the judicial branch of government which invades the province of the legislative branch of government.

**FOR A FIFTEENTH DEFENSE**

18. This Defendant is immune from suit pursuant to the South Carolina Tort Claims Act, including but not limited to South Carolina Code Ann. Section 15-78-60(1).

**FOR A SIXTEENTH DEFENSE**

19. This Defendant is immune from suit pursuant to the South Carolina Tort Claims Act, including but not limited to South Carolina Code Ann. Section 15-78-60(2).

**FOR A SEVENTEENTH DEFENSE**

20. This Defendant is immune from suit pursuant to the South Carolina Tort Claims Act, including but not limited to South Carolina Code Ann. Section 15-78-60(3).

**FOR AN EIGHTEENTH DEFENSE**

21. This Defendant is immune from suit pursuant to the South Carolina Tort Claims Act, including but not limited to South Carolina Code Ann. Section 15-78-60(4).

**FOR A NINETEENTH DEFENSE**

22. This Defendant is immune from suit pursuant to the South Carolina Tort Claims Act, including but not limited to South Carolina Code Ann. Section 15-78-60(5).

**FOR A TWENTIETH DEFENSE**

23. This Defendant is entitled to the protections of the limitations on recovery contained in the South Carolina Tort Claims Act, including but not limited to South Carolina Code Ann. Section 15-78-120.

**FOR A TWENTY-FIRST DEFENSE**

24. This Defendant is immune from suit for punitive damages pursuant to South Carolina common law and the South Carolina Tort Claims Act, including but not limited to South Carolina Code Ann. Section 15-78-120.

**FOR A TWENTY-SECOND DEFENSE**

25. The Defendant pleads waiver as a defense and bar to the Plaintiff's claims.

**FOR A TWENTY-THIRD DEFENSE**

26. Upon information and belief, the Summons and Complaint were not properly served, and therefore, Plaintiff's claims should be dismissed. The Defendant reserves the right to file an appropriate motion contesting proper service.

WHEREFORE, having fully answered the Complaint of the Plaintiffs, the Defendants pray that the Complaint be dismissed with prejudice, for the costs of this action, and for such other and further relief as the Court deems just and proper.

MORRISON LAW FIRM, LLC

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ATTORNEY FOR THE DEFENDANTS.

Columbia, South Carolina

July 19, 2013

**Morrison Law Firm, LLC**

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David L. Morrison\*  
Kassi B. Sandifer

\*Licensed in SC & NC  
\*Certified Mediator

July 19, 2013

The Honorable Jackie S. Bowers  
Clerk of Court, Newberry County  
Post Office Box 278  
Newberry, South Carolina 29108

RE: Anthony Drone Richardson v. Jackie Swindler, Chief of Police, Newberry County  
Municipal Police  
C/A #: 13-CP-36-00321  
Date of Incident: 2/2/13  
Claim #: SF-13-0467  
Our file: 210.0411

Dear Clerk Bowers:

Enclosed is the original and one copy of the Defendant's Answer in this matter. Please file the original and return a clocked-in copy to me in the self-addressed stamped envelope enclosed for your convenience. By copy of this letter, I am serving Plaintiff with a copy of same.

Very truly yours,

MORRISON LAW FIRM, LLC

*Kassi B. Sandifer*

Kassi B. Sandifer

KBS/cmm

Enclosure

7/22/13 copies returned via USPS.

2013 JUL 22 4 58 PM  
NEWBERRY COUNTY