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THE STATE OF SOUTH CAROLINA
In The Supreme Court

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

J.C. Nicholson, Jr., Circuit Court Judge

Opinion No. 2017-UP-172

Sebrina Walker, Petitioner,

v.

SAIC Engineering Inc., Christina Broom, John Kiessling
and Marcia Saari, Respondents.

APPENDIX

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THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

J.C. Nicholson, Jr., Circuit Court Judge

Case No. 2015-001114

Sebrina Walker, Appellant,

v.

SAIC Engineering Inc., Christina Broom, John Kiessling
and Marcia Saari, Respondents.

RECORD ON APPEAL

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THE STATE OF SOUTH CAROLINA
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Sebrina Walker, Appellant,

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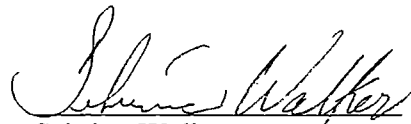
DESIGNATION OF MATTER
TO BE INCLUDED IN THE
RECORD ON APPEAL

Appellant proposes the following be included in the Record on Appeal:

- (1) Order Granting Defendants' Motions For Summary Judgment

I certify that this designation contains no matter that is irrelevant to this appeal.

February 23, 2016.



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STATE OF SOUTH CAROLINA)
COUNTY OF BERKELEY)

IN THE COURT OF COMMON PLEAS)
NINTH JUDICIAL CIRCUIT)

Derek Bryant, Wendell Richardson, Arvid)
Rutledge and Randy Simmons)

C. A. No. 2011-CP-08-2631)

Plaintiffs,)

vs.)

**ORDER GRANTING DEFENDANTS')
MOTIONS FOR SUMMARY JUDGMENT)**

SAIC Engineering, Inc., Christina Broom, John)
Kiessling and Marcia Saari,)

Defendants.)

STATE OF SOUTH CAROLINA)
COUNTY OF BERKELEY)

Anne Nicholson, Obie Varner, Lois Parker,)
Gloria Sinsuat, Elizabeth Sharper, Preston)
Grant, Alice Felder and Sebrina Walker)

Plaintiffs,)

vs.)

SAIC Engineering, Inc., Christina Broom, John)
Kiessling and Marcia Saari,)

Defendants.)

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CLERK OF COURT
BERKELEY COUNTY, SC

FILED

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This matter comes before the Court on the two motions for summary judgment filed by Defendants Science Applications International Corporation (improperly identified as SAIC Engineering, Inc.) ("SAIC"), John Kiessling ("Kiessling") and Marcia Saari ("Saari") (collectively "Defendants"). Specifically, on February 25, 2014, individually named Defendants Kiessling and Saari filed a motion for summary judgment, seeking dismissal from the case. On April 30, 2014, Defendants SAIC, Kiessling, and Saari filed a motion for summary judgment as to all causes of action against all Defendants.¹

¹ Christina Broom was never properly served, and therefore was never a defendant in this case.

DW

The Court held oral arguments on the motions on January 12, 2015, and verbally ordered the dismissal of Defendants Kiessling and Saari. During the hearing, the Court provided the remaining Plaintiffs (Nicholson, Parker, Sinsuat, Sharper, and Walker, all of whom were proceeding *pro se*)² with ten (10) days to supplement the record with admissible evidence to support their claims. Plaintiffs provided the court with additional information, which was considered by the Court.

Having considered the motions, memoranda, oral arguments, and additional information provided, and for the reasons discussed below, Defendants' Motions for Summary Judgment are GRANTED, and all claims against all Defendants are hereby DISMISSED, WITH PREJUDICE.

I. **FACTS**

This case arises out of Plaintiffs' employment relationship with SAIC at one of its Charleston facilities. Plaintiffs were all hired on an at-will basis and signed an at-will disclosure.

In March 2010, SAIC launched its iAppreciate program, which allowed employees to send \$25 gift cards to other employees for outstanding work-related reasons. Nine (9) months later, in December 2010, it came to the attention of SAIC management that employees were "abusing" iAppreciate. SAIC conducted an investigation into the use of iAppreciate, which included interviewing all involved employees on January 18, 2011.³ On January 18, 2011, Plaintiffs were asked by their supervisors to report to the North Rhett building (administrative office) for an unspecified reason. Once they arrived at North Rhett, Plaintiffs and other employees were asked to go to a "nice" conference room, which had a large conference table with chairs around it and along the wall and two (2) doors. Approximately forty (40) employees,

² Plaintiffs Derek Bryant, Wendell Richardson, Arvid Rutledge, Randy Simmons, Obie Varner, Preston Grant, and Alice Felder voluntarily dismissed their claims with prejudice against Defendants prior to the January 12, 2015 hearing.

³ Plaintiff Nicholson was interviewed separately on January 19, 2011 because she was unavailable on January 18, 2011.

including Plaintiffs, were present in the conference room. Once everyone was in the room, the employees were asked to turn off their cell phones and place them on the table.

During the course of the day, Corporate HR Director Christina Broom and Assistant Project Manager and Individual Defendant John Kiessling called employees back for individual interviews. Human Resources representative Scott Wilson was in the room the entire day, except when he was relieved occasionally by a female Human Resources representative, Individual Defendant Marcia Saari. The doors to the conference room remained unlocked throughout the day. Upon request, employees were allowed to go to the bathroom. Aside from bathroom usage, none of the Plaintiffs attempted or requested to leave the room at any time. Further, no Plaintiff was physically restrained or threatened at any time. Plaintiffs acknowledge that they only felt compelled to remain in the large conference room due to an intrinsic fear of job loss.

Each Plaintiff was called back for his or her individual interview with Ms. Broom and Mr. Kiessling. The purpose of the individual interviews was to find out about each employee's use of the iAppreciate program and to determine whether individual employees were misusing the program. All of the Plaintiffs were paid their regular wage for their time in the large conference room and individual interviews. At the end of each individual interview, each employee was asked to read a confidentiality statement and was asked to keep the investigation "private." Each interviewed employee was placed on immediate administrative leave so that SAIC could complete its investigation.

After the interviews, Ms. Broom made disciplinary recommendations, based primarily on whether the employee was able to articulate a work-related reason for all awards given. The final disciplinary decisions were made based primarily on the employees' statements during the interviews, which confirmed violations of SAIC policy and/or breach of SAIC ethics policy/code

of conduct. Most employees were returned to work with no disciplinary action taken. All returned employees were paid for their days on administrative leave.

Following the interviews, SAIC determined which employees misused the iAppreciate program and/or violated other SAIC policies including, but not limited to, the nepotism policy, computer security policy, the ethics policy/code of conduct, and misuse of company assets. Employees who were in violation were terminated. The group of terminated employees included Plaintiffs Nicholson, Parker, Sinsuat, Sharper, and Walker.

None of the Plaintiffs provided any firsthand knowledge that SAIC management or supervisory personnel ever made any comments about the investigation, suspensions, or terminations to anyone outside the Company or non-supervisory personnel within the Company. Plaintiffs admit that they have no knowledge whether any management personnel, including Ms. Broom, Ms. Saari, or Mr. Kiessling, made any derogatory statements to others, or otherwise spread any rumors, regarding the investigation.

Following the investigation and resulting terminations, Plaintiffs filed two (2) lawsuits in State Court. The "Bryant" case involved four (4) non-terminated Plaintiffs⁴ while the "Nicholson" case involved eight (8) terminated Plaintiffs.⁵ The two (2) cases were consolidated by the Court. In addition, Plaintiff Nicholson filed a Federal Court case also alleging termination due to the iAppreciate program. Nicholson's Federal case included a breach of contract claim, which was dismissed by the Federal Court based on the fact that Nicholson was an at-will employee.

⁴ Bryant, Richardson, Rutledge and Simmons

⁵ Nicholson, Varner, Parker, Sinsuat, Sharper, Grant, Felder and Walker

II. DISCUSSION

A. **The Doctrine of Workers' Compensation Exclusivity Bars the Third (Negligence), Fourth (False Imprisonment), Fifth (Intentional Infliction of Emotional Distress) and Eighth (Negligent Misrepresentation) Causes of Action and They Are Dismissed.**

In their Complaint, Plaintiffs Nicholson, Parker, Sinsuat, Sharper, and Walker claim to have suffered work-related personal injuries in the causes of action for negligence, negligent misrepresentation, and intentional infliction of emotional distress, as well as for their claim for false imprisonment. Nicholson State Compl. ¶¶ 39, 44, 51, 71. Each of these causes of action is barred by the exclusivity provision of the South Carolina Workers' Compensation Act. S.C. CODE ANN. § 42-1-540. Pursuant to this provision, the Act is the exclusive remedy for an employee's work-related accident or injury, and the exclusivity provision precludes an employee from maintaining a tort action against an employer where the employee sustains a work-related injury. *Edens v. Bellini*, 597 S.E.2d 863, 867-68 (S.C. Ct. App. 2004).

The South Carolina appellate courts have specifically held that actions alleging negligence, negligent misrepresentation, and intentional infliction of emotional distress fall squarely within the "exclusivity provision" of the South Carolina Workers' Compensation Act. See, e.g., *McClain v. Pactiv Corp.*, 602 S.E.2d 87, 89 (S.C. Ct. App. 2004) (recognizing intentional infliction of emotional distress constitutes a personal injury that falls within the scope of the act) (citation omitted); *Sabb v. S.C. State Univ.*, 567 S.E.2d 231, 234 (S.C. 2002) (negligence claims arose out of and in the course of plaintiff's employment and, therefore, the Act provided the exclusive remedy); *Loges v. Mack Trucks, Inc.*, 417 S.E.2d 538, 540 (S.C. 1992) (holding summary judgment was appropriate as to plaintiff's claim for intentional infliction of emotional distress because it constitutes personal injury within the scope of the Act).

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To the extent Plaintiffs have alleged to have suffered work-related personal injuries as a result of the alleged false imprisonment, which is a tort similar to torts the South Carolina state courts have held to be barred by the Workers' Compensation exclusivity provision, *see, e.g., McClain v. Pactiv Corp.*, 602 S.E.2d 87, 89 (S.C. Ct. App. 2004) (recognizing intentional infliction of emotional distress constitutes a personal injury that falls within the scope of the act) (citation omitted); *Sabb v. S.C. State Univ.*, 567 S.E.2d 231, 234 (S.C. 2002) (negligence claims arose out of and in the course of plaintiff's employment and, therefore, the Act provided the exclusive remedy); *Loges v. Mack Trucks, Inc.*, 417 S.E.2d 538, 540 (S.C. 1992) (holding summary judgment was appropriate as to plaintiff's claim for intentional infliction of emotional distress because it constitutes personal injury within the scope of the Act), this claim is barred by the Workers' Compensation exclusivity provision.

gm

Therefore, Plaintiffs' Third (Negligence), Fourth (False Imprisonment), Fifth (Intentional Infliction of Emotional Distress) and Eighth (Negligent Misrepresentation) Causes of Action are dismissed.

B. The Seventh Cause of Action for Promissory Estoppel Is Dismissed

Plaintiffs' Seventh Cause of Action is based on SAIC's "promises of gift cards to fellow co-workers." Nicholson State Compl. ¶ 59. To establish a claim for promissory estoppel, Plaintiffs must prove: (1) a promise unambiguous in its terms; (2) reasonable reliance on the promise by the party to whom it is made; (3) the reliance is expected and foreseeable by the party who made the promise; and (4) injury in reliance on the promise. *Powers Constr. Co. v. Salem Carpets, Inc.*, 322 S.E.2d 30, 33 (S.C. Ct. App. 1984) (citations omitted).

The receipt of gift cards by fellow employees is the only promise upon which Plaintiffs alleged they relied. As such, their claim for promissory estoppel must fail. A plaintiff cannot suffer damages for another person's failure to receive an award. *See Craft v. S.C. Comm. for the*

Blind, 685 S.E.2d 625, 629 (S.C. Ct. App. 2009) (without injury there is no cause of action for promissory estoppel). Therefore, summary judgment is granted as to Plaintiffs' claim for promissory estoppel.

C. The Sixth Cause of Action for Breach of Contract Claim Is Dismissed.

In support of their Sixth Cause of Action, Plaintiffs allege they "were provided written and verbal policies and procedures by Defendants as to their employment as well as use of the iAppreciate program" and that these alleged policies "created a binding contract with Defendants." Nicholson State Compl. ¶¶ 52, 54. The Plaintiffs contend that a contract was created that overruled the admitted at-will employment status of each employee. Whether the elements of a contract have been met is a question of law for the court. *Armstrong v. Collins*, 366 S.C. 204 621 S.E.2d 368 (Ct. App. 2005).

1. Plaintiff Nicholson's Sixth Cause of Action for Breach of Contract Claim Is Dismissed

All Plaintiffs signed at-will disclosures at the time of their hire. All also received the same handbook and other policy documents. As stated earlier, in addition to this lawsuit, Plaintiff Nicholson also filed a federal complaint based on the iAppreciate program and her termination. *Nicholson v. Science Applications Int'l Corp.*, No. 2:12-cv-02779 (D.S.C. Sept. 25, 2012) (Doc. No. 1, Compl.). As part of her federal lawsuit, Nicholson alleged a breach of contract claim. *Id.* ¶¶ 71-79. Upon a motion to dismiss, the District Court of South Carolina issued a detailed Report and Recommendation ("R&R"), *Nicholson v. Science Applications Int'l Corp.*, No. 2:12-cv-02779 (D.S.C. Nov. 27, 2012) (Doc. No. 10, R&R), which was specifically adopted by the United States District Court, *Nicholson v. Science Applications Int'l Corp.*, No. 2:12-cv-02779 (D.S.C. Nov. 17, 2012) (Doc. No. 21, Order), that determined Nicholson's employment with SAIC was at-will. Under the doctrine of *res judicata*, "[a] litigant is barred

from raising any issues which were adjudicated in the former suit and any issues which might have been raised in the former suit.” *Judy v. Judy*, 363 S.C. 160, 712 S.E.2d 408 (S.C. 2011).

Plaintiff Nicholson is, therefore, subject to the doctrines of collateral estoppel and *res judicata* because the issue of her status as an at-will (non-contractual) employee was determined by the District Court. The breach of contract claim as to Plaintiff Nicholson is dismissed because Nicholson was an at-will employee.

2. Plaintiffs Parker, Sinsuat, Sharper, and Walker's Breach of Contract Claims are Dismissed

With respect to employment there is a presumption in South Carolina that employees are at-will. See *Nicholson R&R* at 2 (quoting *Amason v. P.K. Mgmt., LLC*, No. 10-1752, 2011 WL 1100169, at *6 (D.S.C. March 23, 2011)); see also *Prescott v. Farmer's Tel. Coop., Inc.*, 516 S.E.2d 923, 927, n. 8 (S.C. 1999). No Plaintiff presented any proof or made any non-conclusory allegation that any Plaintiff and SAIC entered into mandatory and binding terms of employment. The Plaintiffs also admitted they knew they could be discharged at any time, for any reason, and that they could quit their jobs at any time. Further, both Nicholson and all of the other Plaintiffs received the same documents and handbook and signed the following acknowledgment referenced by the District Court:

I understand that no statement in this form, related administrative policies, or an offer of employment is to be construed as an employment contract, and that either party, without the other's consent, may terminate the employment relationship at any time, for any reason, with or without cause or notice. Any agreement which varies the right of the employee or SAIC to terminate the employment relationship at any time, with or without cause or notice, must be set forth in an express written agreement and signed by both the employee and SAIC's Senior Vice President, Human Resources.

Therefore, for the same reason that Nicholson's breach of contract claim is dismissed (collateral estoppel) and because Plaintiffs did not establish that a contract existed that altered

their at-will employment relationships, their Sixth Cause of Action for breach of contract is dismissed.

D. The Fourth Cause of Action (False Imprisonment) Is Dismissed

“False imprisonment is the deprivation of one’s liberty without justification.” *Jones by Robinson v. Winn Dixie Greenville, Inc.*, 456 S.E.2d 429, 432 (S.C. 1995) (citation omitted). To establish a cause of action for false imprisonment, Plaintiffs must prove (1) Defendants restrained Plaintiffs; (2) the restraint was intentional; and (3) the restraint was unlawful. *Id.* Plaintiffs’ claim is dismissed because (1) Plaintiffs voluntarily entered and remained in the conference room and did not ask if they could leave, thereby giving consent. *Beraho v. S.C. State Coll.*, 394 S.E.2d 28, 29 (S.C. Ct. App. 1990) (an employee’s consent to such confinement in a workplace investigation bars the right to recovery under South Carolina law); (2) Plaintiffs’ fear of job loss is not sufficient, as a matter of law, to support a claim of false imprisonment, *Johnson v. United Parcel Servs., Inc.*, 722 F. Supp. 1282, 1284-85 (D. Md. 1989) (fear of job loss insufficient even when the employer made a verbal threat to terminate employment if the employee left the interview); *see also Kelly v. West Cash & Carry Bldg. Materials Store*, 745 So.2d 743, 750 (La. Ct. App. 1999) (fear of job loss insufficient even when employer verbally refused to curtail the employee’s interview); *see also Hanna v. Marshall Field & Co.*, 665 N.E.2d 343, 349-50 (Ill. App. Ct. 1996) (fear of job loss insufficient even when employee detained for five (5) hours, the employer denied requests to leave the room, and the doors were closed); *see also Marten v. Yellow Freight Sys.*, 993 F. Supp. 822, 829-30 (D. Kan. 1998) (fear of job loss insufficient even when employer berated employee, stood over him, blocked his path to the door, covered the doorknob with his hands, and directed the employee to sit down); *see also Miraliakbari v. Pennicooke*, 561 S.E.2d 483, 488-89 (Ga. Ct. App. 2002) (fear of job loss insufficient even when employer recklessly refused to allow at-will employee to leave the

premises to care for her injured son); and (3) employers have a right to direct the actions of employees while on the job. *Randall's Food Mkts., Inc. v. Johnson*, 891 S.W.2d 640, 645 (Tex. 1995).

Therefore, as a matter of law, Plaintiffs' false imprisonment claim cannot survive summary judgment. Further, Plaintiff Nicholson was not interviewed on the day in question and, for this additional reason, she has no basis for a false imprisonment claim.

E. The First (Defamation – Slander *per se*) and Second (Libel *per se*) Causes of Action Are Dismissed

JCN

For Plaintiffs to prevail in an action for defamation under South Carolina law, they must allege and prove the statement: (1) had a defamatory meaning; (2) was published with actual or implied malice; (3) was false; (4) was published by the defendants; (5) concerned the plaintiffs; and (6) resulted in presumed damages or in special damages to the plaintiffs. *See Parker v. Evening Post Publ'g Co.*, 452 S.E.2d 640, 644 (S.C. Ct. App. 1994).

Plaintiffs attempt to support their defamation claims by pointing to two (2) categories of conduct. First, the Plaintiffs allege in conclusory fashion that Defendants "damaged the Plaintiffs' reputations through actions and communications of false spoken messages to third parties . . . which alleged, among other things that the Plaintiffs committed alleged crimes of moral turpitude." Nicholson State Compl. ¶¶ 27, 32. Second, Plaintiffs contend that the act of terminating their employment was itself defamatory. Neither allegation is sufficient to state a claim for defamation.

Plaintiffs failed to provide one single "specific defamatory comments" or the "time, place, content, and listener of [any] alleged defamatory [statement]." *See English Boiler & Tube, Inc. v. W.C. Rouse & Sons, Inc.*, No. 97 2397, 1999 WL 89125, at *3 (4th Cir. Feb. 23, 1999) (internal quotation omitted). Therefore, Plaintiffs' defamation claims are dismissed. *See*

Campbell v. Int'l Paper Co., No. 12-3042, 2013 WL 1874850, at *4 (D.S.C. May 3, 2013) (finding that plaintiff had not sufficiently pleaded the element of publication to a third party because plaintiff failed to allege "to whom the defendants made the statements at issue."); *Yost v. Charleston*, No. 09-2024, 2009 WL 4162274, at *3-4 (D.S.C. Nov. 24, 2009) (dismissing defamation claim based on employer's alleged statements about terminated employee for failure to allege sufficient detail as to circumstances of alleged statements).

OCN
Plaintiffs also contend the act of investigating and terminating their employment was itself defamatory. Plaintiffs allege that because they were asked to report to the conference room, everyone knew other employees were being investigated and, therefore, knew why they were terminated. As admitted by the Plaintiffs, however, Defendants did not tell anyone why any specific Plaintiff was questioned and did not convey the purpose of the investigation. Plaintiffs further acknowledge that co-employees, not the Defendants, were the broadcasters of the reasons for the investigation.

As the United States District Court for the District of South Carolina noted in *Johnson v. Dillard's, Inc.*, No. 03-3445, 2007 WL 2792232, at *1 (D.S.C. Sept. 24, 2007), the public policy implications of construing the mere act of terminating an employee as defamatory are substantial, as merely terminating an employee should not create automatic liability. *Id.* at *18 n.21. Plaintiffs would have every termination after a workplace investigation constitute defamation. A mere termination, without more, does not constitute defamation. *See Zielinski v. Clorox Co.*, 450 S.E.2d 222, 225-26 (Ga. Ct. App. 1994) (the act of "termination carried no defamatory implication," even if it confirmed earlier suspicions, as "the law of 'innuendo' does not permit the enlargement of this single true, unambiguously noncritical statement [such as the employee's termination] into defamation on the grounds of other rumors or suspicions others

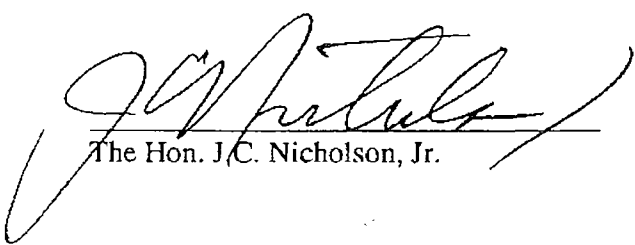
may have received.”). Because no facts have been submitted that support *per se* slander by way of an action other than participation in questioning during a workplace investigation and subsequent termination, this cause of action is dismissed. Further, this cause of action is dismissed as to Plaintiff Nicholson because she was not part of the alleged investigation that occurred on January 18, 2011.

Plaintiffs’ own expert testified she agreed the actions of the terminated Plaintiffs in regards to the use of the iAppreciate program were unethical and, therefore, a violation of SAIC policy, which subjected them to termination. Therefore, by the Plaintiffs’ own admission, the alleged communications via the action of termination do not contain any falsehood. Therefore, even if Defendants did communicate Plaintiffs’ termination to anyone verbally or via action (which Defendants deny), the reason for the action is true. Truth is a defense to defamation. *Beckham v. Sun News*, 344 S.E.2d 603, 604 (S.C. 1986). For this additional reason, Plaintiffs’ defamation claim is dismissed.

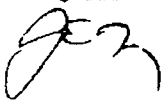
III. CONCLUSION

IT IS, THEREFORE, ORDERED, ADJUDGED, AND DECREED that Defendants’ Motions for Summary judgment are GRANTED. All of Plaintiffs’ claims against all Defendants are hereby DISMISSED, WITH PREJUDICE.

IT IS SO ORDERED.


The Hon. J.C. Nicholson, Jr.

Charleston, South Carolina
March 30, 2015



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THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

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BRIEF OF APPELLANT

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STATEMENT OF ISSUE(S) ON APPEAL

- I. BECAUSE DEFENDANTS INTENTIONALLY RESTRAINED PLAINTIFFS AGAINST THEIR WILL WITHOUT LAWFUL JUSTIFICATION, THE COURT ERRED IN DISMISSING PLAINTIFF'S FALSE IMPRISONMENT CLAIM.

STATEMENT OF THE CASE

On October 11, 2011 appellant, Sebrina Walker along with seven (7) other employees of respondent SAIC Engineering Inc. (SAIC) brought this complaint against respondents SAIC, Christina Broom, John Kiessling, and Marcia Saari alleging eight (8) separate causes of action including false imprisonment.

On November 15, 2011, respondents answered the complaint in a timely manner. On April 30, 2014, respondents filed a motion for Summary Judgment as to all eight (8) causes of action. On March 31, 2014, Judge J.C. Nicholson, Jr. heard respondents' motion and granted it.

On May 22, 2015, appellant Walker filed a Notice of Appeal with this court.

FACTS

Upon arriving at work On January 18, 2011, appellant Walker, along with approximately forty (40) other employees of respondent SAIC were ordered by their supervisors to report to SAIC's administrative building for unspecified reason(s). Once there, all were directed to a conference room where defendants locked the doors behind them. Respondents then told Walker and the other employees that they could not leave the conference room and ordered them not to speak to each other while in the conference room. Despite numerous requests, respondents refused to inform appellant or the other employees the reason (alleged abuse of respondent's iAppreciate program) they were being held there.

Next, respondents directed the employees to put their cell phones in the middle of the conference room table where respondents collected them in a box that they immediately removed from the conference room (The cell phones were return to each individual employee upon completion of his interrogation).

Respondents denied Plaintiff's and others requests to leave to go to lunch. All employees were denied the use of bathroom facilities without an escort.

Over the course of approximately eight (8) hours Appellant and the other employees were individually escorted into an office and interrogated.

ARGUMENTS

I. BECAUSE DEFENDANTS INTENTIONALLY RESTRAINED PLAINTIFFS AGAINST THEIR WILL WITHOUT LAWFUL JUSTIFICATION, THE COURT ERRED IN DISMISSING PLAINTIFF’S FALSE IMPRISONMENT CLAIM.

To establish a cause of action for false imprisonment the plaintiff must show that (1) the defendants restrained plaintiff, (2) the restraint was intentional; and (3) that the restraint was unlawful. False imprisonment may be committed by words alone, or by acts alone or both, and by merely operating on the will of the individual ... *Jones v. Winn-Dixie Greenville Inc.*, 456 S.E.2d 429 (S.C. Ct. App. 1995.)

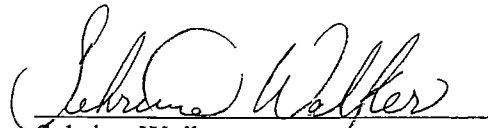
Where in the instant case, plaintiffs were ordered to attend a meeting for unspecified reasons and required to remain for approximately eight (8) hours during which they were questioned and interviewed by defendants, where plaintiffs personal cell phones were confiscated by defendants upon arrival at the meeting, where plaintiffs were not allowed to leave until after they were interviewed by defendants, where plaintiffs were never told by defendants that they were free to leave at any time, where plaintiffs requests to leave to go to lunch were denied, where plaintiffs were denied the use of bathroom facilities without an escort, where the restraint was not based on valid charges that they had violated the law, and was not based on probable cause, plaintiffs were falsely imprisoned by defendants. *Zimbelman v. United States of America*, 745 F. Supp.2d 664 (D. S.C. 2010); 2010 U.S. Dist. LEXIS 110743.

Further, contrary to the courts contention, “An exception to the exclusivity provision of the Workers’ Compensation Act exists where the injury is not accidental, but rather results from the intentional act of the employer or its alter ego.” *Edens v. Bellini*, 597 S.E.2d 863 (S.C. Ct. App. 2004). Therefore, the court erred in dismissing plaintiff Walker’s false imprisonment claim.

CONCLUSION

For the above stated reasons the court's order granting summary judgment to defendants should be reversed.

Respectfully submitted,

A handwritten signature in cursive script, reading "Sebrina Walker", written over a horizontal line.

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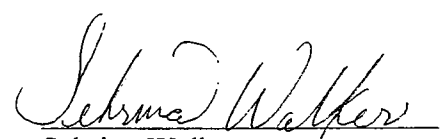
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and Marcia Saari, Respondents.

PROOF OF SERVICE

I, certify that I have served the Initial Brief of Appellant and the Designation of Matter to be Included in the Record on Appeal on the respondents by depositing a copy of same in the U.S. Mail, postage prepaid, on February 23, 2016, addressed to her attorney, Ashley P. Cuttino, Ogletree Bldg., 300 North Main St., Suite 500, Greenville, S.C. 29601.

February 23, 2016.



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THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM BERKELEY COUNTY
Court of Common Pleas

J.C. Nicholson, Jr., Circuit Court Judge

Appellate Case No. 2015-001114

Sebrina Walker, Appellant,

v.

SAIC Engineering, Inc., et al. Respondents.

BRIEF OF RESPONDENTS

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STATEMENT OF ISSUE ON APPEAL

- I. Was the Circuit Court correct to grant summary judgment as to Appellant's claim for false imprisonment, where Appellant failed to present any evidence to support her claim for false imprisonment?

STATEMENT OF THE CASE

Respondent Science Applications International Corporation (improperly identified as SAIC Engineering, Inc.) (“Respondent”)¹ is satisfied with Appellant’s Statement of the Case related to the procedural posture, except Respondent adds that the only material Appellant designated for inclusion in the Record on Appeal is the lower court’s May 22, 2015 Order Granting Defendants’ Motions for Summary Judgment.

¹ Although initially named as a defendant, Christina Broom was never properly served, and therefore was never a defendant in this case. (R. at 1 n.1.) During the oral arguments on the motions on January 12, 2015, the circuit court verbally ordered the dismissal of Individual Defendants John Kiessling and Marcia Saari. (*Id.* at 2; Hr’g Tr. at 58:17-19.) It is not clear from Appellant’s Notice of Appeal or Brief whether she intends to appeal the dismissal of the Individual Defendants. Appellant has the “responsibility to identify errors on appeal, not the court.” *Kennedy v. S. Carolina Ret. Sys.*, 564 S.E.2d 322, 323 (S.C. 2001). An issue that was not preserved for review should not be addressed by the Court of Appeals. *Hendrix v. E. Distribution, Inc.*, 464 S.E.2d 112, 113 (S.C. 1995); *see also* Rule 208(b)(1)(B) (“Ordinarily, no point will be considered which is not set forth in the statement of the issues on appeal.”). Accordingly, because Appellant has failed to identify any error as to the dismissal of the Individual Defendants and because she has failed to make clear whether she intends to appeal the dismissal of the Individual Defendants, the circuit court’s ruling as to the Individual Defendants must be affirmed.

STATEMENT OF FACTS

Respondent disagrees with Appellant's Statement of Facts, as Appellant does not make any citations to the Record on Appeal in her Statement of Facts, nor could she, as Appellant's Statement of Facts is completely unsupported by the only document contained in the Record on Appeal: the circuit court's May 22, 2015 Order Granting Defendants' Motions for Summary Judgment. Accordingly, this Court cannot rely on any statements Appellant makes that are contrary to that Order.

As stated in the Order (cited to herein as "R. at ___"), the facts are as follows: This case arises out of Appellant's employment relationship with Respondent at one of its Charleston facilities. (R. at 2.) Appellant was hired on an at-will basis and signed an at-will disclosure. (*Id.*; Jan. 12, 2015 Hearing Transcript ("Hr'g Tr.") at 22:3-23:12.)

In March 2010, Respondent launched its iAppreciate program, which allowed employees to send \$25 gift cards to other employees for outstanding work-related reasons. (R. at 2; Hr'g Tr. at 8:8-13.) Nine (9) months later, in December 2010, it came to the attention of Respondent's management that employees were "abusing" iAppreciate. (R. at 2; Hr'g Tr. at 8:14-17; 10:14-16.) Respondent conducted an investigation into the use of iAppreciate, which included interviewing all involved employees on January 18, 2011. (R. at 2; Hr'g Tr. at 8:17-18, 12:13-17.) On January 18, 2011, employees of Respondent, including Appellant, were asked by their supervisors to report to the North Rhett building (administrative office) for an unspecified reason. (R. at 2; Hr'g Tr. at 12:19-22.) Once they arrived at North Rhett, Appellant and the other employees were asked to go to a "nice" conference room, which had a large conference table with chairs around it and along the wall and two (2) doors. (R. at 2; Hr'g Tr. at 12:22-23, 13:7-8.) Approximately forty (40) employees, including Appellant, were present in the

conference room. (R. at 2-3; Hr’g Tr. at 12:25-13:1.) Once everyone was in the room, the employees were asked to turn off their cell phones and place them on the table. (R. at 3; Hr’g Tr. at 25:16-18.)

During the course of the day, Corporate HR Director Christina Broom and Assistant Project Manager John Kiessling called employees back for individual interviews. (R. at 3; Hr’g Tr. at 13:8-10.) Human Resources representative Scott Wilson was in the room the entire day, except when he was relieved occasionally by a female Human Resources representative, Marcia Saari. (R. at 3; Hr’g Tr. at 17: 10-19.) The doors to the conference room remained unlocked throughout the day. (R. at 3; Hr’g Tr. at 14:16-17, 24:21.) Upon request, employees were allowed to go to the bathroom. (R. at 3; Hr’g Tr. at 14:12-14.) Aside from bathroom usage, no one attempted or requested to leave the room at any time. (R. at 3; Hr’g Tr. at 24:19-20.) Further, no one, including Appellant, was physically restrained or threatened at any time. (R. at 3.) The employees acknowledged that they only felt compelled to remain in the large conference room due to an intrinsic fear of job loss. (*Id.*; Hr’g Tr. at 24:22-25.)

Each employee was called back for his or her individual interview with Ms. Broom and Mr. Kiessling. (R. at 3; Hr’g Tr. at 13:8-10.) The purpose of the individual interviews was to find out about each employee’s use of the iAppreciate program and to determine whether individual employees were misusing the program. (R. at 3.) All of the employees were paid their regular wage for their time in the large conference room and individual interviews. (*Id.*; Hr’g Tr. at 16:12-16, 16:25-17:1, 18:10-11, 24:17-18, 49:16-22, 49:24-50:5.) At the end of each individual interview, each employee was asked to read a confidentiality statement and was asked to keep the investigation “private.” (R. at 3; Hr’g Tr. at 19:3-8.) The investigation started at 7:30 a.m., and Appellant was interviewed at 10:30 a.m. (Hr’g Tr. at 13:19, 24-25.) At the end of

each individual interview, the employee was dismissed for the day and was placed on immediate administrative leave so that Respondent could complete its investigation. (R. at 3; Hr'g Tr. at 18:11-13, 49:15-22.)

After the interviews, Ms. Broom made disciplinary recommendations, based primarily on whether the employee was able to articulate a work-related reason for all awards given. (R. at 3.) The final disciplinary decisions were made based primarily on the employees' statements during the interviews, which confirmed violations of Respondent's policies and/or breach of Respondent's ethics policy/code of conduct. (*Id.* at 3-4.) Most employees were returned to work with no disciplinary action taken. (*Id.* at 4.) All returned employees were paid for their days on administrative leave. (*Id.*)

Following the interviews, Respondent determined which employees misused the iAppreciate program and/or violated other policies of Respondent including, but not limited to, the nepotism policy, computer security policy, the ethics policy/code of conduct, and misuse of company assets. (*Id.*) Employees who were in violation were terminated. (*Id.*) The group of terminated employees included Appellant. (*Id.*; Hr'g Tr. at 18:22-23.)

LEGAL ARGUMENT

I. **The trial court did not err in granting summary judgment on Appellant's false imprisonment claim.**

A. **Standard of Review**

“Appellate courts apply the same standard as trial courts when reviewing a grant of summary judgment pursuant to Rule 56(c), SCRPC.” *Smith v. Moore*, No. 2012-UP-598, 2012 WL 10864148, at *1 (S.C. Ct. App. Oct. 31, 2012) (citing *Knight v. Austin*, 722 S.E.2d 802, 804 (S.C. 2012)). “Summary judgment is appropriate when the pleadings, depositions, affidavits, and discovery on file show there is no genuine issue of material fact such that the moving party must prevail as a matter of law.” *Id.* (quoting *Knight*, 722 S.E.2d at 804; Rule 56(c), SCRPC). “In making this determination, the court must view the evidence and draw all reasonable inferences in a light most favorable to the non-moving party.” *Id.* (citing *Fleming v. Rose*, 567 S.E.2d 857, 860 (S.C. 2002)). “[I]n cases applying the preponderance of the evidence burden of proof, the non-moving party is only required to submit a mere scintilla of evidence in order to withstand a motion for summary judgment.” *Id.* (quoting *Hancock v. Mid-South Mgmt. Co.*, 673 S.E.2d 801, 803 (S.C. 2009)).²

The circuit court, having the full record before it, granted Respondent's Motion for Summary Judgment. For the reasons stated in this Brief, this Court should affirm.

B. **Appellant has presented no evidence to support her claim of false imprisonment.**

Appellant claims she and others were “ordered to attend a meeting for unspecified reasons and required to remain for approximately eight (8) hours during which they were

² As an initial matter, this appeal should be dismissed because Appellant has failed to attach any documents in the Record on Appeal, other than the circuit court's May 22, 2015 Order Granting Defendants' Motions for Summary Judgment. If the Court would like Respondent to supplement the Record in any way, Respondent will gladly do so at the Court's request.

questioned and interviewed by defendants, [her] personal cell phone[] [was] confiscated upon arrival at the meeting, [she was] not allowed to leave until after [she was] interviewed by defendants, [she was] never told by defendants that [she was] free to leave at any time, [her] requests to go to lunch were denied, [she was] denied the use of the bathroom facilities without an escort[.]” (Br. of Appellant at 3). The only material included in the Record on Appeal is the lower court’s May 22, 2015 Order Granting Defendants’ Motions for Summary Judgment (“Order”). As detailed above in the Statement of Facts, taken directly from the Order, there is simply no support in the Record on Appeal to support Appellant’s version of the events of January 18, 2011.

As to Appellant’s contention that “the restraint was not based on valid charges that [she] had violated the law, and was not based on probable cause” (Br. of Appellant at 3), Appellant cites to case law that is inapplicable here. Specifically, Appellant cites to *Zimbelman v. United States of America*, 745 F. Supp. 2d 664 (D.S.C. 2010), where the party accused of false imprisonment was a governmental entity. *Id.* at 684-85. The standard applicable in *Zimbelman* is inapplicable here. Respondent was not required to base its investigation into Appellant’s workplace behavior on “valid charges that [she] had violated the law,” nor was it required to base its investigation on “probable cause.” The Record on Appeal establishes that the facts involved here were of a private employer’s workplace investigation into its employees’ workplace behavior. No suspected violation of the law by Appellant was required before Respondent could question her (and pay her for her time while so doing).

“False imprisonment is the deprivation of one’s liberty without justification.” *Jones by Robinson v. Winn Dixie Greenville, Inc.*, 456 S.E.2d 429, 432 (S.C. 1995) (citation omitted). To establish a cause of action for false imprisonment, Appellant must prove (1) Respondent

restrained Appellant; (2) the restraint was intentional; and (3) the restraint was unlawful. *Id.* As the lower court correctly held, Appellant's claim must fail because she entered into and remained in the conference room voluntarily and did not ask if she could leave. (Hr'g Tr. 44:24-45:7.) Thus, Appellant gave consent, and her claim fails for this reason. *Beraho v. S.C. State Coll.*, 394 S.E.2d 28, 29 (S.C. Ct. App. 1990) (an employee's consent to such confinement in a workplace investigation bars the right to recovery under South Carolina law).

Second, the courts have consistently found that fear of job loss is not sufficient to support a claim of false imprisonment, and for this additional reason, Appellant's false imprisonment claim must fail. *See Johnson v. United Parcel Servs., Inc.*, 722 F. Supp. 1282, 1284-85 (D. Md. 1989) (fear of job loss insufficient even when the employer made a verbal threat to terminate employment if the employee left the interview); *see also Kelly v. West Cash & Carry Bldg. Materials Store*, 745 So.2d 743, 750 (La. Ct. App. 1999) (fear of job loss insufficient even when employer verbally refused to curtail the employee's interview); *see also Hanna v. Marshall Field & Co.*, 665 N.E.2d 343, 349-50 (Ill. App. Ct. 1996) (fear of job loss insufficient even when employee detained for five (5) hours, the employer denied requests to leave the room, and the doors were closed); *see also Marten v. Yellow Freight Sys.*, 993 F. Supp. 822, 829-30 (D. Kan. 1998) (fear of job loss insufficient even when employer berated employee, stood over him, blocked his path to the door, covered the doorknob with his hands, and directed the employee to sit down); *see also Miraliakbari v. Pennicooke*, 561 S.E.2d 483, 488-89 (Ga. Ct. App. 2002) (fear of job loss insufficient even when employer recklessly refused to allow at-will employee to leave the premises to care for her injured son).

Finally, Respondent, as Appellant's employer, had the right to direct Appellant's actions while on the job. *See Randall's Food Mkts., Inc. v. Johnson*, 891 S.W.2d 640, 645 (Tex. 1995).

For this additional reason, Appellant's false imprisonment claim fails, and the lower court did not err in granting Respondent's motion for summary judgment.

C. Even if the Court of Appeals disregards the circuit court's dismissal based on workers' compensation exclusivity, Appellant's false imprisonment claim still warrants dismissal.

Appellant appears to contend that the circuit court erred in its application of the doctrine of workers' compensation exclusivity to bar her false imprisonment claim. (Br. of Appellant at 3).

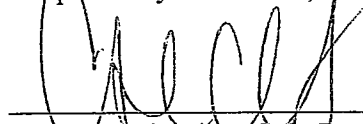
First, to the extent Appellant claimed to have suffered work-related personal injuries as a result of the alleged false imprisonment, the circuit court did not err in dismissing Appellant's false imprisonment claim on the basis of workers' compensation exclusivity. Appellant testified that the only damage she was seeking for the false imprisonment claim was for emotional distress. (Hr'g Tr. at 20:3-5.) As the circuit court recognized, false imprisonment is a tort similar to the torts the South Carolina state courts have held to be barred by the workers' compensation exclusivity provision. (R. at 6 (citing *McClain v. Pactiv Corp.*, 602 S.E.2d 87, 89 (S.C. Ct. App. 2004) (recognizing intentional infliction of emotional distress constitutes a personal injury that falls within the scope of the act); *Sabb v. S.C. State Univ.*, 567 S.E.2d 231, 234 (S.C. 2002) (negligence claims arose out of and in the course of plaintiff's employment and, therefore, the Act provided the exclusive remedy); *Loges v. Mack Trucks, Inc.*, 417 S.E.2d 538, 540 (S.C. 1992) (holding summary judgment was appropriate as to plaintiff's claim for intentional infliction of emotional distress because it constitutes personal injury within the scope of the Act).) Therefore, the circuit court properly held that the false imprisonment claim was barred by the workers' compensation exclusivity provision.

However, even if the circuit court erred in holding that the false imprisonment claim was barred by the doctrine of workers' compensation exclusivity, this basis for dismissal of the claim was an alternate ruling. Accordingly, even if the Court of Appeals disregards the circuit court's dismissal on the basis of workers' compensation exclusivity, because Appellant has failed to present evidence to support her false imprisonment claim (*supra* § II.B), the dismissal of the false imprisonment claim should still be affirmed. Rule 220(c), SCACR ("The appellate court may affirm any ruling, order, decision or judgment upon any ground(s) appearing in the Record on Appeal.").

III. Conclusion

Based on the above, the Circuit Court was correct to grant Respondent's Motion for Summary Judgment. Accordingly, Respondent requests that Appellant's appeal be denied and that the Circuit Court's Order be affirmed.

Respectfully submitted,



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March 16, 2016

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM BERKELEY COUNTY
Court of Common Pleas

J.C. Nicholson, Jr., Circuit Court Judge

Appellate Case No. 2015-001114

Sebrina Walker, Appellant,

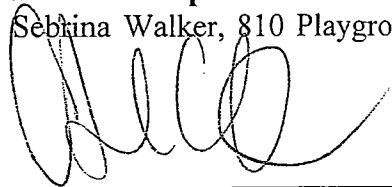
v.

SAIC Engineering, Inc., et al. Respondents.

PROOF OF SERVICE

I certify that on March 16, 2016, I have served the **Brief of Respondent on ProSe Appellant, Sebrina Walker**, by Federal Express delivery at: Sebrina Walker, 810 Playground Road, Charleston, SC 29407

March 16, 2016



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**ATTORNEY FOR
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THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

J.C. Nicholson, Jr., Circuit Court Judge

Case No. 2015-001114

Sebrina Walker, Appellant,

v.

SAIC Engineering Inc., Christina Broom, John Kiessling
and Marcia Saari, Respondents.

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STATEMENT OF ISSUES ON APPEAL

I. I. BECAUSE THE COURT LACKED JURISDICTION, IT ERRED IN RULING ON PLAINTIFF'S FALSE IMPRISONMENT CLAIM 1

II. A. BECAUSE THE LOWER COURT FAILED TO VIEW THE EVIDENCE IN THE LIGHT MOST FAVORABLE TO THE PLAINTIFF, THE COURT ERRED IN DISMISSING PLAINTIFF'S FALSE IMPRISONMENT CLAIM 1

B. THE APPELLANT SATISFIED HER BURDEN IN ESTABLISHING A FALSE IMPRISONMENT CLAIM 2

ARGUMENTS

I.

A. **The Lower Court exceeded its authority in Ruling on Respondent’s False Imprisonment Claim.**

“Jurisdiction is the power to hear and determine a cause.” *Reeves v. Carolina Foundry & Machine Works Et Al.*, 194 S.C. 403; 9 S.E.2d 919 (1940).

In its Order, granting respondents’ motion for summary judgment, the court ruled that appellant’s false imprisonment action was barred by the exclusivity provision of the South Carolina Workers Compensation Act (Order, pg. 5). Notwithstanding the fact that appellant disagrees with this ruling, where, as the court ruled, said Act gives exclusive jurisdiction of appellant’s false imprisonment claim to the state’s Workers Compensation Commission, the circuit court is therefore barred from ruling on any issue involving said claim save lack of jurisdiction claim.

II.

A. **The Lower Court Failed to View the Evidence in the Light Most Favorable to Appellant.**

Notwithstanding the above argument:

“When reviewing an order granting summary judgment an appellate court applies the same standard as the trial court. S.C.R.Civ. P. 56(c) provides that a trial court may grant a motion for summary judgment if the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law. Summary judgment is not appropriate where further inquiry into the facts of the case is desirable to clarify the application of the law. In determining whether any triable issues of fact exist, the court must

view the evidence and all reasonable inferences that may be drawn from the evidence in the light most favorable to the non-moving party.” *Argoe v. Three Rivers Behavioral Health L.L.C.*, 392 S.C. 462; 710 S.E.2d 67 (2011).

Where the respondent disagrees with appellant’s version of the facts in the instant case, both here (*Id.*; Brief of Respondents, pg. 3) and in the lower court (Answer; pg. 3, paragraphs 14-22); and where said facts are the basis of respondents’ liability, there exists a dispute herein concerning a material issue of fact and therefore, the lower court erred in granting respondents’ motion for summary judgment. Further:

B. The Appellant Satisfied Her Burden in Establishing a False Imprisonment Claim.

“The essence of the tort of false imprisonment consists of depriving a person of his liberty without lawful justification. *Jones v. City of Columbia*, 301 S.C. 62, 389 S.E.2d 662 (1990); *Thomas v. Colonial Stores, Inc.*, 236 S.C. 95, 113 S.E.2d 337 (1960). To prevail on a claim for false imprisonment, the plaintiff must establish: (1) the defendant restrained the plaintiff, (2) the restraint was intentional, and (3) the restraint was unlawful. *Gist v. Berkeley County Sheriff’s Dep’t*, 336 S.C. 611, 521 S.E.2d 163 (Ct. App. 1999); [*441] *Jones by Robinson v. Winn-Dixie Greenville, Inc.*, 318 S.C. 171, 456 S.E.2d 429 (Ct. App. 1995); *Caldwell v. K-Mart Corp.*, 306 S.C. 27, 410 S.E.2d 21 (Ct. App. 1991)...” *Law v. S.C. Dep’t of Corrections*, 368 S.C. 424; 629 S.E.2d 642.

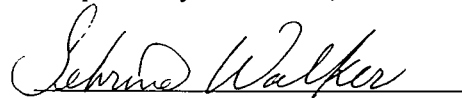
The facts in *Zimbelman v. United States of America*, 745 F. Supp.2d 664 (D.S.C. 2010), which appellant cites in support of her claim, mirrors the instant case; it is of no consequence in a false imprisonment claim that the defendant is a governmental entity; the burden of proof required of the plaintiff is the same.

Therefore, where the record on file in this case clearly demonstrates that the respondent falsely imprisoned the appellant, appellant should prevail on her false imprisonment claim based on the same analysis and conclusions in *Zimbelman, Id.*

CONCLUSION

Based on the above arguments, appellants appeal should be granted.

Respectfully submitted,



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THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

J.C. Nicholson, Jr., Circuit Court Judge

Case No. 2015-001114

Sebrina Walker, Appellant,


v.

SAIC Engineering Inc., Christina Broom, John Kiessling
and Marcia Saari, Respondents.

PROOF OF SERVICE

I, certify that I have served the Reply Brief of Appellant on the respondents by depositing a copy of same in the U.S. Mail, postage prepaid, on March 24, 2016, addressed to her attorney, Ashley P. Cuttino, Ogletree Bldg., 300 North Main St., Suite 500, Greenville, S.C. 29601.

March 24, 2016.



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**THIS OPINION HAS NO PRECEDENTIAL VALUE. IT SHOULD NOT BE
CITED OR RELIED ON AS PRECEDENT IN ANY PROCEEDING
EXCEPT AS PROVIDED BY RULE 268(d)(2), SCACR.**

**THE STATE OF SOUTH CAROLINA
In The Court of Appeals**

Anne Nicholson, Obie Varner, Lois Parker, Gloria
Sinsuat, Elizabeth Sharper, Preston Grant, Alice Felder
and Sebrina Walker, Plaintiffs,

Of whom Sebrina Walker is the Appellant,

v.

SAIC Engineering, Inc., Christina Broom, John Kiessling
and Marcia Saari, Respondents.

Appellate Case No. 2015-001114

Appeal From Berkeley County
J. C. Nicholson, Jr., Circuit Court Judge

Unpublished Opinion No. 2017-UP-172
Submitted February 1, 2017 – Filed April 19, 2017

AFFIRMED

Sebrina Walker, of Charleston, pro se.

Ashley Prickett Cuttino, of Ogletree Deakins Nash
Smoak & Stewart, PC, of Greenville, for Respondents
SAIC Engineering, Inc., John Kiessling, and Marcia
Saari.

PER CURIAM: Affirmed pursuant to Rule 220(b), SCACR, and the following authorities: *Germain v. Nichol*, 278 S.C. 508, 509, 299 S.E.2d 335, 335 (1983) ("Appellant has the burden of providing this [c]ourt with a sufficient record upon which this [c]ourt can make its decision."); *id.* (affirming the trial court's judgment when the appellant failed to present the appellate court with "any of the trial testimony" to support his argument that the evidence did not justify the damages award).

AFFIRMED.¹

LOCKEMY, C.J., and GEATHERS and MCDONALD, JJ., concur.

¹ We decide this case without oral argument pursuant to Rule 215, SCACR.

THE STATE OF SOUTH CAROLINA
In The Supreme Court

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

J.C. Nicholson, Jr., Circuit Court Judge

Opinion No. 2017-UP-172

Sebrina Walker, Petitioner,

v.

SAIC Engineering Inc., Christina Broom, John Kiessling
and Marcia Saari, Respondents.

CERTIFICATE OF SERVICE

I certify that I have this date served the Petition for Writ of Certiorari and Appendix on respondents by depositing a copy of it in the United States Mail, postage prepaid, return receipt requested, addressed to their attorney of record, Ashley P. Cuttino, Ogletree Bldg., 300 North Main St., Suite 500, Greenville, South Carolina 29601

May 19, 2017.

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Pro se