

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

---

APPEAL FROM CHARLESTON COUNTY  
Court of Common Pleas

Jean H. Toal, Circuit Court Judge

---

Consolidated Civil Action No. 2015-CP-10-02389  
Civil Action No.: 2014-CP-10-07655

Appellate Case No. 2016-002525

**RECEIVED**  
AUG 14 2017  
SC Court of Appeals

A.E.P., III, et al., ..... Plaintiffs,

v.

Charleston County School District, Kevin Clayton, Axxis  
Consulting Company, and Jones Street Publishers, LLC, ..... Defendants,

And

Eugene H. Walpole, ..... Plaintiff,

v.

Charleston County School District, Kevin Clayton, Axxis  
Consulting Company, and Jones Street Publishers, LLC, ..... Defendants,

Of Whom Eugene H. Walpole, Amy Garrard and Lee Garrard, Guardians Ad  
Litem for R.C.G., A Minor; and Dean Frailey and Kathryn Frailey, Guardians  
Ad Litem for C.F., A Minor; Richard Nelson and Cheryl Nelson, Guardians  
Ad Litem for D.G.N., A Minor; Adam Olsen Ackerman; and A.E.P., III, ..... Appellants,

And Of Whom Jones Street Publishers, LLC, ..... Respondent.

---

---

**SUPPLEMENTAL RECORD ON APPEAL**  
**VOLUME 1 OF 1**

---

Wallace K. Lightsey (S. C. Bar No. 6476)  
Meliah Bowers Jefferson (S. C. Bar No. 74064)  
Christopher B. Schoen (S. C. Bar No. 80735)  
WYCHE, P.A.  
44 E. Camperdown Way (29601-3512)  
Post Office Box 728  
Greenville, SC 29602-0728  
Telephone: 864-242-8200  
Facsimile: 864-235-8900  
E-Mail: [wlightsey@wyche.com](mailto:wlightsey@wyche.com)  
[mjefferson@wyche.com](mailto:mjefferson@wyche.com)  
[cschoen@wyche.com](mailto:cschoen@wyche.com)

**ATTORNEYS FOR RESPONDENT  
JONES STREET PUBLISHERS, LLC**

Other Counsel of Record:

John E. Parker, Esq.  
William F. Barnes III, Esq.  
PETERS, MURDAUGH, PARKER,  
ELTZROTH & DETRICK, P.A.  
Post Office Box 457  
Hampton, SC 29924  
Phone: 803-943-2111  
Email: [jparker@pmped.com](mailto:jparker@pmped.com)  
[wbarnes@pmped.com](mailto:wbarnes@pmped.com)

**ATTORNEYS FOR APPELLANTS**

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

---

APPEAL FROM CHARLESTON COUNTY  
Court of Common Pleas

Jean H. Toal, Circuit Court Judge

---

Consolidated Civil Action No. 2015-CP-10-02389  
Civil Action No.: 2014-CP-10-07655

Appellate Case No. 2016-002525

A.E.P., III, et al., ..... Plaintiffs,

v.

Charleston County School District, Kevin Clayton, Axxis  
Consulting Company, and Jones Street Publishers, LLC, ..... Defendants,

And

Eugene H. Walpole, ..... Plaintiff,

v.

Charleston County School District, Kevin Clayton, Axxis  
Consulting Company, and Jones Street Publishers, LLC, ..... Defendants,

Of Whom Eugene H. Walpole, Amy Garrard and Lee Garrard, Guardians Ad  
Litem for R.C.G., A Minor; and Dean Frailey and Kathryn Frailey, Guardians  
Ad Litem for C.F., A Minor; Richard Nelson and Cheryl Nelson, Guardians  
Ad Litem for D.G.N., A Minor; Adam Olsen Ackerman; and A.E.P., III, ..... Appellants,

And Of Whom Jones Street Publishers, LLC, ..... Respondent.

---

---

**SUPPLEMENTAL RECORD ON APPEAL**  
**VOLUME 1 OF 1**

---

Wallace K. Lightsey (S. C. Bar No. 6476)  
Meliah Bowers Jefferson (S. C. Bar No. 74064)  
Christopher B. Schoen (S. C. Bar No. 80735)  
WYCHE, P.A.  
44 E. Camperdown Way (29601-3512)  
Post Office Box 728  
Greenville, SC 29602-0728  
Telephone: 864-242-8200  
Facsimile: 864-235-8900  
E-Mail: [wlightsey@wyche.com](mailto:wlightsey@wyche.com)  
[mjefferson@wyche.com](mailto:mjefferson@wyche.com)  
[cschoen@wyche.com](mailto:cschoen@wyche.com)

**ATTORNEYS FOR RESPONDENT  
JONES STREET PUBLISHERS, LLC**

**Other Counsel of Record:**

John E. Parker, Esq.  
William F. Barnes III, Esq.  
PETERS, MURDAUGH, PARKER,  
ELTZROTH & DETRICK, P.A.  
Post Office Box 457  
Hampton, SC 29924  
Phone: 803-943-2111  
Email: [jparker@pmped.com](mailto:jparker@pmped.com)  
[wbarnes@pmped.com](mailto:wbarnes@pmped.com)

**ATTORNEYS FOR APPELLANTS**

INDEX

1. Defendant Jones Street Publishers, LLC's Motion for Summary Judgment, *Walpole vs. Charleston County School District, et al.*, 2014-CP-10-7665.....2
2. Defendant Jones Street Publishers, LLC's Memorandum in Support of Motion for Summary Judgment, *Walpole vs. Charleston County School District, et al.*, 2014-CP-10-7665.....7
3. Plaintiffs' Answers to Defendant, Jones Street Publishers, LLC's First Set of Interrogatories, *A.E.P., et al vs. vs. Charleston County School District, et al.*, Consolidated Case Number: 2014-CP-10-7665 ..... 17
4. Plaintiffs' Supplemental Answers to Defendant, Jones Street Publishers, LLC's First Set of Interrogatories, *A.E.P., et al vs. vs. Charleston County School District, et al.*, Consolidated Case Number: 2014-CP-10-7665 .....30

STATE OF SOUTH CAROLINA  
COUNTY OF CHARLESTON

IN THE COURT OF COMMON PLEAS  
NINTH JUDICIAL CIRCUIT

Eugene H. Walpole,  
Plaintiff,

C.A. No.: 2014-CP-10-7655

vs.

Charleston County School District, Kevin  
Clayton, Axxis Consulting Company, and  
Jones Street Publishers, LLC,

**DEFENDANT**  
**JONES STREET PUBLISHERS, LLC'S**  
**MOTION FOR SUMMARY JUDGMENT**

Defendants.

FILED  
APR 29 11:18  
CLERK OF COURT

Pursuant to Rule 56(b) of the South Carolina Rules of Civil Procedure, Defendant Jones Street Publishers, LLC, respectfully moves for summary judgment dismissing the Plaintiff's Complaint on the ground that there is no genuine issue of material fact and Jones Street Publishers is entitled to judgment as a matter of law. This motion is based on the pleadings in this action and the affidavits of Paul Bowers and Chris Haire filed herewith, and will be supplemented with a legal memorandum with exhibits in the form of deposition excerpts and documentary exhibits supporting the bases for summary judgment.

The Plaintiff's Complaint alleges a single cause of action for defamation, arising from statements made by Defendants concerning the public controversy over a practice of the football team of the Academic Magnet High School ("AMHS") of celebrating victories by painting a face on a watermelon and then smashing the watermelon while chanting. The Plaintiff is the head coach of the AMHS football team.

Defendant Jones Street Publishers owns and publishes the *City Paper* weekly newspaper. The Plaintiff's claim against it is based upon four publications about the controversy posted on the *City Paper* website or published in print. Two of these publications are opinion editorials ("op-eds"); one is an article simply reporting on statements released by School District officials;

and one is a reproduction of the School District Superintendent's official statement on the Plaintiff's reinstatement as head coach, with an op-ed introduction. Copies of these publications are attached as exhibits to the affidavits of Paul Bowers and Chris Haire. The Plaintiff contends that they accused him of being a racist and hence were defamatory.

Jones Street Publishers is entitled to summary judgment on the following grounds:

1. The Plaintiff has no proof that the *City Paper* publications at issue were the proximate cause of injury to Plaintiff's reputation. Because South Carolina law requires proof of injury to reputation under the facts of this case, the absence of such proof requires dismissal of Plaintiff's claim.

2. The Plaintiff is a public figure and public official as a matter of law, and the Plaintiff has no proof that the statements of Jones Street Publishers of which the Plaintiff complains were published with actual malice, as required by South Carolina state law and federal constitutional law.

3. The alleged defamation constitutes protected expression of opinion, epithet, or hyperbole that is immune under the doctrine of fair comment and the First Amendment privilege for statements of opinion, and is therefore not actionable.

4. To the extent to which the *City Paper* publications at issue contain statements that are not the expression of opinion, epithet, or hyperbole, they are protected by the fair report privilege as a fair and accurate report of statements made by public officials on the matter.

For the reasons stated above and in the forthcoming memorandum of law, Defendant Jones Street Publishers, LLC, moves the Court to grant summary judgment dismissing Plaintiff's

claim against it with prejudice, to award its costs and attorneys' fees, and to take such further action as the Court deems appropriate.

Respectfully submitted,



Wallace K. Lightsey (S. C. Bar No. 6476)  
Meliah Bowers Jefferson (S. C. Bar No. 74064)  
Christopher B. Schoen (S. C. Bar No. 80735)  
WYCHE, P.A.  
44 E. Camperdown Way  
Greenville, SC 29601  
Telephone: 864-242-8200  
Facsimile: 864-235-8900  
E-Mail: [wlightsey@wyche.com](mailto:wlightsey@wyche.com)  
[mjefferson@wyche.com](mailto:mjefferson@wyche.com)  
[cschoen@wyche.com](mailto:cschoen@wyche.com)

Date: April 19, 2016

**ATTORNEYS FOR DEFENDANT  
JONES STREET PUBLISHERS, LLC**

STATE OF SOUTH CAROLINA  
COUNTY OF CHARLESTON

IN THE COURT OF COMMON PLEAS  
NINTH JUDICIAL CIRCUIT

Eugene H. Walpole,  
Plaintiff,

vs.

Charleston County School District, Kevin  
Clayton, Axxis Consulting Company, and  
Jones Street Publishers, LLC,  
Defendants.

C.A. No.: 2014-CP-10-7655

**CERTIFICATE OF SERVICE**

This is to certify that I have this date caused to be served true and correct copies of  
**Defendant Jones Street Publishers, LLC's Motion for Summary Judgment, Affidavit of  
Paul Bowers and Affidavit of Chris Haire** on counsel of record in this action by causing the  
same to be deposited in the United States mail, first class postage affixed, addressed as follows:

John E. Parker, Esq.  
William F. Barnes III, Esq.  
PETERS, MURDAUGH, PARKER,  
ELTZROTH & DETRICK, P.A.  
Post Office Box 457  
Hampton, SC 29924

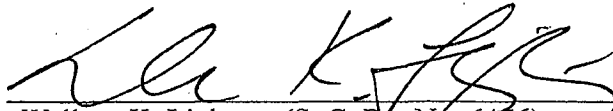
William H. Davidson, II  
Steven R. Spreewers  
DAVIDSON & LINDEMANN, P.A.  
Post Office Box 8568  
Columbia, SC 29202-8568

Kevin Clayton and Axxis Consulting Company  
1680 Dew Place  
Marietta, GA 30064  
*Pro Se Defendants*

FILED  
2016 APR 29 AM 11:48  
JOLIE A. ARMSTRONG  
CLERK OF COURT  
BY \_\_\_\_\_

*Signature on following page*

Respectfully submitted,



Wallace K. Lightsey (S. C. Bar No. 6476)

Meliah Bowers Jefferson (S. C. Bar No. 74064)

Christopher B. Schoen (S. C. Bar No. 80735)

WYCHE, P.A.

44 E. Camperdown Way

Greenville, SC 29601

Telephone: 864-242-8200

Facsimile: 864-235-8900

E-Mail: [wlightsey@wyche.com](mailto:wlightsey@wyche.com)

[mjefferson@wyche.com](mailto:mjefferson@wyche.com)

[cschoen@wyche.com](mailto:cschoen@wyche.com)

Date: April 19, 2016

**ATTORNEYS FOR DEFENDANT  
JONES STREET PUBLISHERS, LLC**

STATE OF SOUTH CAROLINA  
COUNTY OF CHARLESTON

IN THE COURT OF COMMON PLEAS  
NINTH JUDICIAL CIRCUIT

Eugene H. Walpole,  
Plaintiff,

vs.

Charleston County School District, Kevin  
Clayton, Axxis Consulting Company, and  
Jones Street Publishers, LLC,  
Defendants.

C.A. No.: 2014-CP-10-7655

**DEFENDANT**  
**JONES STREET PUBLISHERS, LLC'S**  
**MEMORANDUM OF LAW**  
**IN SUPPORT OF ITS**  
**MOTION FOR SUMMARY JUDGMENT**

FILED  
2016 OCT 11 AM 11:16  
JULIE J. WILSON  
CLERK OF COURT

Defendant Jones Street Publishers, LLC, ("Jones Street") respectfully submits this Memorandum of Law in Support of Its Motion for Summary Judgment.

The Complaint in this case is nearly identical to that in *A.E.P., III, et al. v. Charleston County School District et al.*, C.A. No. 2015-CP-10-2389, and three of the grounds of Jones Street's summary judgment motion are the same here as in that case. Accordingly, Jones Street incorporates by reference all but section 5 of its memorandum of law filed in the *A.E.P.* action. Section 5 of the memorandum filed in the *A.E.P.* case is not applicable here.

In addition to the reasons for dismissal set forth in the *A.E.P.* memorandum, there is another reason that the instant action must be dismissed: In this case, the plaintiff is a public official as a matter of law, and therefore is required to present clear and convincing evidence that Jones Street published the allegedly defamatory matter with actual malice – that is, knowing that it was false or with serious doubts about its truth. The plaintiff has no evidence of actual malice, much less clear and convincing proof. For this reason, in addition to those set forth in the *A.E.P.* memorandum, Jones Street is entitled to summary judgment as a matter of law.

1. **Because Walpole Is a Public Official, the Usual Standard for Summary Judgment Does Not Apply. Instead, Walpole Must Present Clear and Convincing Evidence of Actual Malice To Survive Summary Judgment.**

Because of the high cost and unpredictability associated with the defense of libel actions, and the “chilling effect” that these factors may exert upon the exercise of the constitutional rights of free speech and freedom of the press, summary judgment occupies a position of greater importance in such actions as compared with other civil actions. Therefore, unlike the usual “scintilla of evidence” standard on a motion for summary judgment, this Court is required to exercise its **independent** judgment in assessing whether the plaintiff has presented **clear and convincing** evidence in response to this motion:

The question whether the evidence in the record in a defamation case is of the convincing clarity required to strip the utterance of First Amendment protection is not merely a question for the trier of fact. Judges, as expositors of the Constitution, must independently decide whether the evidence in the record is sufficient to cross the constitutional threshold that bars the entry of any judgment that is not supported by clear and convincing proof of “actual malice.”

*Bose Corporation v. Consumers Union of United States, Inc.*, 466 U.S. 485, 511, 104 S. Ct. 1949, 1965 (1984) (emphasis added). This requirement of independent review applies to the trial court’s review of a motion for summary judgment:

[W]here the constitutional prerequisites of falsity and actual malice are at issue ‘an appellate court has an obligation to “make an independent examination of the whole record” in order to make sure that “the judgment does not constitute a forbidden intrusion on the [field] of free expression.” While *Bose* and prior cases involved appellate review of trial verdicts in libel actions, logic and considerations of judicial administration dictate that the same level of review apply to the granting of summary judgment.

*Liberty Lobby, Inc. v. Dow Jones & Co.*, 838 F.2d 1287, 1293 (D.C. Cir. 1988) (citations omitted; emphasis added) (quoting *Bose*, 466 U.S. at 499), *cert. denied*, 488 U.S. 825 (1988).

Thus, in response to this motion, the plaintiff must demonstrate here and now that he can overcome Jones Street’s constitutional defenses with clear and convincing evidence. Such was

the precise holding of the United States Supreme Court in *Anderson v. Liberty Lobby, Inc.*, 417 U.S. 242, 255-56, 106 S. Ct. 2505, 2514 (1986), and of the South Carolina Supreme Court in *George v. Fabri*, 345 S.C. 440, 548 S.E.2d 868 (2001), and *Fleming v. Rose*, 350 S.C. 488, 567 S.E.2d 857 (2002).

Moreover, the plaintiff must come forward with concrete evidence in opposition to the motion; he cannot merely “assert[] that the jury might, and legally could, disbelieve the defendant’s denial ... of legal malice.” *Anderson*, 417 U.S. at 256, 106 S. Ct. at 2514. “The plaintiff cannot rely upon the hope that witness cross-examination will raise a credibility issue as regards actual malice.” *Fazekas v. Crain Consumer Group Division*, 583 F. Supp. 110, 114 (S.D. Ind. 1984).

In light of the undisputed facts and the materials submitted with Jones Street’s motion and memoranda in this case and the *A.E.P.* case, Walpole cannot come close to meeting his burden of satisfying this Court, in its independent judgment, that he has clear and convincing evidence of actual malice – i.e., that the newspaper in fact knew that a defamatory statement it was publishing about Walpole was false or entertained serious doubts as to its truth.

## **2. The New York Times Doctrine.**

When a public official seeks to recover damages for an alleged defamatory falsehood, he must allege and prove by clear and convincing evidence that the defendant acted with actual malice in publishing the statement. *See New York Times v. Sullivan*, 376 U.S. 254, 279-80 (1964); *accord Time, Inc. v. Firestone*, 424 U.S. 448, 453-55 (1976); *Fleming v. Rose*, 350 S.C. 488, 494-95, 567 S.E.2d 857, 860-61 (2002); *George v. Fabri*, 345 S.C. 440, 451, 548 S.E.2d 868, 874 (2001); *Elder v. Gaffney Ledger*, 341 S.C. 108, 533 S.E.2d 899 (2000). Actual malice

exists when a statement is made “with knowledge that it was false or with reckless disregard of whether it was false or not.” *New York Times*, 376 U.S. at 279-80.

In this context, “reckless disregard” means that the defendant actually and subjectively had “serious doubts” concerning the truth of the statement. “A reckless disregard for the truth ... requires more than a departure from reasonably prudent conduct. ‘There must be sufficient evidence to permit the conclusion that the defendant in fact entertained serious doubts as to the truth of his publication.’ ... Failure to investigate before publishing, even when a reasonably prudent person would have done so, is not sufficient to establish reckless disregard.” *Elder*, 341 S.C. at 114, 533 S.E.2d at 902 (emphasis added) (quoting *St. Amant v. Thompson*, 390 U.S. 727, 731 (1968)). Likewise, in *George v. Fabri, supra*, the South Carolina Supreme Court reaffirmed that “actual malice is governed by a subjective standard which tests the defendant’s good faith belief in the truth of her statements. There must be sufficient evidence to conclude either that the defendant made the statements with a ‘high degree of awareness of ... probable falsity,’ or that the defendant ‘in fact entertained serious doubts as to the truth of his publication.’” 345 S.C. at 456, 548 S.E.2d at 876 (emphasis in original; citations omitted) (quoting *Garrison v. Louisiana*, 379 U.S. 64 (1964), and *St. Amant, supra*); accord *Fleming v. Rose, supra*.

### **3. The Plaintiff Is a Public Official.**

The question whether the plaintiff is a public official is an issue of law for the Court to decide. *Erickson v. Jones Street Publishers*, 368 S.C. 444, 474, 629 S.E. 2d 653, 669 (2006); see also *Foretich v. Capital Cities/ABC, Inc.*, 37 F.3d 1541, 1551 (4<sup>th</sup> Cir. 1994). The undisputed fact that the plaintiff is the head coach of the AMHS football team establishes that he is a public official, as a matter of law.

The term “public official” is quite broadly defined. “[T]he ‘public official’ designation applies at the very least to those among the hierarchy of government employees who have, or appear to the public to have, substantial responsibility for or control over the conduct of government affairs.” *Rosenblatt v. Baer*, 383 U.S. 75, 85 (1966). The public official category is not limited to elected officials or the upper echelons of government. “All important government employees are subject to discussion by the people who employ them and by others who would comment on their behavior.” R. SACK, *SACK ON DEFAMATION: LIBEL, SLANDER, AND RELATED PROBLEMS* § 5.2.1 (3d ed. 2004). “The status of a public official may be deemed sufficient to warrant application of the New York Times privilege, not because of the government employee’s place on the totem pole, but because of the public interest in a government employee’s activity in a particular context.” *Holtzscheiter v. Thomson Newspapers, Inc.*, 332 S.C. 502, 520 n.4, 506 S.E.2d 497, 507 n. 4 (1998) (*Holtzscheiter II*) (Toal, J., concurring) (quoting *McClain v. Arnold*, 275 S.C. 282, 284, 270 S.E.2d 124, 125 (1980)).

For purposes of First Amendment analysis, courts have held a wide variety of public school administrators and employees to be public officials, including school trustees,<sup>1</sup> county school board members,<sup>2</sup> public school principals,<sup>3</sup> a public school district’s athletic director and football coach,<sup>4</sup> and school superintendents.<sup>5</sup>

---

<sup>1</sup> *Scott v. McCain*, 272 S.C. 198, 250 S.E.2d 118 (1978).

<sup>2</sup> *Sanders v. Prince*, 304 S.C. 236, 403 S.E.2d 640 (1991); *Cabin v. Community Newspapers, Inc.*, 27 A.D.2d 543 (N.Y. 1966).

<sup>3</sup> *Palmer v. Bennington School Dist.*, 615 A.2d 498 (Vt. 1992); *Kapiloff v. Dunn*, 343 A.2d 251 (Md. 1975); *Reeves v. Foster*, 200 So. 2d 453 (Miss. 1967).

<sup>4</sup> *Johnson v. Southwestern Newspapers Corp.*, 855 S.W.2d182 (Tex. App. 1993).

<sup>5</sup> *Keller-Moser Consulting, LLC v. Daniels*, 2012 WL 554643 (D.S.C. Feb. 21, 2012); *Scott v. News-Herald*, 496 N.E.2d 699 (Ohio 1986).

In particular, public school teachers<sup>6</sup> and athletic coaches<sup>7</sup> have been held to be public officials for purposes of applying the *New York Times* doctrine. At the time of the alleged defamation, the plaintiff was the head football coach at the Academic Magnet High School (“AMHS”), the head women’s basketball coach at AMHS, and a teacher at another Charleston County public school. Walpole Dep. at 18 (Exhibit 1).<sup>8</sup> These positions carry significant authority over, and can have a lasting impact on, public school students, and accordingly they give rise to substantial public interest in the activities of the persons in such positions.

Accordingly, as a matter of law, the plaintiff is a public official under the *New York Times* doctrine.

#### **4. Plaintiff Does Not Have Evidence of Actual Malice.**

As a public official, plaintiff must present clear and convincing proof “that the defendant realized that [the allegedly defamatory statement about the plaintiff] was false or that [the defendant] subjectively entertained serious doubt as to the truth of [the statement].” *Bose Corporation v. Consumers Union of United States, Inc.*, 466 U.S. 485, 511 n.30 (1984) (emphasis added; citations omitted).

[R]eckless conduct is not measured by whether a reasonably prudent man would have published, or would have investigated before publishing. There must be sufficient evidence to permit the conclusion that the defendant in fact entertained serious doubts as to the truth of his publication. Publishing with such doubts shows reckless disregard for truth or falsity and demonstrates actual malice.

---

<sup>6</sup> *Basarich v. Rodeghero*, 321 N.E.2d 739 (Ill. 1974); *Mahoney v. Adirondack Publishing Co.*, 71 N.Y.2d 31 (1987).

<sup>7</sup> *Johnson v. Southwestern Newspapers Corp.*, 855 S.W.2d 182 (Tex. App. 1993); *Johnston v. Corinthian Television Corp.*, 583 P.2d 1101 (Okla. 1978); *Mahoney v. Adirondack Publishing Co.*, 71 N.Y.2d 31 (1987).

<sup>8</sup> Excerpts from the Deposition Transcript of Eugene H. Walpole taken December 16, 2015 are attached hereto collectively as Exhibit 1.

*St. Amant v. Thompson*, 390 U.S. 727, 731 (1968) (emphasis added). These rigorous standards were recently reaffirmed by the South Carolina Supreme Court:

Actual malice is a subjective standard testing the publisher's good faith belief in the truth of his or her statements. The constitutional actual malice standard requires a public official [or public figure] to prove by clear and convincing evidence that the defamatory falsehood was made with the knowledge of its falsity or with reckless disregard for its truth. A "reckless disregard" for the truth, however, requires more than a departure from reasonably prudent conduct. "There must be sufficient evidence to permit the conclusion that the defendant in fact entertained serious doubts as to the truth of his publication." There must be evidence the defendant had a "high degree of awareness of ... probable falsity."

*Elder*, 341 S.C. at 114, 533 S.E.2d at 902 (emphasis in original) (quoting *St. Amant, supra; Garrison*, 379 U.S. at 74).

The plaintiff has as much as conceded that he has no evidence of actual malice. There is a reason for this. As discussed in the memorandum in support of Jones Street's motion for summary judgment in the *A.E.P.* lawsuit, it is undisputed that all factual statements contained in the Jones Street publications were simply paraphrased summaries of public statements made by School District officials concerning the watermelon ritual. Further, as the Complaint itself acknowledges, those statements were picked up and reported widely in both local and national news media. *See* Complaint ¶ 12. Accordingly, Jones Street and its writers had no reason to doubt that what they were reporting on the watermelon ritual was completely true and accurate.

As the newspaper's reporter states in his sworn affidavit:

At the time of the press conference, I knew Superintendent McGinley in a professional capacity and considered her to be a completely credible and reliable news source, especially in connection with official statements such as those made at the press conference. I accepted the statements she made during the press conference as accurate representations of the School District's official position and findings concerning the watermelon ritual.

Bowers Affid. ¶ 6 (filed with the motion for summary judgment). Likewise, the *City Paper's* editor affirmed in his sworn affidavit:

At the time of the press conference, I knew Superintendent McGinley well and had known her for some time. I have always considered her to be completely honest and trustworthy. I have never had any reason to doubt the truth of what she said, particularly in the context of official announcements such as those made at this public press conference, and I had no reason to doubt the truth of the statements she made during the press conference. I accepted them as true and reliable.

With both of my editorials on the watermelon ritual, my whole purpose in writing the editorials was to state my opinions concerning the ritual, the firing and reinstatement of Coach Walpole, and the resignation of Superintendent McGinley. I held these opinions in good faith at the time they were published, and I continue to hold them and to believe that they express a valid point of view. In writing these editorials, my sole intent was to express my views based on the official statements of the School District officials ...

Haire Affid. ¶¶ 6, 11 (filed with motion for summary judgment).

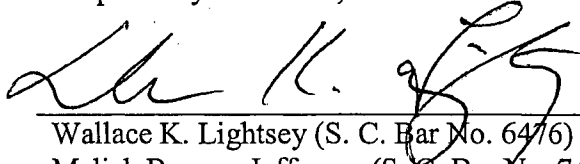
Plaintiff has no evidence to the contrary. Jones Street submitted an interrogatory to the plaintiff asking him to identify the factual and evidentiary basis for the allegation that Jones Street published the allegedly defamatory statements about plaintiff with actual malice. Initially, the plaintiff did not provide any response other than to assert generally that Jones Street “either did not investigate and with reckless disregard for plaintiffs’ rights, published these articles, or, if it did investigate it, published the articles with actual malice.” Plaintiff’s Answers to Defendant, Jones Street Publishers, LLC’s, First Set of Interrogatories, No. 4, at p.5 (emphasis added) (attached hereto as Exhibit 2). Jones Street moved to compel, and in response the plaintiff provided a supplemental response stating, “See plaintiffs’ depositions ... and the articles published in the City Paper ...” Plaintiffs’ Supplemental Answers to Defendant, Jones Street Publisher’s, LLC’s, First Set of Interrogatories, No. 4, at p.5 (attached hereto as Exhibit 3).

There is absolutely nothing in the depositions or articles referred to that constitutes evidence that anyone at Jones Street knew of any false statement in the editorials or articles or in fact entertained serious doubts as to the truthfulness of them. And as discussed above, failure to

investigate does not constitute actual malice, as a matter of federal constitutional law. *St. Amant v. Thompson*, 390 U.S. 727, 731 (1968). In short, there is absolutely no proof of actual malice.

For this reason, in addition to those presented in the *A.E.P.* action, plaintiff's case against Jones Street must be dismissed as a matter of law.

Respectfully submitted,



---

Wallace K. Lightsey (S. C. Bar No. 6476)  
Meliah Bowers Jefferson (S. C. Bar No. 74064)  
Christopher B. Schoen (S. C. Bar No. 80735)  
WYCHE, P.A.  
44 E. Camperdown Way  
Greenville, SC 29601  
Telephone: 864-242-8200  
Facsimile: 864-235-8900  
E-Mail: [wlightsey@wyche.com](mailto:wlightsey@wyche.com)  
[mjefferson@wyche.com](mailto:mjefferson@wyche.com)  
[cschoen@wyche.com](mailto:cschoen@wyche.com)

Date: October 5, 2016

**ATTORNEYS FOR DEFENDANT  
JONES STREET PUBLISHERS, LLC**

STATE OF SOUTH CAROLINA  
COUNTY OF CHARLESTON

IN THE COURT OF COMMON PLEAS  
NINTH JUDICIAL CIRCUIT

Eugene H. Walpole,  
Plaintiff,

vs.

Charleston County School District, Kevin  
Clayton, Axxis Consulting Company, and  
Jones Street Publishers, LLC,  
Defendants.

C.A. No.: 2014-CP-10-7655

**CERTIFICATE OF SERVICE**

This is to certify that I have this date caused to be served a true and correct copy of the within and foregoing Defendant Jones Street Publishers, LLC's Memorandum of Law in Support of Its Motion for Summary Judgment on counsel of record in this action by causing the same to be delivered by Federal Express, addressed as follows:

John E. Parker, Esq.  
William F. Barnes III, Esq.  
PETERS, MURDAUGH, PARKER, ELTZROTH & DETRICK, P.A.  
101 Mulberry Street East  
Hampton, SC 29924

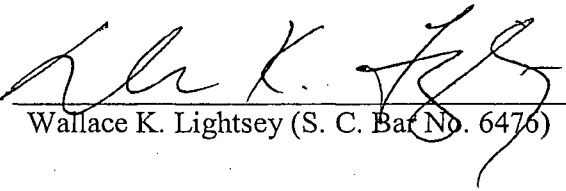
William H. Davidson, II  
Steven R. Spreuwers  
DAVIDSON & LINDEMANN, P.A.  
1611 Devonshire Drive, Second Floor  
Columbia, South Carolina 29204

Kevin Clayton and Axxis Consulting Company  
1680 Dew Place  
Marietta, GA 30064  
*Pro Se Defendants*

2016 OCT 11 AM 11:17  
JULIE J. ARMSTRONG  
CLERK OF COURT

FILED

Date: October 5, 2016

  
Wallace K. Lightsey (S. C. Bar No. 6476)

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF CHARLESTON )

IN THE COURT OF COMMON PLEAS

JAMES R. MOORE, JR. AND BETTY )  
MOORE, GUARDIANS AD LITEM FOR )  
R.A.M., A MINOR; AMY GARRARD )  
AND LEE GARRARD, GUARDIANS AD )  
LITEM FOR R.C.G., A MINOR; AND )  
DEAN FRAILEY AND KATHRYN )  
FRAILEY, GUARDIANS AD LITEM )  
FOR C.F., )

CIVIL ACTION NO.: 2014-CP-10-7203

Plaintiffs. )

v. )

CHARLESTON COUNTY SCHOOL )  
DISTRICT, KEVIN CLAYTON, AXXIS )  
CONSULTING COMPANY, AND )  
JONES STREET PUBLISHERS, LLC, )  
Defendants. )

---

RICHARD AND CHERYL NELSON AS )  
GUARDIANS AD LITEM FOR D.G.N., A )  
MINOR, )

CIVIL ACTION NO.: 2015-CP-10-0605

Plaintiffs, )

v. )

CHARLESTON COUNTY SCHOOL )  
DISTRICT, KEVIN CLAYTON, AXXIS )  
CONSULTING COMPANY, AND )  
JONES STREET PUBLISHERS, LLC,, )  
Defendants. )

ADAM OLSEN ACKERMAN, )  
Plaintiff, )  
 )  
v. )  
 )  
CHARLESTON COUNTY SCHOOL )  
DISTRICT, KEVIN CLAYTON, AXXIS )  
CONSULTING COMPANY, AND )  
JONES STREET PUBLISHERS, LLC, )  
Defendants. )

---

CIVIL ACTION NO.: 2015-CP-10-1044

A.E.P., III, )  
Plaintiffs, )  
 )  
v. )  
 )  
CHARLESTON COUNTY SCHOOL )  
DISTRICT, KEVIN CLAYTON, AXXIS )  
CONSULTING COMPANY, AND )  
JONES STREET PUBLISHERS, LLC,, )  
Defendants. )

---

CIVIL ACTION NO.: 2015-CP-10-2389

**PLAINTIFFS' ANSWERS TO DEFENDANT, JONES STREET PUBLISHER'S, LLC'S,  
FIRST SET OF INTERROGATORIES**

TO: WALLACE K. LIGHTSEY, ESQUIRE, and MELIAH BOWERS JEFFERSON, ESQUIRE,  
ATTORNEYS FOR DEFENDANT, JONES STREET PUBLISHERS, LLC:

Plaintiffs' answers to defendant, Jones Street Publishers, LLC's, first set of interrogatories to plaintiffs as follows:

1. Give the names and addresses of persons known to the parties or counsel to be witnesses concerning the facts of the case and indicate whether or not written or recorded statements have been taken from the witnesses and indicate who has possession of such statements.

**ANSWER:**

- a) James R. Moore, Jr.  
108 Tunstall Drive  
Goose Creek, SC 29445
- b) Betty Moore  
108 Tunstall Drive  
Goose Creek, SC 29445
- c) Amy Garrard  
1615 Culpepper Circle  
Charleston, SC 29407
- d) Lee Garrard  
1615 Culpepper Circle  
Charleston, SC 29407
- e) Kathryn Frailey  
306 River Oak Drive  
Mount Pleasant, SC 29464
- f) Dean Frailey  
306 River Oak Drive  
Mount Pleasant, SC 29464
- g) Heidi Ackerman  
4525 Smoak Road  
Yonges Island, SC 29449
- h) James Allen Ackerman  
4525 Smoak Road  
Yonges Island, SC 29449
- i) Richard Nelson  
318 Oak Point Landing Drive  
Mt. Pleasant, SC 29464-6287
- j) Cheryl Nelson  
318 Oak Point Landing Drive  
Mt. Pleasant, SC 29464-6287
- k) Arthur E. Perry  
50 Morgan Place Dr.  
Isle of Palms, SC 29451

Witnesses a-k are parents and guardians ad litem for their sons who were or are members of the Academic High School Football Team, and are expected to testify as to their knowledge of the facts, events and circumstances leading up to and including the incidents for which this lawsuit was filed. No written or recorded statements.

- l) Eugene H. Walpole  
2555 Sunnyside Farm Rd.  
Johns Island, SC 29455

Coach Walpole, the plaintiff, is expected to testify as to his knowledge of the facts, events and circumstances leading up to and including the incidents for which this lawsuit was filed. No written or recorded statement.

- m) R.A.M.  
108 Tunstall Drive  
Goose Creek, SC 29445
- n) R.C.G.  
1615 Culpepper Circle  
Charleston, SC 29407
- o) C.F.  
306 River Oak Drive  
Mount Pleasant, SC 29464
- p) D.G.N.  
318 Oak Point Landing Drive  
Mt. Pleasant, SC 29464-6287
- q) Adam Olsen Ackerman  
4525 Smoak Road  
Yonges Island, SC 29449
- r) A.E.P., III  
50 Morgan Place Dr.  
Isle of Palms, SC 29451

R.A.M., R.C.G., C.F., D.G.N., Adam Olsen Ackerman and A.E.P., III,  
plaintiffs who were members of the Academic High School Football Team for

the football season during which subject incidents occurred, and are expected to testify as to their knowledge of the facts, events and circumstances leading up to and including the incidents for which this lawsuit was filed. No written or recorded statements, other than their deposition taken in August, 2015.

- s) All members of the Academic High School Football Team and their Parents These names and addresses are in the possession of Charleston County School District.

Members of the Academic High School Football Team and their Parents are expected to testify as to the facts, events and circumstances leading up to and including the incidents for which this lawsuit was filed. Plaintiffs are not aware of any written or recorded statements by these witnesses.

Plaintiffs reserve the right to supplement this interrogatory.

2. Set forth the names and addresses of all insurance companies that have liability insurance coverage relating to the Defendant's counterclaim and set forth the number or numbers of the policies involved and the amount or amounts of liability coverage provided in each policy

**ANSWER:**

None.

3. Identify separately by quotation each and every individual statement in the Article that the plaintiff contends is of and concerning the plaintiff, defames the plaintiff, and is false.

**ANSWER:**

All of the articles refer to plaintiffs because they were a member of the football team.

4. For each statement identified in response to the previous interrogatory, describe the factual and evidentiary basis for the plaintiff's allegation that Jones Street Publishers published such statement with actual malice, identifying separately and with specificity each and every individual fact, document, or piece of evidence that the plaintiff contends constitutes evidence that Jones Street Publishers published such statement with actual malice.

**ANSWER:**

The defendant, Jones Street Publishers, either did not investigate and with reckless disregard for plaintiffs' rights, published these articles, or, if it did investigate it, published the articles with actual malice.

5. Set forth an itemization of all damages the plaintiff claims to have sustained as a proximate result of Jones Street's alleged defamatory conduct, and for each component of the damages so itemized, describe separately and with specificity each and every fact upon which the Plaintiff relies to support his claim that such damages were proximately caused by the Article.

**ANSWER:**

- Mental Anguish
- Emotional Distress
- Anxiety
- Damage to Plaintiff's Reputation

6. Identify every person with whom the plaintiff has had any communication (oral, written, or otherwise) concerning this lawsuit or his allegations in this lawsuit, and for each such person identify and describe any non-privileged communications that are not fully encompassed in documents produced by plaintiff in response to Jones Street Publisher's Inc.'s First Request for Production of Documents.

**ANSWER:**

**Plaintiffs object to this interrogatory on the grounds of work-product privilege.**

7. Identify every person with whom the plaintiff has had any communication (oral, written or otherwise) concerning the Article, and for each such person identify and describe any non-privileged communications that are not fully encompassed in documents produced by plaintiff in response to Jones Street Publisher's Inc.'s First Request for Production of Documents.

**ANSWER:**

**Plaintiffs object to this interrogatory on the grounds of work-product privilege.**

8. Identify every person with whom the plaintiff has had any communication (oral, written, or otherwise) concerning the subject matter of the Article, and for each such person identify and describe any non-privileged communications that are not fully encompassed in documents produced by plaintiff in response to Jones Street Publisher's Inc.'s First Request for Production of Documents.

**ANSWER:**

**Plaintiffs object to this interrogatory on the grounds of work-product privilege.**

9. Identify every communication (oral, written or otherwise) between the plaintiff and Chris Haire or any agent or employee of Jones Street Publisher's Inc.'s concerning the Article or the subject matter of the Article.

**ANSWER:**

- 1) Plaintiff R.A.M. – No communication
- 2) Plaintiff R.C.G. – No communication
- 3) Plaintiff C.F. – no communication
- 4) Plaintiff D.G.N. – No communication
- 5) Plaintiff Adam Olsen Ackerman – No communication
- 6) Plaintiff A.E.P., III – unknown

**Betty and James Moore, Amy and Lee Garrard and Kathryn and Dean Frailey**

**received the attached letter from Noel S. Mermer, Publisher of the Charleston City Paper.**

10. State the following for each and every job the plaintiff has held:
- a. The name and address of the employer;
  - b. The title or position held;
  - c. The date(s) of employment;
  - d. The rate of compensation and total annualized compensation received by the plaintiff;
  - e. The name and address of the plaintiff's immediate supervisor;
  - f. The reasons for the termination of employment and the identify of all persons (other than plaintiff) who were involved with the termination.

**ANSWER:**

- 1) Plaintiff R.A.M. was employed as follows:

- While living in NC, Plaintiff was a soccer referee
  - Bi-Lo as a bagboy (summer 2013)
  - James Island County Park as a lifeguard (summer 2014)
  - Crowfield Golf Course as a golf course laborer (summer 2015)
- 2) Plaintiff R.C.G. was employed as follows:
- Surfscooter Bike Rentals as a delivery person from June thru August 2015; Supervisor: James Harrington, 4343 Betsy Kerrison Parkway, Johns Island, SC 29455 (seasonal work)
- 3) Plaintiff C.F. was employed as follows:
- East Cooper Gymnastics, Marina Drive, Charleston, SC, as a Gymnastics Coach assistant from 2013 to present and was paid minimum wage; supervisor
- 4) Plaintiff D.G.N. was employed as follows:
- Acme Grill located at 31 JC Long Blvd, Isle of Palms, SC 29451 as a busboy in the summer of 2013 – total paid \$899; in the summer of 2014 – total paid \$2004; Supervisor – Kristen.
  - Coda Del Pesce located at 1130 Ocean Blvd, Isle of Palms, SC 29451 as a waiter's assistant; Supervisor – Erick Zwart.
- 5) Plaintiff Adam Olsen Ackerman was employed as follows, see plaintiff's deposition:
- Edisto You Pick – picked vegetables in the summer of 2013 and 2014 and was paid \$10.00 per hour, Supervisor – Bruce Rawl.
  - Beachside Car Rentals and was paid \$10.00 per hour, supervisor – Mark Steedly
- 6) Plaintiff A.E.P., III
- Coda del Pesces restaurant on the Isle of Palms as a server assistant during the summer of 2014 and beginning February 2015 thru the summer.

11. Identify and describe in detail any organizations to which the plaintiff has belonged during the past five (5) years, and list any offices held in each such organization.

ANSWER:

- 1) Plaintiff R.A.M.

- Key Club, Mu Alpha Theta, Math Club, and National Spanish Honor Society (see plaintiff's deposition)
- 2) Plaintiff R.C.G. – AMHS Bowling Club, Co-founder
  - 3) Plaintiff C.F. - None
  - 4) Plaintiff D.G.N. – None
  - 5) Plaintiff Adam Olsen Ackerman – None
  - 6) Plaintiff A.E.P., III - None
12. List any and all addresses of plaintiff for the past five (5) years.

**ANSWER:**

- 1) Plaintiff R.A.M.  
108 Tunstall Dr. (since June 2013)  
Goose Creek, SC 29445  
  
16501-1 N Redcliff Dr. (for about 4 months before moving to SC)  
Huntersville, NC 28078  
  
15406 Pepperwood Ct.  
Huntersville 28078 (June 2008-Feb 2013)
- 2) Plaintiff R.C.G.  
1615 Culpepper Circle (4.5 years)  
Charleston, SC 29407  
  
178Cabrill Drive, Charleston, SC 29414
- 3) Plaintiff C.F.  
306 River Oak Drive  
Mount Pleasant, SC 29464
- 4) Plaintiff D.G.N.  
318 Oak Point Landing Drive  
Mt. Pleasant, SC 29464-6287

5) **Plaintiff Adam Olsen Ackerman**  
4525 Smoak Road  
Yonges Island, SC 29449

6) **Plaintiff A.E.P., III**  
50 Morgan Place Dr.  
Isle of Palms, SC 29451

13. If the plaintiff has been a party to or has testified (by deposition or any other form of testimony) in any civil lawsuit, arbitration, criminal prosecution, administrative or regulatory action, internal agency hearing or investigation, disciplinary action undertaken by any school or educational institution, or any governmental proceeding of any nature, other than the above-captioned lawsuit, provide the following information with respect to each such proceeding ("action"):

- a. The caption and case number of the action;
- b. The jurisdiction in which the action was filed;
- c. The nature of the action; and
- d. The disposition of the action (e.g., whether it is still pending, whether it was settled, whether it went to judgment and, if so, the party(ies) for whom judgment was entered).

**ANSWER:**

- 1) **Plaintiff R.A.M. has not.**
- 2) **Plaintiff R.C.G. has not.**
- 3) **Plaintiff C.F. has not.**
- 4) **Plaintiff D.G.N. has not.**
- 5) **Plaintiff Adam Olsen Ackerman has not.**
- 6) **Plaintiff A.E.P., III has not.**

14. Describe in detail all crimes of which the plaintiff was convicted, to which the plaintiff plead guilty, or for which the plaintiff was arrested, indicted, or charged. In describing such crime(s), provide the date of the crime and the state, county, and court in which the crime was processed.

**ANSWER:**

- 1) Plaintiff R.A.M. – has never been convicted of a crime.
- 2) Plaintiff R.C.G. – has never been convicted of a crime.
- 3) Plaintiff C.F. – has never been convicted of a crime.
- 4) Plaintiff D.G.N. – has never been convicted of a crime.
- 5) Plaintiff Adam Olsen Ackerman – has never been convicted of a crime.
- 6) Plaintiff A.E.P., III – has never been convicted of a crime.

15. Identify all college placement examinations plaintiff has taken including, but not limited to, the SAT and the ACT, the dates on which such examinations were completed, and the results of each examination reported by the testing administrator.

**ANSWER:**

- 1) Plaintiff R.A.M. – March 2014: SAT with Essay – Reading 750, Math 730, Writing 700 (see attached for 2012-2014); ACT – 35 (see attached); AP scores 2013-2015 (see attached).
- 2) Plaintiff R.C.G. – has not taken these tests yet.
- 3) Plaintiff C.F. – October 2014: SAT – Reading 690, Math 720, Writing 490 (see attached); March 2014: ACT – 30 (see attached).
- 4) Plaintiff D.G.N. – Fall 2014: SAT 1280; March 2014: ACT – 28.
- 5) Plaintiff Adam Olsen Ackerman – Fall 2014: SAT 1270 (1880 total); ACT – 27.
- 6) A.E.P., III – plaintiff will supplement.

*[Signature Page to Follow]*

PETERS, MURDAUGH, PARKER, ELTZROTH  
& DETRICK, P.A.

By: 

John E. Parker  
William F. Barnes, III  
P.O. Box 457  
Hampton, SC 29924  
(803) 943-2111  
[jparker@pmped.com](mailto:jparker@pmped.com)  
[wbarnes@pmped.com](mailto:wbarnes@pmped.com)

ATTORNEYS FOR PLAINTIFFS

November 20, 2015

**CERTIFICATE OF SERVICE**

This is to certify that I, **Donna L. Mann**, with the Law Firm of Peters, Murdaugh, Parker, Eltzroth & Detrick, P.A., attorneys for the Plaintiffs, have this date mailed via the U.S. Postal Service, a true and correct copy of the within *Plaintiffs' Answers to Defendant, Jones Street Publisher's, Inc.'s, First Set of Interrogatories* with first class postage prepaid to:

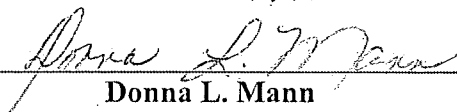
Wallace K. Lightsey  
Meliah Bowers Jefferson  
WYCHE, P.A.  
44 E. Camperdown Way  
Greenville, SC 29601

ATTORNEYS FOR DEFENDANT, JONES STREET PUBLISHERS, LLC

**RE:** *Moore, et al. v. Charleston County School Dist, et al.*  
*C/A No.: 2014-CP-10-7203*  
*C/A No.: 2015-CP-10-0605*  
*C/A No.: 2015-CP-10-1044*

PETERS, MURDAUGH, PARKER, ELTZROTH  
& DETRICK, P.A.

BY:

  
\_\_\_\_\_  
**Donna L. Mann**

November 20, 2015  
Hampton, South Carolina

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF CHARLESTON )

IN THE COURT OF COMMON PLEAS

A.E.P., III, )  
 )  
Plaintiffs, )

CIVIL ACTION NO.: 2015-CP-10-2389

v. )  
 )

CHARLESTON COUNTY SCHOOL )  
DISTRICT, KEVIN CLAYTON, AXXIS )  
CONSULTING COMPANY, AND )  
JONES STREET PUBLISHERS, LLC,, )  
Defendants. )

---

**PLAINTIFFS' SUPPLEMENTAL ANSWERS TO DEFENDANT, JONES STREET  
PUBLISHER'S, LLC'S,  
FIRST SET OF INTERROGATORIES**

---

TO: WALLACE K. LIGHTSEY, ESQUIRE, and MELIAH BOWERS JEFFERSON, ESQUIRE,  
ATTORNEYS FOR DEFENDANT, JONES STREET PUBLISHERS, LLC:

Plaintiffs' answers to defendant, Jones Street Publishers, LLC's, first set of interrogatories to plaintiffs as follows:

1. Give the names and addresses of persons known to the parties or counsel to be witnesses concerning the facts of the case and indicate whether or not written or recorded statements have been taken from the witnesses and indicate who has possession of such statements.

**ANSWER:**

- a) James R. Moore, Jr.  
108 Tunstall Drive  
Goose Creek, SC 29445
- b) Betty Moore  
108 Tunstall Drive  
Goose Creek, SC 29445
- c) Amy Garrard  
1615 Culpepper Circle  
Charleston, SC 29407

- d) **Lee Garrard**  
**1615 Culpepper Circle**  
**Charleston, SC 29407**
  - e) **Kathryn Frailey**  
**306 River Oak Drive**  
**Mount Pleasant, SC 29464**
  - f) **Dean Frailey**  
**306 River Oak Drive**  
**Mount Pleasant, SC 29464**
  - g) **Heidi Ackerman**  
**4525 Smoak Road**  
**Yonges Island, SC 29449**
  - h) **James Allen Ackerman**  
**4525 Smoak Road**  
**Yonges Island, SC 29449**
  - i) **Richard Nelson**  
**318 Oak Point Landing Drive**  
**Mt. Pleasant, SC 29464-6287**
  - j) **Cheryl Nelson**  
**318 Oak Point Landing Drive**  
**Mt. Pleasant, SC 29464-6287**
  - k) **Arthur E. Perry**  
**50 Morgan Place Dr.**  
**Isle of Palms, SC 29451**
- 

Witnesses a-k are parents and guardians ad litem for their sons who were or are members of the Academic High School Football Team, and are expected to testify as to their knowledge of the facts, events and circumstances leading up to and including the incidents for which this lawsuit was filed. No written or recorded statements.

- l) **Eugene H. Walpole**  
**2555 Sunnyside Farm Rd.**  
**Johns Island, SC 29455**

Coach Walpole, the plaintiff, is expected to testify as to his knowledge of the facts, events and circumstances leading up to and including the incidents for which this lawsuit was filed. No written or recorded statement.

- m) **R.A.M.**  
**108 Tunstall Drive**  
**Goose Creek, SC 29445**
- n) **R.C.G.**  
**1615 Culpepper Circle**  
**Charleston, SC 29407**
- o) **C.F.**  
**306 River Oak Drive**  
**Mount Pleasant, SC 29464**
- p) **D.G.N.**  
**318 Oak Point Landing Drive**  
**Mt. Pleasant, SC 29464-6287**

---

q) **Adam Olsen Ackerman**  
**4525 Smoak Road**  
**Yonges Island, SC 29449**

r) **A.E.P., III**  
**50 Morgan Place Dr.**  
**Isle of Palms, SC 29451**

**R.A.M., R.C.G., C.F., D.G.N., Adam Olsen Ackerman and A.E.P., III, plaintiffs who were members of the Academic High School Football Team for the football season during which subject incidents occurred, and are expected to testify as to their knowledge of the facts, events and circumstances leading up to and including the incidents for which this lawsuit was filed. No written or recorded statements, other than their deposition taken in August, 2015.**

s) **All members of the Academic High School Football Team and their Parents**  
**These names and addresses are in the possession of Charleston County**  
**School District.**

Members of the Academic High School Football Team and their Parents are expected to testify as to the facts, events and circumstances leading up to and including the incidents for which this lawsuit was filed. Plaintiffs are not aware of any written or recorded statements by these witnesses.

Plaintiffs reserve the right to supplement this interrogatory.

**SUPPLEMENTAL ANSWER 4.7.16:**

- c) Amy Garrard (new address)  
1355 Winchester Drive  
Charleston, SC 29407
- d) Lee Garrard (new address)  
1355 Winchester Drive  
Charleston, SC 29407
- D) Eugene H. Walpole  
2555 Sunnyside Farm Rd.  
Johns Island, SC 29455

---

Coach Walpole, the plaintiff, is expected to testify as to his knowledge of the facts, events and circumstances leading up to and including the incidents for which this lawsuit was filed. No written or recorded statement or than his deposition taken on December 16, 2015. A copy of which is in possession of defendants.

- n) R.C.G. (new address)  
1355 Winchester Drive  
Charleston, SC 29407

3. Identify separately by quotation each and every individual statement in the Article that the plaintiff contends is of and concerning the plaintiff, defames the plaintiff, and is false.

**ANSWER:**

All of the articles refer to plaintiffs because they were a member of the football team.

- 4. For each statement identified in response to the previous interrogatory, describe

the factual and evidentiary basis for the plaintiff's allegation that Jones Street Publishers published such statement with actual malice, identifying separately and with specificity each and every individual fact, document, or piece of evidence that the plaintiff contends constitutes evidence that Jones Street Publishers published such statement with actual malice.

**ANSWER:**

The defendant, Jones Street Publishers, either did not investigate and with reckless disregard for plaintiffs' rights, published these articles, or, if it did investigate it, published the articles with actual malice.

**SUPPLEMENTAL ANSWER 4.7.16:**

See plaintiffs' depositions, copies of which are in defendants' possession and the articles published in the City Paper or post dated October 21, 2014, October 22, 2014, October 30, 2014 and November 5, 2014.

---

6. Identify every person with whom the plaintiff has had any communication (oral, written, or otherwise) concerning this lawsuit or his allegations in this lawsuit, and for each such person identify and describe any non-privileged communications that are not fully encompassed in documents produced by plaintiff in response to Jones Street Publisher's Inc.'s First Request for Production of Documents.

**ANSWER:**

Plaintiffs object to this interrogatory on the grounds of work-product privilege.

**SUPPLEMENTAL ANSWER 4.7.16:**

See plaintiffs' answers to interrogatory no. 8.

7. Identify every person with whom the plaintiff has had any communication (oral, written or otherwise) concerning the Article, and for each such person identify and describe any non-privileged communications that are not fully encompassed in documents produced by plaintiff in response to Jones Street Publisher's Inc.'s First Request for Production of Documents.

**ANSWER:**

Plaintiffs object to this interrogatory on the grounds of work-product privilege.

**SUPPLEMENTAL ANSWER 4.7.16:**

See plaintiffs' answers to interrogatory no. 8.

8. Identify every person with whom the plaintiff has had any communication (oral, written, or otherwise) concerning the subject matter of the Article, and for each such person identify and describe any non-privileged communications that are not fully encompassed in documents produced by plaintiff in response to Jones Street Publisher's Inc.'s First Request for Production of Documents.

**ANSWER:**

Plaintiffs object to this interrogatory on the grounds of work-product privilege.

**SUPPLEMENTAL ANSWER 4.7.16:**

~~See plaintiffs' depositions, copies of which are in defendants' possession.~~

- 1) R.A.M. – friends who plaintiff discussed the watermelon incident with: Simeon Hall, Coleman Richards, Buckley McCall, Prof. Robert Ball; friends in NC plaintiff texted with: William Silva, Bryan Babb, Caleb White and Zack (plaintiff cannot recall his last name).
- 2) R.C.G. – friends plaintiff discussed the watermelon incident with: Beckham Watkins, football peers and parents.
- 3) C.F. – plaintiff recalls some classmates asked him about the Chris Haire article; friends who plaintiff discussed the watermelon incident with: Darius Nwokike, Caleb Ouelette, Sam Short, Trey Perry, Jack Delanty, Daniel Nelson.
- 4) D.G.N. – friends plaintiff discussed the watermelon incident with: Jack Delanty; and plaintiff recalls sending a post on Facebook to try to get Coach Walpole reinstated.
- 5) Adam Olsen Ackerman – plaintiff was requested by Ms. Peterson to give an interview, but cannot recall who it was with, in which it was discussed how

the watermelon situation affected the team and getting their coach back; plaintiff recalls using social media regarding getting their coach back; and plaintiff recalls texting with friends about the articles written about the team.

- 6) A.E.P., III – plaintiff told friends and teachers and anyone who asked about his interview by Mr. Martin and Mr. Clayton; and Guidance Counselor, Deborah Ware.
- 7) Eugene Walpole – plaintiff discussed the watermelon incident with his wife, Anne Walpole; daughter, Katherine Morbitzer, and son-in-law, David Morbitzer; son, Eugene Walpole, IV and daughter-in-law, Kristen Walpole; and his brother, Hank Walpole.
10. State the following for each and every job the plaintiff has held:
  - a. The name and address of the employer;
  - b. The title or position held;
  - c. The date(s) of employment;
  - d. The rate of compensation and total annualized compensation received by the plaintiff;
  - e. The name and address of the plaintiff's immediate supervisor;
  - f. The reasons for the termination of employment and the identify of all persons (other than plaintiff) who were involved with the termination.

**ANSWER:**

- 1) Plaintiff R.A.M. was employed as follows:
  - While living in NC, Plaintiff was a soccer referee
  - Bi-Lo as a bagboy (summer 2013)
  - James Island County Park as a lifeguard (summer 2014)
  - Crowfield Golf Course as a golf course laborer (summer 2015)
- 2) Plaintiff R.C.G. was employed as follows:
  - Surfscooter Bike Rentals as a delivery person from June thru August 2015; Supervisor: James Harrington, 4343 Betsy Kerrison Parkway, Johns Island, SC 29455 (seasonal work)
- 3) Plaintiff C.F. was employed as follows:
  - East Cooper Gymnastics, Marina Drive, Charleston, SC, as a Gymnastics Coach assistant from 2013 to present and was paid minimum wage; supervisor

- 4) Plaintiff D.G.N. was employed as follows:
- Acme Grill located at 31 JC Long Blvd, Isle of Palms, SC 29451 as a busboy in the summer of 2013 – total paid \$899; in the summer of 2014 – total paid \$2004; Supervisor – Kristen.
  - Coda Del Pesce located at 1130 Ocean Blvd, Isle of Palms, SC 29451 as a waiter's assistant; Supervisor – Erick Zwart.
  -
- 5) Plaintiff Adam Olsen Ackerman was employed as follows, see plaintiff's deposition:
- Edisto You Pick – picked vegetables in the summer of 2013 and 2014 and was paid \$10.00 per hour, Supervisor – Bruce Rawl.
  - Beachside Car Rentals and was paid \$10.00 per hour, supervisor – Mark Steedly
- 6) Plaintiff A.E.P., III
- Coda del Pesces restaurant on the Isle of Palms as a server assistant during the summer of 2014 and beginning February 2015 thru the summer.

**SUPPLEMENTAL ANSWER 4.7.16:**

- 6) Plaintiff A.E.P., III
- Morgan Creek Grill, Isle of Palms, SC as a dishwasher from April 2012 – August 2012 and was paid \$7.25 per hour; reason for leaving: Football starting up;
  - New Leaf Landscaping Corporation in downtown Charleston on the installation team from June 2013-August 2013 and was paid \$9.00 per hour; reason for leaving: Football starting up;
  - Coda del Pesces restaurant on the Isle of Palms as an assistant server from March 2014 – August 2015 and was paid \$6.50 per hour plus tips; reason for leaving: going to college; and
  - The Porch at Ion Club in Mount Pleasant, SC as a waiter from June 2015 – July 2015 and was paid \$9.00 per hour plus tips; reason for leaving: time conflict with other job.

12. List any and all addresses of plaintiff for the past five (5) years.

**ANSWER:**

- 1) Plaintiff R.A.M.

108 Tunstall Dr. (since June 2013)  
Goose Creek, SC 29445

16501-1 N Redcliff Dr. (for about 4 months before moving to SC)  
Huntersville, NC 28078

15406 Pepperwood Ct.  
Huntersville 28078 (June 2008-Feb 2013)

- 2) Plaintiff R.C.G.  
1615 Culpepper Circle (4.5 years)  
Charleston, SC 29407

178Cabrill Drive, Charleston, SC 29414

- 3) Plaintiff C.F.  
306 River Oak Drive  
Mount Pleasant, SC 29464

- 4) Plaintiff D.G.N.  
318 Oak Point Landing Drive  
Mt. Pleasant, SC 29464-6287

- 5) Plaintiff Adam Olsen Ackerman  
4525 Smoak Road  
Yonges Island, SC 29449

- 6) Plaintiff A.E.P., III  
50 Morgan Place Dr.  
Isle of Palms, SC 29451

**SUPPLEMENTAL ANSWER 4.7.16:**

- n) R.C.G. (new address)  
1355 Winchester Drive  
Charleston, SC 29407

15. Identify all college placement examinations plaintiff has taken including, but not limited to, the SAT and the ACT, the dates on which such examinations were completed, and the results of each examination reported by the testing administrator.

**ANSWER:**

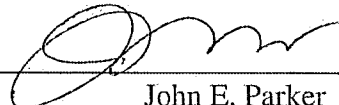
- 1) Plaintiff R.A.M. – March 2014: SAT with Essay – Reading 750, Math 730, Writing 700 (see attached for 2012-2014; ACT – 35 (see attached); AP scores 2013-2015 (see attached).
- 2) Plaintiff R.C.G. – has not taken these tests yet.
- 3) Plaintiff C.F. – October 2014: SAT – Reading 690, Math 720, Writing 490 (see attached); March 2014: ACT – 30 (see attached).
- 4) Plaintiff D.G.N. – Fall 2014: SAT 1280; March 2014: ACT – 28.
- 5) Plaintiff Adam Olsen Ackerman – Fall 2014: SAT 1270 (1880 total); ACT – 27.
- 6) A.E.P., III – plaintiff will supplement.

**SUPPLEMENTAL ANSWER 4.7.16:**

- 
- 6) ~~A.E.P., III – Dec. 2013: SAT 1090; ACT – 27 (see attached)~~

PETERS, MURDAUGH, PARKER, ELTZROTH  
& DETRICK, P.A.

By: \_\_\_\_\_



John E. Parker  
William F. Barnes, III  
P.O. Box 457  
Hampton, SC 29924  
(803) 943-2111  
[jparker@pmped.com](mailto:jparker@pmped.com)  
[wbarnes@pmped.com](mailto:wbarnes@pmped.com)

ATTORNEYS FOR PLAINTIFFS

April 8, 2016