

THE STATE OF SOUTH CAROLINA

In The Court of Appeals

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SC Court of Appeals

APPEAL FROM RICHLAND COUNTY

Court of Common Pleas

Clifton Newman, Circuit Court Judge

Case No.: 2006-CP-40-2788

Adrian Hammond,

Appellant,

v.

The State-Record Company, Inc., Lezlie

Patterson, Tanya R. Fogg, Monte Paulson,

Lisa Green and Cliff LeBlance,

Respondents.

SUPPLEMENTAL RECORD ON APPEAL

Adrian Hammond Pro Se

508 Lakeside Ave.

Columbia S.C. 29203

803-933-9688

INDEX

1997 Order Granting Defendants Motion to Dismiss.....	1
2007 Order Granting Defendants Motion to Dismiss.....	4
2010 Order Denying Plaintiff Motion for Relief from Order.....	9
2010 Order Denying Plaintiff Motion for Reconsideration.....	16
Form Order of November 27, 2006.....	17
Form Order of May 23, 2007 Denying Motion to Reconsider.....	18
Complaint in Civil Action 1997-CP-40-0294.....	19
Complaint in Civil Action 2006-CP-40-2788.....	31
2007 Motion to Reconsider Order of Judge Barber along Letter Explaining Why Filed with Judge Lee Instead of Barber (41).....	37
2007 Motion for Relief from Order.....	43
1997 Motion to Dismiss on Behalf of Defendants.....	46
2006 Motion to Dismiss on Behalf of Defendants.....	50
Transcript of April, 12 2010 Motion Hearing.....	53
2006 Memorandum in Support of Plaintiff Motion for Relief.....	98
1997 Memorandum in Support of Defendants Motion to Dismiss.....	109
Ex Parte Letter from Mr. Bender to Judge Barber.....	115
2006 Court Notice from Judge Barber to All Parties.....	116

2

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

IN THE COURT OF COMMON PLEAS

Adrian Hammond,)
Plaintiff,)

C. A. No. 97-CP-40-0294

vs.)

ORDER GRANTING DEFENDANTS'
MOTIONS TO DISMISS

Knight-Ridder, Inc.,)
d/b/a The State News-)
paper, Leslie Patterson,)
Monte Paulsen, and Lisa)
Greene, individually and)
as employees of Knight-)
Ridder, Inc.,)

Defendants,)

06-843

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BARBARA A. SCOTT
Clerk & C.S.

This matter came before the Court on October 10, 1997, upon the individual Defendants' Motion to Dismiss pursuant to Rule 12(b)(6) SCRPC, and Defendant Knight-Ridder, Inc. d/b/a The State Newspaper's Motion to Dismiss pursuant to Rule 12(b)(1) and 12(b)(6) SCRPC. Present and appearing at the hearing were Nikki Shutt, attorney for all Defendants, and Milton G. Kimpson and Dennis M. Gerald, attorneys for the Plaintiff. For the reasons set forth below, this Court grants all Defendants' Motions to Dismiss.

On January 27, 1997, the Plaintiff filed his Summons and Complaint in the above-referenced action. The Plaintiff's only causes of action against the Defendants were predicated upon S.C. Code Ann. § 20-7-780 (1981). Based upon that statute, the Plaintiff claimed that the Defendants were negligent in publishing his name and picture in the newspaper after he was charged with a crime as the Plaintiff was a juvenile at the time. However, in 1981, the Supreme Court of South Carolina had declared a statute containing almost identical language to be unconstitutional to the

extent that if violated the media's First Amendment rights to publish information lawfully obtained. State ex rel. The Times and Democrat, 276 S.C. 26, 274 S.E.2d 910 (1981) (holding that former S.C. Code Ann. § 14-21-30 was unconstitutional). Subsequently, the Office of the Attorney General of South Carolina opined that § 20-7-780 was likewise unconstitutional. 1993 S.C. Op. Atty. Gen. No. 93-42. More significantly, on July 1, 1996, § 20-7-780 was repealed. All of the Defendants filed Motions to Dismiss for failure to state facts sufficient to constitute a cause of action on February 28, 1997.

It is well established in South Carolina that the repeal of a statute operates retrospectively, and "has the effect of blotting it out as completely as if it had never existed and of putting an end to all proceedings under it." Taylor vs. Murphy, 293 S.C. 316, 360 S.E.2d. (1987); see also, Peterson Outdoor Advertising Corp. vs. Beaufort Cnty., 291 S.C. 833, 354 S.E.2d 564 (1987); McGlohen vs. Harland, 254 S.C. 207, 174 S.E.2d 753 (1970); Marshall vs. Richardson 240 S.C. 318, 125 S.E.2d 639 (1962).

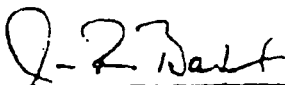
As it is within the Court's discretion to decide a case on statutory grounds rather than constitutional ones, this Court grants the Defendants' motions on grounds of mootness. The Court finds that the statute upon which the Plaintiff bases his causes of action against the Defendants, S.C. Code Ann. § 20-7-780, was repealed by Act Number 383 § 2 effective July 1, 1996, prior to the Plaintiff filing suit. As a result, the Court finds that Plaintiff's Complaint is moot. A case is moot when judgment, when

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rendered, will have no practical effect upon the existing controversy. McCoy vs. McCoy 283 S.C. 383, 323 S.E.2d 517 (1984).

IT IS HEREBY ORDERED the Motion to Dismiss on behalf of Defendant Knight-Ridder, Inc. d/b/a The State Newspaper and the Motion to Dismiss on behalf of Defendants Patterson, Paulson, and Greene are hereby granted.

AND IT IS SO ORDERED.



James R. Barber, III,
Presiding Judge

Columbia, South Carolina
December 1, 1997

9

Get another copy?

RSJ

STATE OF SOUTH CAROLINA)
)
COUNTY OF RICHLAND)

IN THE COURT OF COMMON PLEAS

Adrian Hammond,)
)
Plaintiff,)

Case No. 2006-CP-40-2788

vs.)

ORDER DISMISSING COMPLAINT

The State-Record Company, Inc.,)
Lezlie Patterson, Tanya R. Fogg,)
Monte Paulsen, Lisa Greene and)
Cliff LeBlanc,)

Defendants.)

RICHLAND COUNTY
FILED
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JANORRA A. SCOTT
C.C.C. & G.S.

BACKGROUND

This is an unusual case. Plaintiff alleges that on or about January 25, 1994, when he was sixteen years of age, he was arrested and charged with murder and assault. The basis for the within-captioned action is plaintiff's belief that defendants improperly published his name and photograph in connection with his arrest. Plaintiff also alleges that on January 27, 1997, he initiated a civil action against the same defendants alleging injury as a consequence of the publication of his name and photograph. Plaintiff alleges that his initial complaint against these defendants was dismissed on motion of defendants in 1997.

The within-captioned action was filed in May, 2006 alleging negligence and an unfair trade practice by defendants arising out of the publication of his name and photograph in connection with his arrest in 1994. Defendants have moved to dismiss pursuant to Rule 12(b)(6), SCRCF.

A hearing was held on January 2, 2007 at which time plaintiff appeared pro se, and defendants appeared through counsel.

DISCUSSION

Plaintiff does not contest the accuracy of the publications, but alleges that the publication of his name and photograph in connection with his arrest was negligent or an unfair trade practice. Defendants contend that the publication was neither negligent nor an unfair trade practice, and that the publication is privileged under the First and Fourteenth Amendments to the United States Constitution.

Plaintiff's negligence claim is premised on S.C. Code Ann. §20-7-780 (1976) which by its terms prohibited the publication of the name, photograph or identity of a juvenile in the custody of the Family Court system. The statute on which plaintiff bases his claim has been repealed, but defendants argue that even without repeal, a restriction on the publication of plaintiff's name and photograph would be unconstitutional. In support of their position, defendants direct the court's attention to State, ex rel., The Times and Democrat, 276 S.C. 26, 274 S.E.2d 910 (1981) in which the Supreme Court of South Carolina held that a statute prohibiting the publication, without the permission of the Family Court, of the name or photograph of any child under that court's jurisdiction unconstitutional. The Supreme Court held:

We... hold that the provisions of Section 14-21-30 are unconstitutional insofar as they prevent the truthful publication by the media of information lawfully obtained concerning a juvenile charged with a crime.

Id., 274 S.E.2d at 911.

Significantly, plaintiff does not contend that defendants obtained his name and photograph illegally. Plaintiff does contend that this court's 1997 dismissal of his initial suit was based on the repeal of Section 20-7-750 notwithstanding the identical prohibition was reenacted by the General Assembly in 1996. Act. No. 383, 1996 S.C. Acts 2309 (at 2343). Defendants argue that the

reenactment of an unconstitutional provision does not cure the unconstitutionality, and the reenactment has no bearing on this case.

Plaintiff's legal research is superior to that of most pro se plaintiffs, ~~but with respect to the~~ ~~statutory prohibition on the publication of the name and photograph of juveniles, stops short of the~~ ~~law in effect at the filing of this complaint.~~ By Act No. 388 in 2000, the General Assembly removed the previously enacted provision imposing an unconstitutional prior restraint, and replaced the unconstitutional restraint with a restriction on law enforcement agencies and the Family Court that identifying information regarding juveniles in the jurisdiction of the Family Court must not be provided to a newspaper except in limited circumstances, including:

- (1) Authorized by court order;
- (2) The Solicitor has petitioned the court to waive the child to Circuit Court;
- (3) The child has been bound over to a court which would have jurisdiction of the offense if committed by an adult; or
- (4) The child has been adjudicated delinquent in a court for one of the following offenses:
 - (a) A violent crime, as defined by Section 16-1-60;
 - (b) Grand larceny of a motor vehicle;
 - (c) A crime in which a weapon, as defined in Section 59-63-370, was used; or
 - (d) Distribution or trafficking of unlawful drugs, as defined in Article III, Chapter 53 of Title 44.

S.C. Code Ann. §20-7-8520(A)(Sup. 2006):

* If at the time of the initiation of plaintiff's current suit, there was no restriction on the publication of his name or photograph, it seems clear that he could have no claim that the publication constituted negligence. In a case where there was a statutory prohibition on the publication of the name of a crime victim, the United States Supreme Court rejected a claim based on negligence where a plaintiff, a victim of sexual assault, sought damages for the publication of her name. The Florida

Star v. B.J.F., 491 U.S. 524 (1989). Even if the South Carolina statutory restriction had not been repealed, and its constitutionality was not in question, it seems unlikely that the statute created a private cause of action for a juvenile defendant whose name had been published. As the Supreme Court of South Carolina held in a case involving a claim by a victim of sexual assault based on the South Carolina statute that prohibited the publication of a sexual assault victim's name, absent a clear expression of legislative intent to create a civil cause of action, a criminal statute does not create private causes of action. Dorman v. Aiken Communications, Inc., 303 S.C. 63, 398 S.E.2d 687 (1990). Nothing in the code sections cited by plaintiff indicates an intent on the part of the General Assembly to create a civil cause of action for juveniles charged with crime when their names or photographs were published.

Plaintiff's claim for damages as a consequence of alleged unfair trade practices is creative, but misunderstands both the nature of the Unfair Trade Practices Act and the role of newspapers in our society. As a general principle of law, "in publishing a newspaper, the publisher assumes no office, trust, or station in a public sense, nor does he enter into any public or contractual relation with the community at large." 58 Am.Jur.2d Newspapers, §7. Even in those circumstances where a newspaper publishes unfavorable news reports regarding a plaintiff, the newspaper cannot be said to be engaged in unfair trade practices. Syracuse Broadcasting Corp. v. Newhouse, 319 F.2d 683 (2d. Cir. 1963). Even if defendants here had been publishing advertising rather than news, their actions would have been exempt from the Unfair Trade Practices Act absent an allegation of knowing publication of false, misleading or deceptive advertising. S.C. Code Ann. §39-5-40(b) (1976). The publication of news is not an activity subject to the Unfair Trade Practices Act.

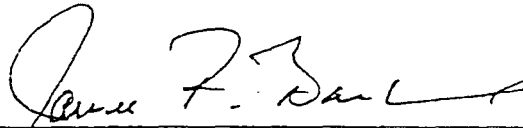
Where a person has been charged with a violent crime, the charge and the crime are matters of public interest, and the plaintiff's identity is inseparable from the crime and the charge. Doe v.

Berkeley Publishers, 329 S.C. 412, 496 S.E.2d 636 (1998). Plaintiff's desire for anonymity is an insufficient interest to justify the imposition of liability for the publication of truthful information regarding a matter of public interest and significance. The Florida Star v. B.J.F., supra; Doe v. Berkeley Publishers, supra.

CONCLUSION

Based on the foregoing discussion and authorities, and in spite of plaintiff's capable argument to the contrary, it is clear as a matter of law, plaintiff has no claim against these defendants under either theory advanced by him for the publication of his name and photograph in connection with news reports that he had been charged with the commission of violent criminal acts. Accordingly, IT IS HEREBY ORDERED, that defendants' motion be, and the same hereby is, granted, and plaintiff's complaint is dismissed with prejudice.

AND IT IS SO ORDERED.



JAMES R. BARBER, III
Circuit Court Judge

Columbia, South Carolina

January 29, 2007

Two days prior to the hearing scheduled before Judge Lee, a letter from Judge Barber, Chief Administrative Judge of Common Pleas for Richland County, was mailed to defense counsel. A copy of the letter was not received by Plaintiff. The letter notified counsel that the case was going to be placed on the trial roster and requested information regarding the status of the case and whether there were any pending motions. Without copying Plaintiff on his correspondence with the Court, counsel for the Defendants responded to the letter by notifying Judge Barber that there was a pending Motion to Dismiss the Complaint that needed to be heard.

The Defendants' Motion to Dismiss, which was denied by order of Judge Lee, was reset for hearing on January 2, 2007, before Judge Barber with no additional pleadings being filed by Defendants. Plaintiff filed an Objection to the hearing on the Motion to Dismiss.

On January 30, 2007, Judge Barber issued an Order Granting the Defendants' Motion to Dismiss the Complaint. Plaintiff filed a Motion for Reconsideration of the Order, a copy of which was provided to Judge Lee instead of Judge Barber, the then presiding judge. The motion was denied by Judge Barber without oral argument based, among other things, on the Plaintiff's failure to serve him with a copy of the Motion for Reconsideration.

On December 14, 2007, Plaintiff filed the Motion for Relief from the Order Dismissing the Complaint, which is currently before the Court. An order was signed by Judge Barber assigning the motion to be heard by me, as Plaintiff's motion includes issues which involve complaints against Judge Barber.

LEGAL ANALYSIS

The grounds for which a Motion for Relief from an Order can be granted are found in Rule 60 of the South Carolina Rules of Civil Procedure.

Under Rule 60(b), the Court, upon motion by a party, may relieve that party from an order on the basis of:

- (1) mistake, inadvertence, surprise, or excusable neglect;
- (2) newly discovered evidence which by due diligence could not have been discovered in time to move for a new trial under Rule 59(b);
- (3) fraud, misrepresentation, or other misconduct of an adverse party;
- (4) the judgment is void;
- (5) the judgment has been satisfied, released, or discharged, or a prior judgment upon which it is based has been reversed or otherwise vacated, or it is no longer equitable that the judgment should have prospective application.

S.C.R.C.P 60 (B) (1998).

Plaintiff argues that the order of Judge Barber was the result of surprise, fraudulent misrepresentation, and abuse of discretion thus constituting an error of law.

The order was issued in clear and concise language after a full hearing before Judge Barber, a judge who dismissed the previous action based on identical facts. The Plaintiff cites no factual basis for being surprised other than his contention that he was surprised that the court received ex parte correspondence from counsel for the Defendants which gave the Defendants an unfair advantage.

While it clearly appears that the Plaintiff as a pro se litigant should have been served with copies of all correspondence between defense counsel and the court, it appears that this communication was administrative in nature and all proceedings relative to this matter took place in court on the record. The Plaintiff was given adequate notice of the hearing before Judge

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Barber and an opportunity to be heard at the hearing. I therefore find no basis for Plaintiff's claim of surprise.

As to Plaintiff's claim of fraudulent misrepresentation, this argument is misplaced. Rule 60 (b)(3) provides for relief based on fraud, misrepresentation or other misconduct of an adverse party. While Plaintiff mentions an alleged improper ex parte communication between defense counsel and the court, he contends that his motion for relief should be granted based on improper conduct of the court, and not an adverse party as provided in the rules.

The Plaintiff contends that the motion should be granted based on the Court's violation of Canon 3 of the Code of Judicial Conduct which prohibits any judge from initiating, permitting, or considering ex parte communications. This argument falls short as Canon 3(B)(7) permits certain ex parte communications to facilitate scheduling and for other administrative purposes.

It is readily apparent that the notice forwarded to defense counsel by the court was of an administrative nature as provided in Canon 3, and was not for the purpose of discussing this case on the merits.

The Plaintiff further argues that Judge Barber's ruling constituted "an abuse of discretion and an error of law" all concerning Judge Barber's ruling which resulted in the dismissal of his 2006 case.

These arguments by the Plaintiff are of an appellate nature concerning prior rulings and are beyond the scope of Rule 60.

Another issue raised during the hearing was the appropriateness of Judge Barber granting the motion to dismiss when it already had been denied by Judge Lee. Plaintiff argues that Judge

Barber lacked the authority to rule on the motion to dismiss since it had already been ruled on by Judge Lee.

Under Rule 43 of the South Carolina Rules of Civil Procedure, "If any motion be made to any judge and be denied, in whole or in part, or be granted conditionally, no subsequent motion upon the same set of facts shall be made to any other judge in that action." S.C.R.C.P.43(1). This principle is firmly rooted in the jurisprudence of this state. See, Enoree Baptist Church v. Fletcher, 340 S.E.2d 546, 287 S.C. 602 (1986), where the court decreed "It is settled that one circuit judge does not have the power to review, modify, affirm, or reverse the findings of another circuit judge."

While Plaintiff's argument on this issue is compelling, it would only affect the outcome of this motion had Judge Barber lacked the authority to issue the order, thereby rendering the order void. ?

Under Rule 60(b)(4), a party may be relieved from an order on the basis that the order is void. "A void judgment (or order) is one, that from its inception, is a complete nullity and is without legal effect." Universal Benefits v. McKinney, 349 S. C. 179, 183, 561 S.E.2d 659, 661 (S.C. App. 2002). However, "there is a difference between a want of jurisdiction, in which case the court has no power to adjudicate, and a mistake in the exercise of undoubted jurisdiction, in which case the court's action is not void, but is subject to direct attack on appeal." Universal Benefits, 349 S.C. at 184, 561 S.E.2d at 662. In Universal, the Court held that an order dismissing an action for Plaintiff's failure to appear at the roster meeting and pre-trial conference could not be attacked as a void judgment. "The definition of 'void' under the rule only encompasses judgments from courts which failed to provide proper due process, or

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judgments from courts which lacked subject matter jurisdiction or personal jurisdiction.”

McDaniel v. U.S. Fidelity and Guar. Co., 324 S.C. 639, 644, 478 S.E.2d 868, 871 (S.C. App. 1996).

In the present case, as in Universal, Plaintiff's motion for relief fails because the Plaintiff has not sought appropriate procedural remedies. Although Plaintiff filed a Motion for Reconsideration of Judge Barber's order, he did not file an appeal of Judge Barber's order.

Rather, Plaintiff seeks to obtain appellate relief through a Motion for Relief pursuant to Rule 60.

Judge Barber, as Chief Administrative Judge and Presiding Judge over the hearing of the within matter, lacked neither subject matter jurisdiction over the Plaintiff's cause of action nor personal jurisdiction over the parties. Therefore, the order entered herein is not void and any collateral attack must be through appeal. Relief from an order under Rule 60 is not a substitute for an appeal. Failure to invoke procedural remedies by not filing an appeal is not a denial of due process. Universal Benefits v. McKinney, 349 S.C. 179, 184, 561 S.E.2d 659, 662 (S.C. App. 2002). Plaintiff was afforded due process in that he was given adequate notice of the hearing and an opportunity to be heard on a matter which was within Judge Barber's jurisdiction. Since Plaintiff failed to appeal Judge Barber's order, this order remains the law of this case.

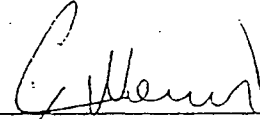
CONCLUSION OF LAW

Based on the foregoing, the Plaintiff is not entitled to any relief pursuant to Rule 60 of the

South Carolina Rules of Civil Procedure. It is therefore ordered, that the Plaintiff's Motion for Relief from Order is HEREBY DENIED.

AND IT IS SO ORDERED.

August 3, 2010
Kingstree, South Carolina



Clifton Newman
Presiding Judge

STATE OF SOUTH CAROLINA)

COUNTY OF RICHLAND)

Adrian Hammond,)

Plaintiff Pro Se,)

v.)

The State- Record Company, Inc., Lezlie)
Patterson, Tanya R. Fogg, Monte Paulson,)
Lisa Greene and Cliff LeBlance,)

Defendants.)

THE COURT OF COMMON PLEAS
FIFTH JUDICIAL CIRCUIT

Civil Action No.: 2006-CP-40-2788

**ORDER DENYING MOTION FOR
RECONSIDERATION**

RICHLAND COUNTY
FILED


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JEANETTE W. McBRIDE
C.C.P. & G.S.

The Court issued an Order Denying Plaintiff's Motion for Relief from the Order
Dismissing the Complaint. The Plaintiff subsequently filed a Motion for Reconsideration of that
Order. After considering the motion and applicable law, the Motion for Reconsideration is
hereby DENIED.

AND IT IS SO ORDERED.

September 29, 2010
Columbia, South Carolina


Clifton Newman,
Presiding Judge

Adrian Hammond

Tanya R. Fogg

PLAINTIFF(S)

DEFENDANT(S)

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BARBARA A. SCOTT
C.C. & G.S.
RICHLAND COUNTY

CHECK ONE:

- JURY VERDICT. This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- DECISION BY THE COURT. This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- ACTION DISMISSED (CHECK REASON): Rule 12(b), SCRPC; Rule 41(a), SCRPC (Vol. Nonsuit); Rule 43(k), SCRPC (Settled); Other _____
- ACTION STRICKEN (CHECK REASON): Rule 40(j) SCRPC; Bankruptcy; Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; Other _____

IT IS ORDERED AND ADJUDGED: See attached order; Statement of Judgment by the Court:

Defendant's motion to dismiss denied - no one appeared on its behalf. Plaintiff present.

Dated at Columbia, South Carolina, this 27th day of November, 2006

Alis Renee Lee
PRESIDING JUDGE

This judgment was entered on the _____ day of _____, 20____, and a copy mailed first class this 28 day of Nov, 2006 to attorneys of record or to parties (when appearing pro se) as follows:

Adrian Hammond, Pro Se

Jerry Jay Bender

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

s/BARBARA A. SCOTT
CLERK OF COURT

Adrian Hammond

The State-Record Company, Inc.
Leslie Patterson, Anya R. Fogg,
Monte Paulsen, Lisa Greene,
Cliff LeBlanc

PLAINTIFF(S)

DEFENDANT(S)

CHECK ONE:

- JURY VERDICT. This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- DECISION BY THE COURT. This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- ACTION DISMISSED (CHECK REASON): Rule 12(b), SCRPC; Rule 41(a), SCRPC (Vol. Nonsuit); Rule 43(k), SCRPC (Settled); Other _____
- ACTION STRICKEN (CHECK REASON): Rule 40(j) SCRPC; Bankruptcy; Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; Other _____

IT IS ORDERED AND ADJUDGED: See attached order; Statement of Judgment by the Court:

motion for Reconsideration denied without oral argument.
In addition, the moving party did not serve the presiding judge within 10 days.

Dated at Columbia, South Carolina, this 23rd day of May, 2007.

Jama Z. Balt
PRESIDING JUDGE

This judgment was entered on the _____ day of _____, 20____, and a copy mailed first class this 31 day of May, 2007 to attorneys of record or to parties (when appearing pro se) as follows:

Adrian Hammond, Pro se

Jay Bender

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

s/BARBARA A. SCOTT

CLERK OF COURT

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND -)

IN THE COURT OF COMMON PLEAS
FOR THE FIFTH JUDICIAL CIRCUIT

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S.

ADRIAN HAMMOND,)

Docket No.:

Plaintiff,)

COMPLAINT

-vs-

(JURY TRIAL DEMANDED)

KNIGHT-RIDDER, INC., LEZLIE)
PATTERSON, MONTE PAULSEN and)
LISA GREENE,)

Defendants.)

The Plaintiff complaining of the Defendants above-named, would respectfully show unto this Honorable Court as follows:

1. That the plaintiff is a citizen and resident of Richland County, State of South Carolina.
2. That upon information and belief, the defendant Knight-Ridder, Inc., d/b/a The State Newspaper (hereinafter "Knight-Ridder") is a corporation organized and existing in Richland County, State of South Carolina, and is the owner of The State Newspaper, a paper of general circulation in the aforesaid county and state.
3. That upon information and belief, the defendant Lezlie Patterson (hereinafter Lezlie Patterson) is a citizen and resident of Richland County, State of South Carolina.
4. That upon information and belief, the defendant Monte Paulsen (hereinafter Monte Paulsen) is a citizen and resident of Richland County, State of South Carolina.
5. That upon information and belief, the defendant Lisa

Greene (hereinafter Lisa Greene) is a citizen and resident of Richland County, State of South Carolina.

FOR A FIRST CAUSE OF ACTION
(NEGLIGENCE OF KNIGHT-RIDDER)

6. That on or about January 25, 1994, the plaintiff was arrested by the Columbia Police Department, detained and subsequently charged with the crimes of murder and assault involving one Earnest Dunlap; that at the time of the alleged incident, the plaintiff was sixteen (16) years of age.

7. That as a result of the foregoing criminal charges, the plaintiff, was subject to the jurisdiction of the Family Court for Richland County.

8. That on the dates January 27, 1994, January 29, 1994 and again on February 6, 1994, Knight-Ridder caused to be published the name, identity and picture of the plaintiff.

9. That pursuant to S.C. Code of Laws 20-7-780 (1976), Knight Ridder had a duty to seek an order from the Family Court authorizing disclosure of identifying information regarding the Plaintiff prior to publishing any such identifying information.

10. That upon information and belief, an essential purpose of 20-7-780 (1976) is to prohibit the unauthorized disclosure of information about juveniles charged with crimes where such disclosure of information may subject the juvenile to ridicule, harassment, threats, injury, and/or emotional distress or injury.

11. That upon information and belief inasmuch as the Plaintiff is in a class of persons S.C. Code Ann. 20-7-780 (1976) is designed to protect, Knight Ridder owed a duty of care to the

Plaintiff to obtain a court order prior to publishing such identifying information about the plaintiff.

12. That Knight-Ridder did not obtain an order of the Richland County Family Court prior to publishing the name, identity and picture of the plaintiff, hereby breaching its duty of care owed to the Plaintiff.

13. That as a result of publishing the name, identity and picture of the plaintiff, the plaintiff has been subjected to threats of violence and physical harm for his alleged involvement with the incident as published by Knight-Ridder on January 27, 1994, January 29, 1994 and again on February 6, 1994; that the plaintiff suffered and continues to suffer emotional distress and injury as a result of his name, identity and picture haven been published in Knight-Ridder's newspaper, all of which has and will in the future cause him to undergo much physical pain and suffering; has and will in the future cause him to have to spend money for medical services, and to lose money in the nature of wages and earnings.

14. That Knight-Ridder, in violating S.C. Code of Laws, 20-7-780 (1976), was negligent, willful, wanton, careless, reckless and grossly negligent at the time and place above-mentioned in one or more of the following particulars:

a. In publishing the identity of the Plaintiff in its newspaper of general circulation for Richland County, State of South Carolina on the aforesaid dates when it knew or should have known such publication was prohibited without prior authorization

by court order;

b. In publishing the picture of the Plaintiff in its newspaper of general circulation for Richland County, State of South Carolina on the aforesaid dates when it knew or should have known such publication was prohibited without prior authorization by court order;

c. In publishing the name of the Plaintiff in its newspaper of general circulation for Richland County, State of South Carolina on the aforesaid dates when it knew or should have known such publication was prohibited without prior authorization by court order;

d. In failing to use the degree of care and caution that a reasonably prudent person would have used under the circumstances then and there prevailing.

All of which were the direct and proximate cause of the injuries and damages suffered by the Plaintiff herein, said acts being in violation of the Statute of Laws for the State of South Carolina.

15. That the plaintiff is informed and believes that he is entitled to judgment against Knight-Ridder for actual, compensatory and punitive damages in a sum to be proven in Court.

FOR A SECOND CAUSE OF ACTION
(NEGLIGENCE OF LEZLIE PATTERSON)

16. The Plaintiff realleges paragraphs (1-16) above as fully stated herein.

17. That on or about January 25 1994, the plaintiff was arrested by the Columbia Police Department, detained and

subsequently charged with the crimes of murder and assault involving one Earnest Dunlap; that at the time of the alleged incident, the plaintiff was sixteen (16) years of age.

18. That as a result of the foregoing criminal charges, the plaintiff was subject to the jurisdiction of the Family Court for Richland County.

19. That on or about January 27, 1994, Lezlie Patterson, individually, and as an employee of Knight-Ridder, wrote and submitted a news story for publication in the State Newspaper which contained the name and identity of the plaintiff;

20. That pursuant to S.C. Code of Laws 20-7-780 (1976), Lezlie Patterson had a duty to seek an order from the Family Court authorizing disclosure of identifying information regarding the Plaintiff prior to disseminating any such identifying information.

21. That upon information and belief, an essential purpose of 20-7-780 (1976) is to prohibit the unauthorized disclosure of information about juveniles charged with crimes where such disclosure of information may subject the juvenile to ridicule, harassment, threats, injury, and/or emotional distress or injury.

22. That upon information and belief inasmuch, as the Plaintiff is in a class of persons S.C. Code Ann. 20-7-780 (1976) is designed to protect, Lezlie Patterson owed a duty of care to the Plaintiff to obtain a court order prior to disseminating such identifying information about the plaintiff.

23. That Lezlie Patterson did not obtain an order of the Richland County Family Court prior to disseminating the name and

identity of the plaintiff, hereby breaching her duty of care owed to the Plaintiff.

24. The plaintiff has been subjected to threats of violence and physical harm for his alleged involvement with the facts as reported by Lezlie Patterson on January 27, 1994; that the plaintiff suffered and continues to suffer emotional distress and injury as a result of Patterson's actions, all of which has and will in the future cause him to undergo much physical pain and suffering; has and will in the future cause him to have to spend money for medical services, and to lose money in the nature of wages and earnings..

25. That Lezlie Patterson, in violation of SC Code of Laws, § 20-7-780 (1976) was negligent, willful, wanton, careless, reckless and grossly negligent at the time and place above-mentioned in one or more of the following particulars:

a. In writing and submitting a news story for publication containing the identity of the Plaintiff in a newspaper of general circulation for Richland County, State of South Carolina when she knew or should have known that such action was prohibited without authorization by court order;

b. In writing and submitting a news story for publication containing the name of the Plaintiff in a newspaper of general circulation for Richland County, State of South Carolina without authorization by court order;

c. In failing to use the degree of care and caution that a reasonably prudent person would have used under the circumstances

then and there prevailing.

All of which were the direct and proximate cause of the injuries and damages suffered by the Plaintiff herein, said acts being in violation of the Statute of Laws for the State of South Carolina.

26. That the plaintiff is informed and believes that he is entitled to judgment for actual compensatory and punitive damages against Leslie Patterson in a sum to be shown at trial.

FOR A THIRD CAUSE OF ACTION
(NEGLIGENCE OF MONTE PAULSEN)

27. The Plaintiff realleges paragraphs (1-26) above as fully stated herein

28. That on or about January 29, 1994, the plaintiff was arrested by the Columbia Police Department, detained and subsequently charged with the crimes of murder and assault charges involving one Earnest Dunlap; that at the time of the alleged incident, the plaintiff was sixteen (16) years of age.

29. That as a result of the foregoing criminal charges, the plaintiff was subject to the jurisdiction of the Family Court for Richland County.

30. That on or about January 29, 1994, Monte Paulsen, individually and as an employee of Knight-Ridder wrote and submitted for publication in the State Newspaper a news story which contained the name and identity of the plaintiff;

31. That pursuant to S.C. Code of Laws 20-7-280 (1976), Monte Paulson had a duty to seek an order from the Family Court authorizing disclosure of identifying information regarding the

Plaintiff prior to disseminating any such identifying information.

32. That upon information and belief, an essential purpose of 20-7-780 (1976) is to prohibit the unauthorized disclosure of information about juveniles charged with crimes where such disclosure of information may subject the juvenile to ridicule, harassment, threats, injury, and/or emotional distress or injury.

33. That upon information and belief inasmuch, as the Plaintiff is in a class of persons S.C. Code Ann. 20-7-780 (1976) is designed to protect, Monte Paulson owed a duty of care to the Plaintiff to obtain a court order prior to disseminating such identifying information about the plaintiff.

34. That Monte Paulson did not obtain an order of the Richland County Family Court prior to disseminating the name and identity of the plaintiff, hereby breaching his duty of care owed to the Plaintiff.

35. That as a result of publishing the name and identity of the plaintiff, the plaintiff has been subjected to threats of violence and physical harm for his alleged involvement with the facts as reported by Monte Paulsen on January 29, 1994; that the plaintiff suffered and continues to suffer emotional distress and injury as a result of his name, identity and picture being published Knight-Ridder's newspaper, all of which has and will in the future cause him to undergo much physical pain and suffering; has and will in the future cause him to have to spend money for medical services, and to lose money in the nature of wages and earnings.

36. That Monte Paulsen, in violation of SC Code of Laws, § 20-7-780 (1976) was negligent, willful, wanton, careless, and grossly negligent at the time and place above-mentioned in one or more of the following particulars:

a. In disseminating the identity of the Plaintiff in a newspaper of general circulation for Richland County, State of South Carolina without authorization by court order;

b. In disseminating the name of the Plaintiff in a newspaper of general circulation for Richland County, State of South Carolina without authorization by court order;

c. In failing to use the degree of care and caution that a reasonably prudent person would have used under the circumstances then and there prevailing.

All of which were the direct and proximate cause of the injuries and damages suffered by the Plaintiff herein, said acts being in violation of the Statute of Laws for the State of South Carolina.

37. That the plaintiff is informed and believes that he is entitled to judgment against Monte Paulson in a sum to be proven at trial.

FOR A FOURTH CAUSE OF ACTION
(NEGLIGENCE OF LISA GREENE)

38. The Plaintiff realleges paragraphs (1-37) above as fully stated herein.

39. That on or about January 25, 1994, the plaintiff was arrested by the Columbia Police Department, detained and subsequently charged with the crimes of murder and assault charges

involving one Earnest Dunlap; that at the time of the alleged incident, the plaintiff was sixteen (16) years of age.

40. That as a result of the foregoing criminal charges, the plaintiff was subject to the jurisdiction of the Family Court for Richland County.

41. That on or about February 6, 1994, Lisa Greene, individually and as an employee and agent of Knight-Ridder, wrote and submitted for publication to the State Newspaper a news story containing the name and identify of the plaintiff;

42. That pursuant to S.C. Code of Laws 20-7-780 (1976), Lisa Greene had a duty to seek an order from the Family Court authorizing disclosure of identifying information regarding the Plaintiff prior to disseminating any such identifying information.

43. That upon information and belief, an essential purpose of 20-7-780 (1976) is to prohibit the unauthorized disclosure of information about juveniles charged with crimes where such disclosure of information may subject the juvenile to ridicule, harassment, threats, injury, and/or emotional distress or injury.

44. That upon information and belief inasmuch, as the Plaintiff is in a class of persons S.C. Code Ann. 20-7-780 (1976) is designed to protect, Lisa Greene owed a duty of care to the Plaintiff to obtain a court order prior to disseminating such identifying information about the plaintiff.

45. That Lisa Greene did not obtain an order of the Richland County Family Court prior to disseminating the name and identity of the plaintiff, hereby breaching his duty of care owed to the

Plaintiff.

46. That as a result of publishing the name and identity of the plaintiff, the plaintiff has been subjected to threats of violence and physical harm for his alleged involvement with the facts as reported by Lisa Green on February 6, 1994; that the plaintiff suffered and continues to suffer emotional distress and injury as a result of his name and identity being disseminated, all of which has and will in the future cause him to undergo much physical pain and suffering; has and will in the future cause him to have to spend money for medical services, and to lose money in the nature of wages and earnings.

47. That Lisa Greene, in violation of SC Code of Laws, § 20-7-780 (1976) was negligent, willful, wanton, careless, and grossly negligent at the time and place above-mentioned in one or more of the following particulars:

a. In disseminating the identity of the Plaintiff in a newspaper of general circulation for Richland County, State of South Carolina without authorization by court order;

b. In disseminating the name of the Plaintiff in a newspaper of general circulation for Richland County, State of South Carolina without authorization by court order;

c. In failing to use the degree of care and caution that a reasonably prudent person would have used under the circumstances then and there prevailing.

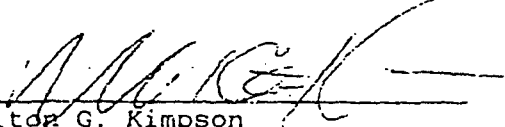
All of which were the direct and proximate cause of the injuries and damages suffered by the Plaintiff herein, said acts

being in violation of the Statute of Laws for the State of South Carolina.

48. That the plaintiff is informed and believes that he is entitled to judgment against Lisa Greene in a sum to be proven at trial.

WHEREFORE, Plaintiff prays for judgment against the Defendants for an appropriate amount of actual and punitive damages, for the costs of this action, and for such other and further relief as the Court may deem just and proper.

GERALD & KIMPSON, L.L.P.


Milton G. Kimpson
Attorney for Plaintiff
1913 Marion Street, Suite 102-A
Post Office Box 805
Columbia, South Carolina 29202-0805
803-254-6961

Columbia, South Carolina

1/27, 1997

STATE OF SOUTH CAROLINA)
)
COUNTY OF RICHLAND)

IN THE COURT OF COMMON PLEAS
FOR THE FIFTH JUDICIAL CIRCUIT

ADRIAN HAMMOND,)
)
) Plaintiff,)
)
) -vs-)
)
The State-Record Company,)
Inc. and Lezlie Patterson, Tanya R. Fogg)
Monte Paulsen, Lisa Greene, Clif LeBlanc)
)
) Defendants.)
)

Docket No. :

Complaint
(JURY TRIAL REQUESTED)

2006 MAY 12 PM 5:06
BARBARA A. SCOTT
C.C.C. & G.

The Plaintiff complaining of the Defendants above-named would respectfully show unto this Honorable Court as follows:

1. That the plaintiff is a citizen and resident of Richland County, State of South Carolina.
2. That upon information and belief, the defendant The State Record Company, Inc. is a Corporation organized under the laws of the state of South Carolina.
3. That upon information and belief, The State-Record Company, Inc., is the publisher of the daily and Sunday newspaper, published in Columbia, S.C., known as "The State".
4. That upon information and belief, Defendants, Lezlie Patterson, Tanya R. Fogg, Monte Paulsen, Lisa Greene, and Clif LeBlanc are persons employed by the State-Record Company, Inc. as (a.) staff writer (s) (hereinafter, "The Writers"). At all times herein relevant, the writers were acting within the course and scope of his/her their employment with the State-Record Company, Inc.

BACKGROUND

5. That on or about January 25, 1994, the plaintiff was arrested by the Columbia Police Department, detained and subsequently charged with the crimes of murder and assault involving one Earnest Dunlap, that at the time of the alleged incident, the plaintiff was sixteen (16) years of age.
6. That as a result of the foregoing criminal charges, the plaintiff, was subject to the jurisdiction of the Family Court for Richland County.
7. On January 26, 1994 The State Newspaper Quotes "A hearing is scheduled for today on the 16-year-old, who was not identified because the law does not consider him an adult until his 17th birthday.
8. That on the dates January 27, 1994, January 28, 1994, January 29, 1994, January 30, 1994, January 31, 1994, February 6, 1994, and again on February 26, 1994,

- The State-Record recklessly published the name, identity, and picture of the Plaintiff.
9. On January 28, 1994, The State Newspaper Publicized the Plaintiffs criminal record for the first time.
 10. The Plaintiff hired Dennis Gerald and Milton Kimpson in 1995 as representatives in a negligence claim against The State Newspaper, Lezlie Patterson, Monte Paulsen, and Lisa Greene, Individually and as employees of Knight-Ridder, Inc. The complaint in this case was filed January 27, 1997 thereafter; the Complaint was served on Lezlie Patterson, Monte Paulsen, Lisa Greene, and Fred Mott, President and an officer of The State Newspaper, Inc.
 11. This matter came before the Court on October 10, 1997, upon the individual Defendants Motion to dismiss pursuant to Rule 12(b) (6) SCRPC, and Defendant Knight-Ridder, Inc. d/b/a The State Newspaper's Motion to Dismiss pursuant to Rule 12 (b) (1) and 12 (b) (6) SCRPC and the case was granted and declared moot.
 12. The Defendants then held a meeting with the Plaintiffs discussing matters of the courts decision and instructed the Plaintiff that there were no other actions that could be taken because of the repeal of S.C. Code Ann. §20-7-780 (1976).
 13. Through the results of the Courts decision the Plaintiff was forced to face public criticisms for years from the Medias outlook of such a case that never made it to court to give the Plaintiff an opportunity to prove his innocence and as a result Plaintiff suffers from severe emotional stress.
 14. On September 28, 2002 the Plaintiff learned of two juveniles charged with the slaying of a Shaw Air Force Base Master Sergeant and were not publicized in the media, but at that time The State Paper quotes: "**The boys have not been identified because they are juveniles.**" They were also given a hearing to determine whether the teenagers would be charged as adults and eventually there cases were waived.
 15. The Plaintiff then moved to seek information pertaining to the repeal of S.C. Code Ann. §20-7-780 (1976) by writing Senator Darrell Jackson on April 18, 2003 with the intent to obtain a better understanding of repealed laws.
 16. Since 2003 a year past and the Plaintiff got no response from Senator Darrell Jackson and had to resort to using the law libraries as resources of understanding the repeal of laws.
 17. The Plaintiff resulted to Federal Law involving juveniles being identified by news media without a court order and came to an understanding that the State of South Carolinas decision to repeal a law that is still enforced on a Federal level.
 18. Through the Plaintiffs research he discovered that Law Code Ann. §20-7-780 (1976) was repealed by 1996 Act No. 383, § 2, effective July 1, 1996 which still left provisions for the name, identity, or picture of a child under the jurisdiction of the court, pursuant to this chapter, must not be made public by a newspaper, radio, or television station except as authorized by order of the court.
 19. As a result of the Plaintiffs discoveries, he then moved with due diligence to seek a lawyer to pursue a negligence claim against the attorneys that represented him against The State Newspaper.

20. After an entire year (2005) the Plaintiff failed to find an attorney to represent him against another attorney and as a result the defendant finds no other choice but to defend his own rights.
21. During the Plaintiffs investigation of case no. 97-CP-40-0294 (Adrian Hammond vs Knight Ridder Inc.) he discovered that Gerald & Kimpson had in fact filed a complaint against the wrong corporation and failed to inform the Plaintiff of such action.
22. In 1996 Legislator's repealed S.C. Code Ann. 20-7-780 giving the State Paper the opportunity to raise an issue of whether or not a party may pursue a cause of action under a repealed statute?
23. The Courts granted Knight-Ridder Inc. and it's employees motion to dismiss not only for filing a complaint against the wrong Corporation but also because of the repeal of S.C. Code Ann. 20-7-780 divesting the plaintiff Vested Rights.
24. A Statute is not to be applied retroactively unless that result is so clearly compelled as to leave no room for doubt; statute must contain express words evincing intent that it be retroactive or words necessarily implying such intent.- American Nat. Fire Ins. Co. v. Smith Grading and Paving, Inc., 454 S.E.2d 897,317 S.C. 445.

FOR A FIRST CAUSE OF ACTION
(NEGLIGENCE)

25. That pursuant to S.C code of Laws 20-7-780 (1976), The State Record Inc. had a duty to seek an order from the Family Court Authorizing disclosure of identifying information regarding the plaintiff prior to publishing any such identifying information.

26. That upon information and belief in as much as the Plaintiff is in a class of persons S.C. Code Ann. 20-7-780 (1976) is designed to protect, The State Record Inc. owed a duty of care to the Plaintiff.

27. That the State Record Inc. and its writers did not obtain an order of the Richland County Family Court prior to publishing the name, identity, and picture of the Plaintiff, hereby breaching its duty of care owed to the Plaintiff.

28. That the State Record Inc. and its writers, in violation of SC code of Laws, § 20-7-780 (1976) was negligent, willful, wanton, careless, reckless and grossly negligent at the time and place above mentioned in one or more of the following particulars:

- a. In writing and submitting a news story for publication containing the identity of the Plaintiff in a newspaper of general circulation for Richland County, State of South Carolina when she knew or should have known that such action was prohibited without authorization by court order;
- b. In writing and submitting a news story for publication containing the name of the Plaintiff in a newspaper of general circulation for Richland County, State of South Carolina without authorization by court order;
- c. In failing to use the degree of care and caution that a reasonably prudent person would have used under the circumstances injuries and damages suffered by the Plaintiff herein, said acts being in violation of the Statute of Laws for the State of South Carolina.

29. As a direct and proximate result of Defendants negligence, careless, and gross negligence, and Defendants departure from following the laws of this great State of South Carolina. The Plaintiff has suffered great financial loss and significant damage to his reputation.

30. The Plaintiff is informed and believes that he is entitled to recover from the Defendants actual damages in a sum of 250 million, to compensate the Plaintiff for his respective actual losses and damages, past, present, and future, plus incidental and consequential damages proximately flowing therefrom.

FOR A FIRST CAUSE OF ACTION
(NEGLIGENCE)

25. That pursuant to S.C code of Laws 20-7-780 (1976), The State Record Inc. had a duty to seek an order from the Family Court Authorizing disclosure of identifying information regarding the plaintiff prior to publishing any such identifying information.

26. That upon information and belief in as much as the Plaintiff is in a class of persons S.C. Code Ann. 20-7-780 (1976) is designed to protect, The State Record Inc. owed a duty of care to the Plaintiff.

27. That the State Record Inc. and its writers did not obtain an order of the Richland County Family Court prior to publishing the name, identity, and picture of the Plaintiff, hereby breaching its duty of care owed to the Plaintiff.

28. That the State Record Inc. and its writers, in violation of SC code of Laws, § 20-7-780 (1976) was negligent, willful, wanton, careless, reckless and grossly negligent at the time and place above mentioned in one or more of the following particulars:

- a. In writing and submitting a news story for publication containing the identity of the Plaintiff in a newspaper of general circulation for Richland County, State of South Carolina when she knew or should have known that such action was prohibited without authorization by court order;
- b. In writing and submitting a news story for publication containing the name of the Plaintiff in a newspaper of general circulation for Richland County, State of South Carolina without authorization by court order;
- c. In failing to use the degree of care and caution that a reasonably prudent person would have used under the circumstances injuries and damages suffered by the Plaintiff herein, said acts being in violation of the Statute of Laws for the State of South Carolina.

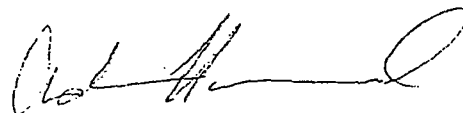
29. As a direct and proximate result of Defendants negligence, careless, and gross negligence, and Defendants departure from following the laws of this great State of South Carolina. The Plaintiff has suffered great financial loss and significant damage to his reputation.

30. The Plaintiff is informed and believes that he is entitled to recover from the Defendants actual damages in a sum of 250 million, to compensate the Plaintiff for his respective actual losses and damages, past, present, and future, plus incidental and consequential damages proximately flowing therefrom.

FOR A SECOND CAUSE OF ACTION
(Unfair Trade Practice Act)

31. Defendants' conduct as set forth in this complaint is unfair and deceptive and, as a result of the large number of persons who are affected and as a result of the potential for repetition by the defendants, has an adverse impact on the public interest.
32. Defendants' violation of the Unfair Trade Practice Act is the proximate cause of damage to the Plaintiff. Plaintiff injury would not have occurred but for the Defendant's conduct, and Plaintiff injury was reasonable, foreseeable, and a natural and probable consequence of Defendants' conduct.
33. Defendants' knew or should have known that the conduct described in this complaint constitutes a violation of the Unfair Trade Practice Act, and such violation is willful.
34. The Plaintiff is informed and believes that he is entitled to recover from the Defendants actual damages in a sum determined by the tier of facts to be sufficient under the circumstances, to compensate the Plaintiff for his respective actual losses and damages, past, present, and future, plus incidental and consequential damages proximately flowing therefrom.

May 12, 2006



Adrian Hammond
508 Lakeside Ave.
Columbia, SC 29203

STATE OF SOUTH CAROLINA)
)
COUNTY OF RICHLAND)

IN THE COURT OF COMMON PLEAS
FOR THE FIFTH JUDICIAL CIRCUIT

ADRIAN HAMMOND,)
)
Plaintiff,)

Docket No. : *06 CP 4002 788*

-vs-

SUMMONS
(JURY TRIAL REQUESTED)

The State-Record Company,)
Inc. and Lezlie Patterson, Tanya R. Fogg)
Monte Paulsen, Lisa Greene, Cliff LeBlanc)
)
Defendants,)
)

2006 MAY 12 PM 5:05
BARBARA A. SCOTT
C.C.C. & G.S.

TO THE DEFENDANTS ABOVE NAMED:

YOU ARE HEREBY SUMMONED and required to answer this Complaint. A copy of

Which is hereby served upon you. You are required to serve a copy of your Answer to this Complaint upon the undersigned subscriber at:

Adrian Hammond, 508 Lakeside Ave (803) 933-9688

Within thirty (30) days after service, exclusive of the day of service. If you fail to answer the complaint within thirty (30) days, judgment by default will be rendered against you for the relief demanded in this complaint.


Adrian Hammond

Columbia, South Carolina
May 12, 2006

STATE OF SOUTH CAROLINA)
)
 COUNTY OF RICHLAND)
)
 Adrian Hammond,)
)
 Plaintiff,)
)
 vs.)
)
 The State-Record Company, Inc,)
 Lezlie Patterson, Tanya R. Fogg,)
 Monte Paulsen, Lisa Greene and)
 Cliff LeBlanc,)
)
 Defendants.)

IN THE COURT OF COMMON PLEAS

Case No. 2006-CP-40-2788

BARBARA A. SCOTT
 C.C.C. & G.S.

2007 FEB 13 PM 24

FILED

NOTICE OF MOTION TO RECONSIDER

TO: CHIEF ADMINISTRATIVE JUDGE LEE,

PLEASE TAKE NOTICE that the Plaintiff, Adrian Hammond, respectfully will move pursuant to Rule 59, SCRPC for a Judicial Reconsideration based on the following grounds:

1. To the extent Defendant's alleges that "the basis for the within captioned action is plaintiff belief that defendants improperly published his name and photograph in connection with his arrest." That statement is inaccurate insofar as the defendants improperly published the plaintiff name and photograph without a court order in connection with his arrest. In 1994, it was mandated by law (20-7-780) to exploit the identity of a minor a court order must be obtained.

Moreover, defendants also allege plaintiff initiated a civil action against the same defendants. That is inaccurate in 1997 plaintiff filed suit against Knight-Ridder and its news writers (97-CP-40-0294) not the State-Record Company. An Affidavit was filed on behalf of Knight-Ridder by one Frederick B. Mott Jr. President of The State-Record Company claiming responsibility of the publications also that Knight-Ridder only owed the shares of stock of the State-Record. This situation needs to be further reviewed for potential fraudulent acts committed by these defendants.

2. To the extent defendants alleges "the plaintiff does not contest the accuracy of the publications" that was a premature statement to make the plaintiff has not had a chance to prove his innocence in the court of law (case still pending).
3. To the extent defendants "contend that the publication was neither negligent nor an unfair trade practice, and that the publication is privileged under the First and Fourteenth Amendments to the United States Constitution." According to the Elements of Civil Causes of Action negligence is the breach of a duty of care owed to the plaintiff by the defendants. An Affirmative duty to act exists only if created by statute, contract, relationship, status, property interest, or some other special circumstance. Carson v. Adgar 486 S.E. 2d 3 (1997)

If 20-7-780 violated the First and Fourteenth Amendment rights of the defendants the South Carolina General Assembly would not enact laws protecting minors from being exploited. The State newspaper can publish the identity of minors, but they

must have a court order. It is within the Court's discretion to decide a case on statutory grounds rather than constitutional ones. The defendants are making a lot of slippery arguments, but do not possess a court order to make them stick. The State of South Carolina has rules and those same rules apply to The State Newspaper Co. as well as any other person or corporation in the State of South Carolina. The defendants did not obtain a court order to put the plaintiff suit in violation of the First and Fourteenth Amendments to the United States Constitution.

4. To the extent defendants alleges that "in State, ex rel., The Times and Democrat, supra the Supreme Court of South Carolina held that a statute prohibiting the publication, without the permission of the family court, of the name or photograph of any child under that court's Jurisdiction unconstitutional." That particular case is inapplicable to this case insofar as the reporter in the Democrat case did not obtain the juvenile information inside of the courtroom, instead reporter learned of such information by being present at the scene of the crime. There is a big difference between getting your info out of a courtroom vs. being at the scene of the crime. Again, the law states "the name identity, or picture of a child under the jurisdiction of the court (not of the street), pursuant to this chapter, must not be made public by a newspaper, radio, or television station except as authorized by order of the court.
5. To the extent defendants alleges that "plaintiff stops short of the law in effect at the filing of this complaint because the General Assembly enacted act No. 388 in 2000." It is well established in the State of South Carolina when a crime or injury is

accrued it is then vested. Not at the filing of plaintiff current complaint. It is incorrect to allege that this plaintiff should be subjected to be governed by laws later enacted in 2000, when the events involving this particular case accrued in 1994. A retroactive effect was not applied to Act No. 388. Plaintiff must be governed by 20-7-780 which was in place as South Carolina law at the time defendants violated the privacy of the plaintiff.

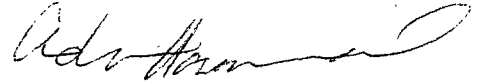
Based on the foregoing, the Plaintiff respectfully request that the Defendants' Motion to Dismiss be denied.

2-13-07
Columbia, S.C.

Respectfully submitted,



Adrian Hammond



January 13, 2007

RECEIVED
FEB 13 REC'D
BY: *[Signature]*

The Honorable Alison R. Lee
Chief Administrative Judge
Fifth Judicial Circuit
Richland Judicial Center
1701 Main Street
Columbia, South Carolina 29201

RICHLAND COUNTY
FILED
2007 FEB 28 AM 11:29
BARBARA A. SCOTT
C.C.C. H. G.S.

Re: Adrian Hammond v. The State Record Company, Inc., Lezlie Patterson, et al
Fogg, Monte Paulsen, Lisa Greene, and Cliff LeBlanc
C.A. No. 2006-CP-40-02788

Dear Judge Lee:

I have a number of concerns involving the above referenced case; I'm a Pro se Plaintiff representing myself in this matter. Because of that fact, I do not feel the Justice system owe me any kind of special treatment other than what is do. I do believe in equal justice for all, that is what make this country seem so great. In this particular case I do not believe that I am receiving equal treatment pursuant to the laws of South Carolina. Before you became Chief a motion hearing was scheduled to be before you. Defendants did not show and you denied motion. According to notice of the motion hearing it is said "all requests for continuances must be in writing" defendants did not put it in writing and they were rewarded with a newly scheduled Motion Hearing before the Honorable Judge James R. Barber. He was the same Judge that dismissed my complaint in 1997 (C.A. No. 97- CP -40 - 0294 same defendants). It is hard for me to believe that a barred law attorney with 31 years of experience can overlook a Motion Hearing he had filed on behalf of his clients. Mr. Bender is an amazing attorney; he has a unique way of making wrong look right with respect to law. It would make sense to wait the judge rotation out until you can get that particular judge you think might be more favorable to your

clients. Over looking my objection to a new hearing the motion was heard and my complaint was denied. I am filing a motion for reconsideration pursuant to Rule 59. Judge Lee, can you please have another Judge review this case? All I want is equal justice under the law. If possible can I schedule an appointment to discuss these matters?

Best regards,
Yours very truly,



Adrian Hammond

COUNTY OF RICHLAND)

Adrian Hammond,)

Plaintiff,)

v.)

The State-Record Company, Inc.,)

Lezlie Patterson, Tanya R. Fogg,)

Monte Paulsen, Lisa Greene and)

Cliff LeBlanc,)

Defendants.)

Case No. 2006-CP-40-2788

NOTICE OF MOTION AND MOTION FOR RELIEF FROM ORDER ON BEHALF OF PLAINTIFF

2007 DEC 14 PM 4:25
NARGARA A. SCOTT
C.C.P. & S.S.

TO: JAY BENDER, DEFENDANTS ATTORNEY

PLEASE TAKE NOTICE that ten (10) days hereafter, or as soon thereafter as may be heard, Plaintiff will move through the undersigned pursuant to Rule 60(b)(2), 60(b)(3), SCRPC, for relief from judgment or order in the within-captioned complaint based on the following grounds:

FRAUDULANT MISREPRESENTATION

To the extent the Honorable James R. Barber knowingly misrepresented the truth in his 1997 ruling involving Adrian Hammond v. Knight - Ridder, Inc. (97-CP-40-0294). Defendants filed motions pursuant to Rule 12(b) (1) and 12(b) (6) SCRPC. In support of Rule 12(b) (1) the President of The State Record Company provided the courts with Affidavit statements claiming full responsibility for the unlawful publication of the plaintiff identity. In support of Rule 12(b) (6) Mr. Bender relied upon the 1996 repeal of § 20-7-780 and the fact that plaintiff filed complaint after such repeal. Judge Barber did not comply with the laws of South Carolina when he dismissed case based upon the repeal of § 20-7-780. It is well settled that rights are vested at the time of injury. Vested rights are not destroyed by repeal of a statute. Vaughan v. Kalyvas, 288 S.C. 358, 342 S.E. 2d 617. Moreover, the South Carolina General Assembly did not repeal § 20-7-780 to stop it. So much language was added, legislatures had to recode the law as a natural

legislative routine at the same time leaving the same identical language that protected juveniles as a provision. Instead of dismissing plaintiff complaint for suing wrong entity, Judge Barber ruled in favor of defendants pursuant to none bearing arguments made by counsel.

Upon discovery of the above mentioned facts the plaintiff moved diligently and filed complaints against the correct entity (The State Record), also civil attorneys for withholding the fact that they filed actions against wrong entity and failed to inform plaintiff and his parents. Mr. Bender filed Motion to Dismiss pursuant to Rule 12(b) (6) on behalf of The State Record Company. Failure to file Rule 12(b) (1) clearly indicates plaintiff filed suit against correct entity. Which in fact confirm information Mr. Bender told plaintiff in a conversation held at the Supreme Court House here in Columbia prior plaintiff current civil action. A hearing was set before Judge Lee on July 20, 2006 but Mr. Bender had trial that week so it was continued. The motion hearing was rescheduled for November 27, 2006 before Judge Lee. Mr. Bender did not show and upon discovery of an ex parte letter dated November 17, 2006 to Judge Barber, Mr. Bender did not intend to show until he could land Judge Barber in his shopping cart. Judge Lee dismissed defendants motion in there absence. Instead of filing Motion to Reconsider with Judge Lee, Mr. Bender re-filed same Motion to Dismiss and was granted a new court date along with Judge Barber as the presiding judge.

Based upon the history of the above referenced case and the language contained in the ex parte letter clearly indicates that Judge Barber conspired with opposing counsel to deny this plaintiff due process pursuant to the laws of South Carolina. Plaintiff discovered ex parte letter June 1, 2007.

CONCLUSION

In spite of defendants incapable argument to the contrary, it is clear as a matter of law, defendants caused injury to plaintiff beginning January of 1994. It is absolute that at time of injury rights are then vested. Judge Barber is guilty of fraud because he knowingly misrepresented the truth in his 1997 ruling and concealed material facts to induce this plaintiff to detrimentally rely on it. The ruling was false and misleading and did not accord with the facts or the law. Judges must comply with the law in a faithful manner and must accord to every person who has a legal interest in a proceeding. A judge shall not initiate, permit, or consider ex parte communications, or consider other communications made to the judge outside the presence of the opposing party concerning a pending or impending proceeding. Judge Barber failed to comply with the law he also failed to comply with rules prescribed in Canons governing judicial duties.

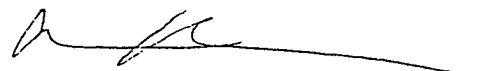
Mr. Bender made false and misleading assertions as arguments for his clients that did not comply with laws of South Carolina with the intent to deceive. A knowing misrepresentation of the truth constitutes Fraud.

With respect to the conversation held at the Supreme Court House, this plaintiff would like to thank Mr. Bender on the record for informing him that his civil attorneys sued the wrong entity.

Based on the foregoing, the plaintiff respectfully requests that the Plaintiff be relieved from Judgment in the within-captioned complaint pursuant to Rule 60(b) (2) and 60(b) (3).

Date: 12-14-07

Respectfully submitted,

By: 
Adrian Hammond pro se
508 Lakeside Ave.
Columbia S.C. 29203
(803) 933-9688

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND -)

IN THE COURT OF COMMON PLEAS

Adrian Hammond,)
Plaintiff,)

C. A. No. 97-CP-40-0294

vs.)

MOTION TO DISMISS ON BEHALF OF
DEFENDANT, KNIGHT-RIDDER, INC.
D/B/A THE STATE NEWSPAPER

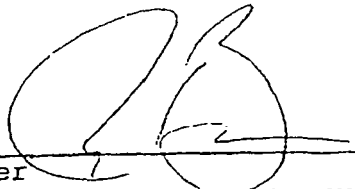
Knight-Ridder, Inc.,)
d/b/a The State News-)
paper, Lezlie Patterson,)
Monte Paulsen, and Lisa)
Greene, individually and)
as employees of Knight-)
Ridder, Inc.,)
Defendants,)

TO: MILTON G. KIMPSON, ESQUIRE, GERALD AND KIMPSON, J.L.P.,
ATTORNEYS FOR PLAINTIFF:

PLEASE TAKE NOTICE that ten (10) days hereafter, or as soon thereafter as counsel may be heard, defendant, Knight-Ridder, Inc., will move pursuant to Rule 12(b)(1) and 12(b)(6) SCRCP to dismiss the complaint for lack of personal jurisdiction over Knight-Ridder, Inc. and for failure to state facts sufficient to constitute a cause of action as to it, or, in the alternative, pursuant to Rule 56 SCRCP for summary judgment in its favor on grounds that The State newspaper is published by the State-Record Co., Inc., and not by Knight-Ridder, Inc., which has as its sole connection to the matter that it owns the shares of stock of the State-Record Co., Inc.

This motion will be supported by the Affidavit of Frederick B.

Mott, Jr. to be filed hereafter.



Jay Bender
BAKER, BARWICK, RAVENEL & BENDER, L.L.P.
1730 Main St., Post Office Box 8057
Columbia, South Carolina 29202
(803) 799-9091
Attorneys for Defendants

Columbia, South Carolina

February 26, 1997

FILED

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND -)
Adrian Hammond,)
Plaintiff,)
vs.)
Knight-Ridder, Inc.,)
d/b/a The State News-)
paper, Lezlie Patterson,)
Monte Paulsen, and Lisa)
Greene, individually and)
as employees of Knight-)
Ridder, Inc.,)
Defendants,)

IN THE COURT OF COMMON PLEAS

C. A. No. 97-CP-40-0294

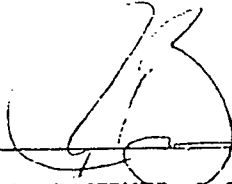
MOTION TO DISMISS ON BEHALF OF
DEFENDANTS, PATTERSON, PAULSEN
AND GREENE

TO: MILTON G. KIMPSON, ESQUIRE, GERALD AND KIMPSON, L.L.P.,
ATTORNEYS FOR PLAINTIFF:

PLEASE TAKE NOTICE that ten (10) days hereafter, or as soon thereafter as counsel may be heard, defendants, Lezlie Patterson, Monte Paulsen, and Lisa Greene, will move pursuant to Rule 12(b)(6) SCRC to dismiss the complaint as to them for failure to state facts sufficient to constitute a cause of action on the following grounds:

1. S.C. Code Ann. §20-7-780 (1976) is unconstitutional to the extent that it attempts to prevent the truthful publication by defendants of information lawfully obtained concerning a juvenile charged with a crime; and
2. S.C. Code Ann. §20-7-780 (1976) does not provide a basis

for a private cause of action.



Jay Bender
BAKER, BARWICK, RAVENEL & BENDER, L.L.P.
1730 Main St., Post Office Box 8057
Columbia, South Carolina 29202
(803) 799-9091
Attorneys for Defendants

Columbia, South Carolina

February 16, 1997

STATE OF SOUTH CAROLINA)

IN THE COURT OF COMMON PLEAS)

COUNTY OF RICHLAND)

Adrian Hammond)

Plaintiff)

v.)

The State-Record Company, Inc., Et Al.)

Defendant.)

CASE NO.
06-CP-40-2888

2788

MOTION AND ORDER INFORMATION
FORM AND COVER SHEET

2006 MAY 30 AM 10:34
ARBARA A. SCOTT
C.C.D. & G.S.

Plaintiff's Attorney: Adrian Hammond., Bar No. Address: 508 Lake Side Avenue, Columbia, SC 29203 phone: 803 933-9698 fax: e-mail: other:	Defendant's Attorney: Jay Bender, Bar No. 651 Address: P.O. Box 8057, Columbia, SC 29202 phone: 803 799 9091 fax: 803 779 3423 e-mail: jbender@brblegal.com other:
---	---

MOTION HEARING REQUESTED (attach written motion and complete SECTIONS I and III)
 FORM MOTION, NO HEARING REQUESTED (complete SECTIONS II and III)
 PROPOSED ORDER/CONSENT ORDER (complete SECTIONS II and III)

SECTION I: Hearing Information

Nature of Motion: Motion to Dismiss

Estimated Time Needed: 15 minutes Court Reporter Needed: YES / NO

SECTION II: Motion/Order Type

Written motion attached

Form Motion/Order

I hereby move for relief or action by the court as set forth in the attached proposed order.

Signature of Attorney for Plaintiff / Defendant Date submitted
May 26, 2006

SECTION III: Motion Fee

PAID - AMOUNT: \$25.00

- EXEMPT:
- Rule to Show Cause in Child or Spousal Support
 - (check reason) Domestic Abuse or Abuse and Neglect
 - Indigent Status State Agency v. Indigent Party
 - Sexually Violent Predator Act Post-Conviction Relief
 - Motion for Stay in Bankruptcy
 - Motion for Publication Motion for Execution (Rule 69, SCRPC)
 - Proposed order submitted at request of the court; or,
reduced to writing from motion made in open court per judge's instructions

Name of Court Reporter:

Other:

JUDGE'S SECTION

Motion Fee to be paid upon filing of the attached order.

Other:

JUDGE

CODE:

Date:

CLERK'S VERIFICATION

Collected by: MOKS

Date Filed:

5/30

MOTION FEE COLLECTED:

CONTESTED - AMOUNT DUE: _____

STATE OF SOUTH CAROLINA)
)
COUNTY OF RICHLAND)

Adrian Hammond,)
)
Plaintiff,)
)
vs.)
)
The State-Record Company, Inc.,)
Lezlie Patterson, Tanya R. Fogg,)
Monte Paulsen, Lisa Greene and)
Cliff LeBlanc,)
)
Defendants.)
)

IN THE COURT OF COMMON PLEAS

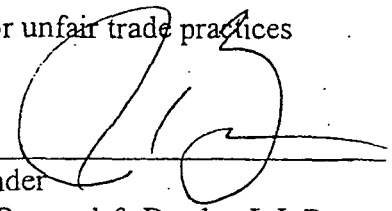
Case No. 2006-CP-40-2788

NOTICE OF MOTION AND MOTION
TO DISMISS ON BEHALF OF DEFENDANTS

2006 MAY 30 AM 10:21
BARBARA A. SCARLETT
C.C.C. & G.S.

TO: ADRIAN HAMMOND, PLAINTIFF, *PRO SE*:

PLEASE TAKE NOTICE that ten (10) days hereafter, or as soon thereafter as counsel may be heard, defendants will move through the undersigned pursuant to Rule 12(b)(6), SCRCPP, to dismiss the within-captioned complaint on grounds that the plaintiff has failed to state facts sufficient to constitute a cause of action either for negligence or unfair trade practices


Jay Bender
Baker, Ravenel & Bender, L.L.P.
3710 Landmark Drive, Suite 400
P. O. Box 8057
Columbia, SC 29202
(803) 799-9091
Attorneys for defendants

Columbia, South Carolina

May 26, 2006

STATE OF SOUTH CAROLINA)
)
COUNTY OF RICHLAND)

IN THE COURT OF COMMON PLEAS

Adrian Hammond,)
)
Plaintiff,)

Case No. 2006-CP-40-2788

vs.)

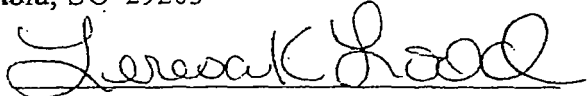
CERTIFICATE OF SERVICE

-----)
The State-Record Company, Inc.,)
Lezlie Patterson, Tanya R. Fogg,)
Monte Paulsen, Lisa Greene and)
Cliff LeBlanc,)
)
Defendants.)

2006 MAY 30 AM 10:35
BARBARA A. SCOTT
C.C.C. & G.S.

I, Teresa K. Todd, an employee of Baker, Ravenel & Bender, L.L.P., attorneys for the defendants do hereby certify that on the 26th day of May, 2006, I caused the attached Notice of Motion and Motion to Dismiss to be served upon counsel of record by depositing a true and correct copy of same in the United States Mail, First Class, postage prepaid, the return address clearly indicated on the envelope, and addressed as follows:

Adrian Hammond
508 Lake Side Avenue
Columbia, SC 29203


Teresa K. Todd
Legal Assistant to Jay Bender

May 26, 2006
Columbia, South Carolina

STATE OF SOUTH CAROLINA)
)
COUNTY OF RICHLAND)

IN THE COURT OF COMMON PLEAS
FIFTH JUDICIAL CIRCUIT
06-CP-40-2788

ADRIAN HAMMOND)
)
)

VS.)
)
)

TRANSCRIPT OF RECORD

THE STATE-RECORD COMPANY,)
INC., LEZLIA PATTERSON,)
TANYA R. FOGG, MONTE)
PAULSEN, LISA GREENE AND)
CLIFF LEBLANC)

APRIL 12, 2010
COLUMBIA, SOUTH CAROLINA

B E F O R E:

THE HONORABLE CLIFTON NEWMAN

A P P E A R A N C E S:

ADRIAN HAMMOND, PRO SE
COLUMBIA, SOUTH CAROLINA

JAY BENDER, ESQUIRE
COLUMBIA, SOUTH CAROLINA

ATTORNEY FOR THE DEFENDANT

SHIRLEY G. BROOM
CIRCUIT COURT REPORTER
SIXTEENTH JUDICIAL CIRCUIT

I N D E X

WITNESS

DIRECT

CROSS

RE-DIRECT

RE-CROSS

(NO TESTIMONY TAKEN)

E X H I B I T S

EXHIBIT NO.	DESCRIPTION	ID	EV
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(NO EXHIBITS)

1 THE COURT - THIS IS THE MATTER OF ADRIAN, PRO
2 SE, HAMMOND VERSUS THE STATE-RECORD, INCORPORATED. WE
3 HAVE MR. BENDER AND MR. HAMMOND?

4 MR. HAMMOND - YES, SIR.

5 THE COURT - SIR, HOW ARE YOU?

6 MR. HAMMOND - GOOD. HOW ABOUT YOURSELF, SIR?

7 THE COURT - ALL RIGHT, GOOD. WHO WANTS TO BE
8 HEARD FIRST?

9 MR. BENDER - I'M SORRY?

10 THE COURT - WHO WANTS TO BE HEARD FIRST?

11 MR. BENDER - THIS IS THE PLAINTIFF'S MOTION,
12 YOUR HONOR.

13 THE COURT - ALL RIGHT. YES, SIR, MR. HAMMOND?

14 MR. HAMMOND - IF I MAY, YOUR HONOR, I HAVE A
15 MOTION --- OH, NOT MOTION BUT A MEMORANDUM IN SUPPORT OF
16 THIS MOTION ---

17 THE COURT - OKAY.

18 MR. HAMMOND - --- IF YOU MAY. I HAVE A COPY FOR
19 YOU AND ALSO FOR THE DEFENDANTS FOR THE RECORD.

20 THE COURT - ALL RIGHT.

21 (DOCUMENTS HANDED UP TO THE COURT.)

22 MR. HAMMOND - YOUR HONOR, I MUST ASK THIS
23 QUESTION, BUT I SHOULDN'T HAVE TO ASK IT BUT I THINK I
24 MUST. I MUST ASK YOU TODAY THAT WILL THIS HEARING BE FAIR
25 ME BEING A PRO SE PLAINTIFF VERSUS A WELL-SKILLED OF LAW

1 ATTORNEY. I'M JUST WONDERING IF I --- AS A PRO SE
2 PLAINTIFF WOULD I RECEIVED EQUAL AND FAIR TREATMENT IN
3 THIS HEARING AS IT RESPECT --- IN RESPECT TO THE RULE OF
4 LAW? THAT'S ALL I ASK, YOUR HONOR. COULD I ---

5 THE COURT - WHETHER YOU'LL RECEIVE EQUALLY FAIR
6 TREATMENT WITH RESPECT TO THE RULE OF LAW?

7 MR. HAMMOND - YES, SIR.

8 THE COURT - ALL RIGHT. WELL, THE LAW IS THE LAW
9 REGARDLESS TO WHETHER YOU'RE PRO SE OR REPRESENTED BY A
10 LAWYER. THE LAW DOESN'T CHANGE BASED ON WHETHER OR NOT
11 YOU'RE A LAWYER OR WHETHER YOU'RE PRO SE.

12 MR. HAMMOND - YES, I UNDERSTAND, BUT BASED ON MY
13 HISTORY DEALING WITH THE DEFENDANTS, I MUST THAT QUESTION,
14 BECAUSE I'VE HAD BAD EXPERIENCES WITHIN THE HISTORY OF
15 THIS CASE DEALING WITH THIS COURT, AND IT WILL BE LATER
16 EXPLAINED IN MY PRESENTATION.

17 THE COURT - ALL RIGHT.

18 MR. HAMMOND - OKAY, UH, I'M HERE TODAY, YOUR
19 HONOR, I FILED A MOTION PURSUANT TO RULE 60 TO BE RELIEVED
20 FROM AN ORDER THAT WAS ORDERED --- BUT THERE WAS AN ORDER
21 THAT WAS DISMISSED BY JUDGE BARBER.

22 THE COURT - YES, SIR.

23 MR. HAMMOND - FOR A FIRST ORDER OF BUSINESS, IN
24 SUPPORT OF THIS MOTION, THE REASON WHY THIS PLAINTIFF HAD
25 SUBMITTED THIS PARTICULAR MOTION, BECAUSE HE --- JUDGE

1 BENDER SEND MR. BARBER A EX PARTE LETTER AT THE SAME TIME
2 KNOWING THIS CASE WAS ALREADY SET FOR A MOTION BEFORE
3 JUDGE LEE. I REPORTED THOSE ACTIONS BY JUDGE BARBER TO
4 THE JUDICIAL SELECTION COMMITTEE UP AT THE STATE HOUSE AND
5 WE ARE ALL PRESENT FOR A HEARING UP THERE TO HEAR THESE
6 MATTERS AS FAR AS --- NOT --- WELL, NOT ONLY DOES JUDGE
7 BARBER ACCEPT EX PARTE COMMUNICATIONS, BUT HE ACTED IN
8 HARMONY WITH IT. IF YOU PAY ATTENTION TO THE LANGUAGE HE
9 ALLOWED JAY BENDER TO DISMISS THE HEARING BEFORE JUDGE LEE
10 WITH NO EXPLANATION --- TO ME OR HER. SHE DISMISSED IN --
11 - DISMISSED IT IN MY FAVOR BECAUSE HE DIDN'T APPEAR.
12 JUDGE BARBER FOLLOWED THAT ACTION BY ABUSING HIS AUTHORITY
13 AS CHIEF ADMINISTRATIVE JUDGE BY ASSIGNING HIMSELF TO THE
14 CASE AND LISTING ANOTHER JUDGE AS THE PRESIDING JUDGE THAT
15 WAS ASSERTED THE CHIEF ADMINISTRATIVE JUDGE WHICH IS ---
16 IS JUST BASICALLY PERJURY. I DIDN'T RAISE THAT FACT,
17 BECAUSE I KNEW THAT JUDGE BARBER COULD EASILY SAY, HEY,
18 THIS WAS A MISTAKE, I DIDN'T ACTUALLY HAVE TO SIGN THE
19 ACTUAL --- THE ACTUAL NOTICE TO BE --- TO SHOW UP FOR THE
20 MOTION, SO I KIND OF LEFT IT IN THE AIR FOR HIM TO EXPLAIN
21 IT BEFORE THE COMMITTEE AT THE STATE HOUSE. I ACCUSED HIM
22 OF ASSIGNING HIS SELF TO THE CASE IN A FRAUDULENT WAY TO
23 INSURE THAT, YOU KNOW, THIS CASE STAYS ON THE GROUND AND
24 NOT --- AT ALL COST, AND WHAT I DID WAS --- WELL, WHAT MR.
25 BARBER DID WAS HE TESTIFIED BEFORE THE COMMITTEE AS

1 RESPECTS TO MY ACCUSATIONS THAT HE ASSIGNED HIS SELF TO
2 THE CASE, HE LIED UNDER OATH TO THE COMMITTEE AND SAID
3 THAT HE WAS NOT THE CHIEF ADMINISTRATIVE JUDGE. NOW, THIS
4 IS JUDGE BARBER HERE THAT'S SERVED AS CHIEF ADMINISTRATIVE
5 JUDGE LYING UNDER OATH AT THE STATE HOUSE AND WE STILL
6 HAVE HIM MAKING DECISIONS OF OUR LIVES HERE TODAY. ONE
7 PART OF ME ASK WHY WOULD A JUDGE TO GO OUT --- GO OUT OF
8 HIS WAY TO DO SOME OF THE THINGS THAT I'VE ACCUSED HIM OF.
9 WELL, YOUR HONOR, IF YOU MADE A RULING STARTING BACK SINCE
10 1997, A 1997 CASE AND THE 2006 CASE IS THE SAME IDENTICAL
11 CASE EXCEPT FOR IT IS CORRECTION OF THE LAW AND IT'S NEW -
12 -- IS THE CORRECT ENTITY THAT WAS SUPPOSED TO SUED FOR THE
13 --- FROM SINCE 1997. JUDGE BARBER --- I --- IN MY OPINION
14 HAD TO OVERREACH IN ABUSE HIS AUTHORITY BECAUSE IN ORDER
15 TO DISMISS THIS CASE, YOU HAD TO NOT FOLLOW THE LAW
16 BECAUSE IN --- A CHILD THAT'S PUT IN THE NEWSPAPER FOR A
17 CRIME AND PUT IN THAT NEWSPAPER WITHOUT A COURT ORDER WAS
18 A VIOLATION OF SOUTH CAROLINA LAW, STATUTE 27-780, A CLEAR
19 VIOLATION OF THE STATUTE. THIS CASE HAPPENED IN 1994.
20 THE SOUTH CAROLINA GENERAL ASSEMBLY REPEALED THAT LAW IN
21 1996. THIS LAWSUIT IN 19 --- THE FIRST ONE IN FACT WAS
22 NOT FILED UNTIL 1997. OKAY. THE DEFENDANT'S ARGUMENT.
23 WELL, SINCE I FILED THE CIVIL CASE AFTER THE REPEAL, WE NO
24 LONGER HAVE A CASE, AND THAT IS CLEARLY ---

25 THE COURT - GO BACK A FEW --- GO BACK TO THE

1 BEGINNING OF THAT THOUGHT AGAIN. I GOT LOST SOMEWHERE.
2 GO AHEAD.

3 MR. HAMMOND - OKAY, WELL, AS FAR AS THE REPEAL -
4 --

5 THE COURT - YES, SIR.

6 MR. HAMMOND - IN ORDER TO DISMISS THIS CASE
7 WHICH IS OPEN AND SHUT BOOK CASE, YOU HAVE TO NOT FOLLOW
8 LAW. IN OTHER WORDS IN MR. --- IN JUDGE BARBER'S SHOE, HE
9 HAD TO ABUSE HIS DISCRETION IN ORDER TO BASICALLY KEEP
10 THIS CASE NOT FROM BEING --- WELL, NOT FROM KEEP --- KEEP
11 JUSTICE FROM BEING JUSTIFIED IN THIS CASE I WOULD SAY.
12 LIKE I SAY, THE REPEAL OF THIS SITUATION HAS NO BEARING ON
13 THIS MATTER BECAUSE IN 1994 WAS WHEN THE ACTUAL INJURIES
14 HAPPENED TO THIS PLAINTIFF. IN 1996 IS WHEN THE SOUTH
15 CAROLINA GENERAL ASSEMBLY REPEALED IT. IN 1997 WAS FILED
16 SUIT, AND LIKE I SAID THE DEFENDANT ARGUED, WELL, SINCE --
17 - WELL, SINCE WE FILED THE CASE --- SINCE WE FILED THE
18 CASE UNDER STATUTE --- A STATUTE NEVER BEEN REPEALED ---

19 COURT REPORTER - YOUR HONOR, I'M HAVING TROUBLE
20 UNDERSTANDING HIM.

21 MR. HAMMOND - OH, I'M SORRY.

22 THE COURT - SPEAK A LITTLE SLOWER. GO AHEAD.

23 MR. HAMMOND - I'LL --- YES, SIR. OKAY, THE
24 DEFENDANTS IN THIS CASE RELIED ON REPEAL OF STATUTE 27-
25 780. THAT'S A BASIS TO DISMISS THIS MATTER, AND THAT IS

1 A CLEAR VIOLATION OF THE LAW BECAUSE IN 1994 WAS WHEN THE
2 ACTUAL INJURIES HAPPENED TO THIS PLAINTIFF, AND THE REPEAL
3 DIDN'T OCCUR UNTIL 1996, TWO YEARS AFTER THE INJURIES TO
4 THIS PLAINTIFF. ALL RIGHT. THAT PARTICULAR ACTION BY THE
5 DEFENDANTS ABOUT --- BY THE DEFENDANT WHICH IS MISLEADING,
6 A MISASSERTION OF THE LAW AND BY JUDGE BARBER RELY ON
7 MISASSERTION OF THE LAW, IT'S A CLEAR VIOLATION OF THE
8 CONSTITUTION AS THIS CASE STANDS RIGHT NOW TODAY, BECAUSE
9 THE FOURTEENTH AMENDMENT CLEARLY STATES THAT NO STATE
10 SHALL MAKE OR ENFORCE ANY LAWS THAT WILL ABRIDGE THE
11 PRIVILEGES AND IMMUNITIES OF SOUTH CAROLINA CITIZENS. AND
12 AS THIS CASE STANDS TODAY, THIS CASE IS IN CLEAR VIOLATION
13 OF AMENDMENT FOURTEEN. THE STATE --- THE DEFENDANTS FOR
14 THE STATE --- SHOULD HAVE BEEN ALLOWED TO ARGUE LAWS THAT
15 WOULD LATER ENACT IT TO HAVE PREJUDICE OVER THIS MATTER
16 AND THAT'S A CLEAR VIOLATION OF THE CONSTITUTION. THE
17 DEFENDANTS ALSO IN THIS CASE HAS RELIED HEAVILY ON THE ---
18 ON A PRECEDENT CASE NAMED THE STATE VS. TIMES AND DEMOCRAT
19 (SIC) AS A CASE TO DEVELOP THE ARGUMENT THAT --- THAT
20 STATUTE 27-780 VIOLATES THE FIRST AMENDMENT. THE FIRST
21 AMENDMENT --- THIS REALLY FALLS SHORT IN EXPLAINING THAT
22 WHEN SOUTH CAROLINA LEGISLATURE PASS LAWS THEY ARE AWARE
23 OF ALL CONSTITUTIONAL CONSEQUENCES WHEN THEY PASS THE
24 STATUTES, BUT LIKE I SAID, JUDGE BARBER HAS ALLOWED MANY
25 DISASSERTIONS OF THE LAW AND MANY DISASSERTIONS OF

1 PRECEDENT CASES THAT HAVE PRECEDENCE OVER THIS CASE AND
2 THAT SHOULD NOT BE ALLOWED. AS FAR AS THE CONSTITUTION,
3 IT CLEARLY STATES THAT NO STATE SHALL MAKE A LAW FOR TAKE
4 AWAY THE RIGHTS OF THE CITIZENS. EX PARTE LITIGANTS IS
5 CLEARLY A VIOLATION OF CANON 3, SECTION 7 WHERE NO JUDGE
6 SHALL ACCEPT EX PARTE COMMUNICATIONS OUTSIDE THE PRESENCE
7 OF A PARTY, AN ADVERSE PARTY, AND JUDGE BARBER HAD CLEARLY
8 VIOLATED CANON 7, OTHER CANONS WHERE RULES WITH RESPECT TO
9 THE INTEGRITY OF THE COURTS. JUDGE BARBER RULED IN HIS
10 ACTIONS IN THIS SITUATION, PUT THIS COURT IN GREAT DANGER
11 OF --- OF --- UPHOLDING HIS INTEGRITY. THIS COURT'S
12 FOUNDATION IS BASED ON INTEGRITY, AND JUDGE BARBER HAS NOT
13 BEEN A GOOD EXAMPLE OF THAT. AND I THANK YOU, YOUR HONOR.

14 THE COURT - ALL RIGHT, MR. BENDER.

15 MR. BENDER - MAY IT PLEASE THE COURT, YOUR
16 HONOR.

17 THE COURT - YES, SIR.

18 MR. BENDER - I'M JAY BENDER HERE TODAY ON BEHALF
19 OF THE DEFENDANTS. 1994 MR. HAMMOND IS ARRESTED FOR
20 MURDER AND ASSAULT. HE WAS SIXTEEN YEARS OLD AT THE TIME.
21 THE STATE NEWSPAPER PUBLISHED HIS NAME AND HIS PHOTOGRAPH,
22 BECAUSE KILLING STUDENTS IN OUR HIGH SCHOOLS IS NOT
23 NORMAL. IT'S NEWS. MR. HAMMOND'S PHOTOGRAPH WAS
24 PUBLISHED. HIS NAME WAS PUBLISHED. IN 1997 REPRESENTED
25 BY ABLE COUNSEL HE FILED A LAWSUIT CLAIMING TO HAVE BEEN

1 INJURED BY THE PUBLICATION OF THOSE --- OF THAT TRUTHFUL
2 STATEMENT AND HIS PHOTOGRAPH. THAT CASE WAS DISMISSED.
3 IN 2006 MR. HAMMOND, PRO SE, FILES THE SAME LAWSUIT AGAIN,
4 CHANGING ONLY ONE DEFENDANT'S NAME, FROM KNIGHT RIDDER
5 INCORPORATED DOING BUSINESS AS THE STATE NEWSPAPER TO THE
6 STATE RECORD COMPANY INCORPORATED. ON BEHALF OF THOSE
7 DEFENDANTS I MOVED TO DISMISS THE CASE. THERE WAS, IN
8 FACT, EX PARTE COMMUNICATION. JUDGE BARBER AS CHIEF
9 ADMINISTRATIVE JUDGE SENT A LETTER OUT TO ALL ATTORNEYS
10 WHOSE CASES APPEARED ON THE ROSTER, SAID TELL ME WHAT THIS
11 CASE IS ABOUT, AND DO YOU NEED A HEARING. I WROTE TO SAY
12 THIS CASE HAS BEEN PREVIOUSLY HEARD; THIS CASE IS NOW
13 PENDING AND THERE'S A MOTION FOR SUMMARY JUDGMENT, I'D
14 LIKE IT --- OR A MOTION TO DISMISS; I'D LIKE IT TO BE
15 HEARD. FOR SOME REASON MR. HAMMOND WAS NOT INDICATED AS
16 RECEIVING A COPY OF THAT. A HEARING WAS SCHEDULED BEFORE
17 JUDGE LEE IN OCTOBER OF 2006. I HAD GONE TO THE
18 UNIVERSITY TO TEACH FULL-TIME IN AUGUST OF 2006 AND FOR
19 SOME REASON DID NOT GET NOTICE OF THAT HEARING. WHEN I
20 FOUND OUT THAT THERE HAD BEEN A HEARING I HAD MISSED FOR
21 THE FIRST TIME IN ALL THE YEARS I HAD PRACTICED, I CAME
22 DOWN, PUBLICLY APOLOGIZED TO JUDGE LEE. I SENT A LETTER
23 OF APOLOGY TO MR. HAMMOND. JUDGE LEE INDICATED THAT THE
24 MOTION HAD BEEN DECIDED WITHOUT PREJUDICE. IT WAS
25 RESCHEDULED. WHEN IT WAS RESCHEDULED BY HAPPENSTANCE AND

1 THE WAY THE ROSTER WORKS IN RICHLAND COUNTY, JUDGE BARBER
2 HEARD THE MOTION THE SECOND TIME. HE HAD DISMISSED THE
3 FIRST CASE. HE HEARD THE MOTION IN THE SECOND CASE AND
4 DISMISSED IT. NO APPEAL WAS FILED IN THE FIRST CASE; NO
5 APPEAL WAS FILED IN THE SECOND CASE, WHICH IS THE ONE
6 WE'RE HERE ON TODAY. IN THE 2006 CASE MR. HAMMOND FILED
7 A MOTION TO RECONSIDER THE DISMISSAL BY JUDGE BARBER.
8 THAT MOTION WAS DISMISSED ON MAY 23RD, 2007 BECAUSE MR.
9 HAMMOND DID NOT SERVE JUDGE BARBER THE MOTION FOR
10 RECONSIDERATION AS REQUIRED BY THE RULES. THEN IN
11 DECEMBER OF 2007 MR. HAMMOND FILES THIS MOTION UNDER RULE
12 60 CLAIMING THAT JUDGE BARBER HAS COMMITTED A FRAUD AND
13 THAT I'VE COMMITTED A FRAUD BY THAT LETTER DEALING WITH
14 THE SCHEDULING MATTER. MR. HAMMOND IN ADDITION HAS FILED
15 A COMPLAINT AGAINST JUDGE LEE, HAS FILED A COMPLAINT
16 AGAINST JUDGE BARBER AND FILED A GRIEVANCE AGAINST ME WITH
17 THE SOUTH CAROLINA BAR FOR THAT LETTER. THE LETTER HAS
18 ABSOLUTELY NO BEARING ON THIS FRIVOLOUS LAWSUIT. IT IS
19 UNCONSTITUTIONAL AND HAS BEEN UNCONSTITUTIONAL SINCE THE
20 1980S TO SEEK TO PROHIBIT THE PUBLICATION OF THE NAME OF
21 A JUVENILE ACCUSED OF A CRIME IN SOUTH CAROLINA. THERE IS
22 NO BASIS FOR ANY ACTION EITHER THE 1997 ACTION OR THE 2006
23 ACTION AGAINST THE STATE NEWSPAPER OR ANY OF ITS REPORTERS
24 FOR TRUTHFULLY REPORTING THAT AS A SIXTEEN YEAR OLD MR.
25 HAMMOND WAS ARRESTED AND CHARGED WITH MURDER. NOW, IF

1 THERE IS FRAUD AT ALL, --- THERE'S NO FRAUD IN THIS CASE
2 AT ALL BY ANY PERSON. THIS RULE 60 MOTION HAS ABSOLUTELY
3 NO MERIT. THIS CASE SHOULD BE DECLARED ENDED. THERE'S
4 BEEN NO INDICATION TODAY OF ANY NEW EVIDENCE OF ANYTHING
5 THAT WOULD CONSTITUTE A FRAUD ON THE COURT AND CERTAINLY
6 NO FRAUD UPON MR. HAMMOND. I WOULD RESPECTFULLY REQUEST
7 THAT MR. HAMMOND'S MOTION BE DENIED.

8 THE COURT - ALL RIGHT, MR. HAMMOND?

9 MR. HAMMOND - OH, REAL QUICK, YOUR HONOR. HE'S
10 --- I NOTICE HE'S LIKE --- HE LIKE TO HIGHLIGHT THE MURDER
11 CHARGE AND ASSAULT WITH INTENT TO KILL CHARGES, WHICH I
12 WAS CHARGED WITH AND WHICH WAS THE REASON I WAS PUT IN THE
13 PAPER. NEVER WENT TO COURT FOR IT YET, YOUR HONOR, WAS
14 NOT GUILTY OF THE CHARGES. THAT'S WHY THIS LAWSUIT IS
15 SUCH A GREAT INJUSTICE. CHECK THE RECORDS, PLEASE. I
16 CHALLENGE YOU TO DO THAT. TRUTHFUL INFORMATION. MR.
17 BENDER IS NOT EXPLAINING TO THE COURT THAT --- THE FIRST
18 AMENDMENT DOES NOT STOP THE STATUTE WHICH IS STATUTE 27-
19 780 FROM BEING IN THE COURTROOM. IT DOES PREVENT THEM
20 FROM REPORTING INFORMATION TRUTHFULLY OBTAINED, EXCEPT FOR
21 THE IDENTITY IN THE NAME OF A JUVENILE WITHOUT A COURT
22 ORDER. THAT'S THE ONLY THING THAT'S MISSING FROM HIS
23 COMMENTS, AND LIKE I SAID, THIS IS CLEARLY CONSTITUTIONAL,
24 BECAUSE THE SOUTH CAROLINA LEGISLATURE --- LEGISLATURE WAS
25 CLEARLY AWARE OF ALL CONSTITUTIONAL REQUIREMENTS WHEN THEY

1 ENACTED THE LAW. THE LAW WAS ENACTED FOR MANY YEARS. AS
2 FAR AS THE EX PARTE COMMUNICATION, YOUR HONOR, I FIND IT
3 FUNNY HIS EXPLANATION TO IT BECAUSE WHY WOULD YOU EVEN
4 SEND A LETTER WITH THE EXPLANATION THAT HE GAVE WHEN THIS
5 CASE WAS ALREADY SET TO BE HEARD? WHY WOULD YOU DO THAT,
6 OTHER THAN FRAUDULENT INTENTIONS, CLEARLY FRAUDULENT
7 INTENTIONS? THE RESCHEDULING OF THE CASE AS MR. BENDER
8 MENTIONED WHEN HE MISSED IT OR I MISSED IT, FIRST OF ALL,
9 WHEN YOU SCHEDULE A CASE TO BE HEARD, HE --- ALL --- ALL
10 THE REST OF THEM --- JUST THAT ONE THAT FELL BEHIND THE EX
11 PARTE LETTER. I MEAN I DON'T UNDERSTAND HOW YOU CAN YOU
12 JUST MISS ONE, OTHER THAN FOLLOWING THROUGH WITH THE
13 LANGUAGE IN THE LETTER. THE LANGUAGE IN THE LETTER IS
14 CLEARLY OUT OF LINE. IT --- INFORMING JUDGE BARBER OF
15 SOMETHING THAT WAS ALREADY SET --- SET FOR TO BE HEARD BY
16 JUDGE LEE AS EXPLAINED, AND MOST OF ALL, YOUR HONOR, AS
17 MR. BENDER EXPLAINED, JUDGE BARBER WAS THE JUDGE IN THE
18 1997 CASE WHICH WAS DISMISSED. WHY IS HE THE JUDGE AGAIN?
19 LIKE I SAID, HE HAS TO COVER UP HIS DIRTY AND ILLEGAL
20 TACTICS AS REPRESENT HIS SELF AS THE JUDGE AS FAR AS
21 DISMISSING THIS PARTICULAR MATTER. IF THIS --- IF THIS
22 CASE --- OH, IF THE STATUTE TO PROTECT --- DO NOT --- WAS
23 SO UNCONSTITUTIONAL, IT WILL STAFFED. IT HAD --- SOUTH
24 CAROLINA CASE LAW CLEARLY EXPLAINS THAT IT HAS TO BE
25 CLEARLY EXPRESSED BY THE SOUTH CAROLINA LEGISLATURE THAT -

1 -- TO THE STATUTE IS UNCONSTITUTIONAL. AND IN THIS CASE
2 IT WAS NOT AND CLEAR. AS A MATTER OF FACT, THE REPEAL OF
3 STATUTE 27-780 DID NOT --- WAS NOT REPEALED TO STOP THE
4 STATUTE. IT WAS REPEALED BECAUSE AS A NATURAL ROUTINE
5 WITH SOUTH CAROLINA LEGISLATURE, WHEN THEY ADD SO MUCH
6 LANGUAGE TO A PARTICULAR STATUTE, THEY HAVE TO BASICALLY
7 REPEAL IT OR AMEND IT TO ADD THAT LANGUAGE TO RE-CODING,
8 AND THAT'S BASICALLY WHAT WAS DONE IN THIS CASE, YOUR
9 HONOR. IT WASN'T TAKEN AWAY COMPLETELY, BUT IT WAS JUST
10 RE-CODED. AND THAT'S WHY I DID, IN FACT, FILE A CIVIL
11 SUIT AGAINST MY CIVIL ATTORNEY FOR NOT UNDERSTANDING THAT
12 FACT. NOW, AS FAR AS A MOTION TO RECONSIDER --- TO
13 RECONSIDER WITH THAT I FILED WITH JUDGE BARBER, JUDGE
14 BARBER DID DISMISS THAT RECONSIDERATION, BUT THE REASON
15 WHY HE DISMISSED THAT RECONSIDERATION WAS BECAUSE DUE TO
16 THE DIRTY TACTICS OF JAY BENDER AND MR. BARBER, I FELT THE
17 NEED, NOT KNOWING THE PROPER PROCESS AT THE TIME AS
18 OPPOSING PLAINTIFF, I FELT THE NEED TO CONTACT JUDGE LEE,
19 BECAUSE SHE WAS, IN FACT, THE FOLLOWING CHIEF
20 ADMINISTRATIVE JUDGE AFTER JUDGE BARBER. I FILED A
21 RECONSIDERATION WITH HER BECAUSE SHE WAS --- SHE WAS THE
22 CHIEF ADMINISTRATIVE JUDGE, AND SHE WAS THE ORIGINAL JUDGE
23 WHO WAS SUPPOSED TO HEAR THE CASE BEFORE MR. BENDER WAS A
24 NO-SHOW. I WROTE --- I FILED A RECONSIDER WITH HER AND I
25 EXPLAINED WITH HER --- TO HER WITH A LETTER ATTACHED ON

1 WHY I WAS DOING THAT PARTICULAR ACTION. I EXPLAINED IT
2 AND IT'S IN THE RECORD HERE, YOUR HONOR, AS FAR AS THE
3 INDEX FOR ATTACHMENT. AND, YOUR HONOR, THIS CASE --- I ---
4 - THIS IS RELIEF OF THE PLAINTIFF THAT THIS CASE MUST BE
5 PUT BACK ON THE DOCKETS, YOUR HONOR, AS A MATTER OF LAW.
6 THE DEFENDANTS HAVE BEEN FOR MANY YEARS BEEN ABLE TO
7 MISLEAD THE COURTS AND IT'S TIME FOR IT TO COME TO A STOP,
8 AND YOUR HONOR, LAST BUT NOT LEAST, THIS CASE DESERVES TO
9 BE PUT ON THE DOCKET FOR TRIAL. THANK YOU, YOUR HONOR.

10 THE COURT - ALL RIGHT, MR. BENDER?

11 MR. BENDER - THANK YOU, YOUR HONOR. MY NOVEMBER
12 17TH LETTER TO JUDGE BARBER AS THE CHIEF ADMINISTRATIVE
13 JUDGE WAS IN RESPONSE TO HIS NOVEMBER 16TH LETTER, PLEASE
14 BE ADVISED THAT THE ABOVE CAPTIONED CASE HAS BEEN FILED
15 FOR SIX MONTHS. IN ANOTHER SIX MONTHS THIS CASE WILL BE
16 ADDED TO THE TRIAL ROSTER. IF YOU BELIEVE THIS CASE WILL
17 NOT BE READY FOR TRIAL AT THE END OF THIS ONE YEAR PERIOD,
18 YOU NEED TO IMMEDIATELY SCHEDULE A STATUS CONFERENCE WITH
19 THIS OFFICE TO REVIEW THE MATTER. MY LETTER OF NOVEMBER
20 17TH, DEAR JUDGE BARBER, THE ABOVE REFERENCED CASE IS
21 SUBJECT TO MOTION FOR SUMMARY JUDGMENT BY THE DEFENDANT.
22 A HEARING HAS BEEN SET ON THE MOTION PREVIOUSLY BUT
23 CONTINUED BECAUSE IT CAME UP AT A TIME I WAS IN TRIAL.
24 THIS SAME PLAINTIFF HAS FILED AN IDENTICAL ACTION AGAINST
25 THE STATE MANY YEARS AGO AND THAT ACTION BEEN RESOLVED IN

1 FAVOR OF THE NEWSPAPER. IN THIS MOST RECENT ACTION THE
2 PLAINTIFF HAS SUED THE NEWSPAPER AND HIS FORMER LAWYERS.
3 HIS FORMER LAWYERS HAVE HAD THEIR SUMMARY JUDGMENT MOTION
4 GRANTED. I HOPE THAT THE NEWSPAPER'S MOTION CAN BE
5 SCHEDULED FOR A HEARING SOON. THAT'S MR. HAMMOND'S
6 ILLEGAL EX PARTE CONTACT. THERE'S NOTHING IN HERE
7 SUGGESTING AN OUTCOME. THERE'S A REQUEST THAT A HEARING
8 BE SCHEDULED AND ULTIMATELY A HEARING WAS SCHEDULED BEFORE
9 JUDGE LEE WHICH I MISSED BECAUSE OF A LACK OF
10 COMMUNICATION REGARDING MAINTENANCE OF MY CALENDAR ONCE I
11 STARTED TEACHING, AND THEN WHEN IT WAS RESET IT WAS SET
12 BEFORE JUDGE BARBER, BECAUSE JUDGE LEE BY THAT TIME HAD
13 BECOME THE ADMINISTRATIVE JUDGE AND SHE ASSIGNED IT TO
14 JUDGE BARBER. IT WAS ASSIGNED TO JUDGE BARBER BECAUSE ---

15 MR. HAMMOND - EXCUSE ME, YOUR HONOR, THAT'S NOT
16 TRUE. THAT'S ---

17 MR. BENDER - YOUR HONOR, BEING CALLED UNTRUTHFUL
18 BY THIS PRO SE PLAINTIFF IS LIKE BEING CALLED UGLY BY A
19 FROG, AND I'M GETTING TIRED OF IT. THIS CASE IS
20 ABSOLUTELY FRIVOLOUS. THERE IS NO BASIS FOR A CLAIM BY
21 ANY JUVENILE WHOSE NAME WAS PUBLISHED THAT THERE HAS BEEN
22 ANY HARM TO HIM THAT WOULD BE SUBJECT TO REDRESS IN THIS
23 COURT, AND THIS HAS BEEN GOING ON SINCE 1997.

24 THE COURT - ALL RIGHT, MR. HAMMOND?

25 MR. HAMMOND - IT HAS BEEN GOING ON SINCE 1997.

1 THAT'S HOW LONG THIS COURTS HAVE BEEN IN GREAT ERROR AS IT
2 RELATES TO THIS PARTICULAR MATTER. IF JUDGE BARBER IS
3 TIRED OF ME --- MR. BENDER IS TIRED OF ME ACCUSING HIM OF
4 THEM ACCUSATIONS, STOP DOING STUFF THAT VIOLATE THE
5 CANONS; STOP DOING STUFF TO VIOLATE THE RULES OF GOVERNING
6 THE CONDUCT OF LAWYERS; STOP --- TRYING --- ASSERT ---
7 MISASSERTIONS OF THE LAW WHICH IS CLEARLY WITHOUT
8 EVIDENTIAL SUPPORT. IF HE STOP DOING THOSE THINGS, YOUR
9 HONOR, I WILL STOP. AND I REST, YOUR HONOR.

10 THE COURT - ALL RIGHT, NOW PROCEDURALLY THIS
11 CASE IS BEFORE ME ON A RULE 60 MOTION?

12 MR. BENDER - YES, YOUR HONOR.

13 THE COURT - AND DO WE HAVE A COPY OF THAT
14 MOTION?

15 MR. HAMMOND - I HAVE IT RIGHT HERE.

16 THE COURT - CAPTION IS WHAT?

17 MR. HAMMOND - ADRIAN HAMMOND VERSUS ---

18 MR. BENDER - IT'S ENTITLED --- WELL, I'M SORRY.

19 MR. HAMMOND - NOTICE OF MOTION AND MOTION FOR
20 RELIEF FROM ORDER ON BEHALF OF THE PLAINTIFF. I HAVE A
21 COPY HERE, YOUR HONOR, IF ---

22 THE COURT - ALL RIGHT, IT SHOULD BE IN THE FILE.

23 MR. BENDER - IT MAY BE HIDING BEHIND THE COVER
24 SHEET WHICH IS ---

25 MR. HAMMOND - THERE'S A LOT OF STUFF MISSING OUT

1 OF THAT FILE. ALSO A LETTER THAT HE EXPLAINED THAT HE
2 MISSED THAT COURT DATE, TOO, A LETTER EXPLAINING WHY HE
3 MISSED IT, EXPLAINING HE WAS BUSY AND HAD A JOB. THAT
4 LETTER'S NOT IN THERE ALSO.

5 THE COURT - WELL, THIS MOTION WAS FILED ON
6 DECEMBER 14TH, 2007. IS THAT RIGHT?

7 MR. HAMMOND - YES, SIR.

8 THE COURT - ALL RIGHT, RULE 60 OF THE SOUTH
9 CAROLINA RULES OF PROCEDURE, RELIEF FROM JUDGMENTS OR
10 ORDER, RULE 60(A) IS BASED ON CLERICAL MISTAKES. RULE
11 60(B) IS BASED ON MISTAKES, INADVERTENCE, EXCUSABLE
12 NEGLECT, NEWLY DISCOVERED EVIDENCE, FRAUD, ETCETERA. IT
13 SAYS THAT ON MOTION AND UPON SUCH TERMS AS ARE JUST, THE
14 COURT MAY RELIEVE A PARTY OR HIS LEGAL REPRESENTATIVE FROM
15 A FINAL JUDGMENT, ORDER OR PROCEEDINGS FOR THE FOLLOWING
16 REASONS, AND IT LIST THE FIVE REASONS, AND WHICH ONE OF
17 THOSE REASONS ARE YOU BASING YOUR MOTION ON, MR. HAMMOND?

18 MR. HAMMOND - SURPRISE BY THE UNEXPECTED EX
19 PARTE LETTER.

20 THE COURT - MISTAKE, INADVERTENCE, SURPRISE OR
21 EXCUSABLE NEGLECT?

22 MR. HAMMOND - YES, SIR, AND ALSO FRAUD FOR THE
23 WAY MR. BENDER AND JUDGE BARBER TEAMED UP AGAINST THIS
24 PLAINTIFF.

25 THE COURT - FRAUD, MISREPRESENTATION OR OTHER

1 MISCONDUCT OF AN ADVERSE PARTY, 60(B)(3).

2 MR. HAMMOND - AND ALSO --- WELL, IT'S NOT ON
3 THERE, BUT FOR JUDGE BARBER ABUSING HIS --- ABUSING HIS
4 AUTHORITY AS A JUDGE, ABUSE OF DISCRETION. THAT EX PARTE
5 LETTER PUT THIS PLAINTIFF IN A GREAT UNFAIR DISADVANTAGE
6 AND IF PLAINTIFF KNEW ANYTHING ABOUT THAT LETTER I WOULD -
7 -- I WOULD NOT HAVE BEEN IN FRONT OF JUDGE BARBER FOR A
8 SECOND TIME. THE ONLY REASON I WENT BEFORE JUDGE BARBER
9 WITHOUT ASKING HIM TO RECUSE HIS SELF OR OBJECTED TO ---
10 WELL, I DID --- I DID OBJECT TO HIM BUT HE IGNORED ME, BUT
11 ONLY REASON WHY I DIDN'T GO AS FAR AS RECUSING HIMSELF
12 BECAUSE THIS CASE IS OPEN AND SHUT BOOK. I HAD NO REASON
13 TO AVOID HIM. I FELT LIKE THE FACTS AND THE LAW IS
14 CLEARLY IN MY FAVOR, SO I FELT NO NEED AT THAT TIME TO
15 HAVE HIM RECUSE HIMSELF AND WHICH AND LOOK IN HINDSIGHT,
16 I SHOULD'VE.

17 THE COURT - ALL RIGHT, MR. BENDER, ANY FURTHER
18 COMMENTS?

19 MR. BENDER - I DON'T BELIEVE THERE'S ANYTHING
20 THAT MR. HAMMOND HAS PRESENTED TO THE COURT TODAY THAT
21 WOULD INDICATE HE'S ENTITLED TO ANY RELIEF UNDER RULE 60
22 AND FOR THAT REASON HIS MOTION SHOULD BE DENIED. IF THERE
23 IS TO BE A CORRECTION OF AN ERROR OF LAW, THE WAY TO GET
24 THAT CORRECTED IS TO FILE AN APPEAL, AND THERE'S BEEN NO
25 APPEAL IN THE 1997 CASE AND NO APPEAL IN THE 2006 CASE.

1 MR. HAMMOND - CAN I RESPOND TO THAT?

2 THE COURT - YES, SIR.

3 MR. HAMMOND - 1997 CASE I DIDN'T APPEAL IT
4 BECAUSE I WAS MISLED BY ATTORNEY WHICH I AM SUING FOR NOW.
5 I DIDN'T FILE FOR APPEAL THIS TIME BECAUSE I FILED RULE
6 60, BECAUSE I FOUND NEW EVIDENCE AS FAR AS EX PARTE LETTER
7 AND A BUNCH OF OTHER THINGS THAT I FOUND OUT BETWEEN ---
8 THAT WAS GOING ON BETWEEN JUDGE BARBER AND THE COUNSEL FOR
9 THE DEFENDANTS, SO I MEAN IF --- IF I HAVE TO, WHICH I
10 DON'T THINK I HAVE TO, PURSUANT TO THE RULES AND THE
11 REGULATIONS THAT GOVERN THIS CASE, I DON'T HAVE TO FILE AN
12 APPEAL. IT SHOULDN'T --- IT SHOULDN'T HAVE TO GO THAT
13 FAR. THANK YOU, YOUR HONOR.

14 THE COURT - NOW, WHEN JUDGE BARBER --- IF YOU'LL
15 STAND FOR ME, MR. HAMMOND --- WHEN JUDGE BARBER WROTE TO
16 MR. BENDER, I THINK HE SAYS NOVEMBER 16TH ---

17 MR. HAMMOND - 17TH.

18 THE COURT - --- THE LETTER FROM JUDGE BARBER
19 THAT MR. BENDER REFERRED TO, NOVEMBER 16TH IS IT?

20 MR. BENDER - YES, SIR.

21 MR. HAMMOND - 17TH. NOVEMBER 17TH, 2006.

22 THE COURT - DO YOU HAVE A COPY OF THE LETTER,
23 MR. BENDER? IF YOU'D SHOW IT TO MR. HAMMOND.

24 (DISCUSSION IS HELD BETWEEN MR. BENDER AND MR.
25 HAMMOND WHICH WAS NOT REPORTED.)

1 MR. HAMMOND - BUT SEE --- OKAY, NOVEMBER 16TH,
2 YOUR HONOR --- IF YOU LOOK AT THE LAST SENTENCE ON HIS EX
3 PARTE LETTER, I HOPE --- I WILL HOPE THAT THE NOVEMBER
4 MOTION COULD BE SCHEDULED FOR A HEARING SOON. IT WAS
5 ALREADY SCHEDULED, YOUR HONOR. IT'S CLEAR --- THIS IS A
6 CLEAR VIOLATION OF THE RULES. I MEAN IT DOESN'T GET ANY
7 CLEARER THAN THIS. THE LAST SENTENCE SAYS, I HOPE --- I
8 WILL HOPE THAT THE NOVEMBER MOTION COULD BE --- COULD BE
9 SCHEDULED FOR A HEARING SOON. IT WAS ALREADY SCHEDULED.
10 THAT'S CLEAR INTENTION TO GAIN UNFAIR ADVANTAGE BY JUDGE
11 BARBER BY THE DEFENSE.

12 MR. BENDER - YOUR HONOR, IF I MIGHT RESPOND TO
13 THAT. I DON'T THINK I NEED AN UNFAIR ADVANTAGE AGAINST
14 MR. HAMMOND AT THIS CASE.

15 THE COURT - ALL RIGHT, THE QUESTION THAT I HAVE
16 FOR YOU, MR. HAMMOND, WHEN I REFERRED TO THE LETTER AS
17 BEING NOVEMBER THE 16TH AND YOU REFERRED TO IT AS BEING
18 NOVEMBER THE 17TH, THE QUESTION I HAVE IS CONCERNING THE
19 LETTER BY JUDGE BARBER TO MR. BENDER DATED NOVEMBER THE
20 16TH, 2006 WHERE THE JUDGE WRITES THE LETTER TO MR. BENDER
21 ASKING FOR A --- SOME REPORT REGARDING THE STATUS OF THE
22 CASE AND SOLICITING MR. BENDER TO CONTACT THE COURT ---
23 CONTACT HIM AS CHIEF ADMINISTRATIVE JUDGE CONCERNING THE
24 STATUS OF THE CASE, ARE YOU CHALLENGING THE AUTHORITY OF
25 JUDGE BARBER AS CHIEF ADMINISTRATIVE JUDGE TO ---

1 MR. HAMMOND - RESCHEDULE HIS SELF TO THE HEARING

2 ---

3 THE COURT - SIR?

4 MR. HAMMOND - SCHEDULE HIS SELF TO THE HEARING,
5 PUT ANOTHER JUDGE AS THE CHIEF ADMINISTRATIVE JUDGE, WHICH
6 IN FACT HE WAS THE CHIEF ADMINISTRATIVE JUDGE WITH INTENT
7 TO DECEIVE. WE MUST MAKE THAT CLEAR. AND ---

8 THE COURT - SO YOU WANT ME TO FIND THAT JUDGE
9 BARBER WROTE THIS LETTER TO JUDGE --- TO MR. BENDER IN
10 WHICH HE SAYS, PLEASE BE ADVISED THAT THE ABOVE-CAPTIONED
11 CASE HAS BEEN FILED FOR SIX MONTHS; IN ANOTHER SIX MONTHS
12 THIS CASE WOULD BE ADDED TO THE TRIAL ROSTER; IF YOU
13 BELIEVE THIS CASE WILL NOT BE READY FOR TRIAL AT THE END
14 OF THE YEAR, THIS ONE YEAR PERIOD, YOU NEED TO IMMEDIATELY
15 SCHEDULE A STATUS CONFERENCE WITH THIS OFFICE TO REVIEW
16 THIS MATTER; IF I DO NOT HEAR FROM YOU CONCERNING THIS
17 MATTER I WILL ASSUME THE CASE WILL BE READY FOR TRIAL;
18 BARRING ANY UNUSUAL CIRCUMSTANCES, THE CASE WILL BE PLACED
19 ON THE TRIAL ROSTER FOR TRIAL AND WILL NOT BE CONTINUED.
20 YOU'RE SAYING THE LETTER FROM JUDGE BARBER CONSTITUTES
21 FRAUD OR ---

22 MR. HAMMOND - THE LETTER TO JUDGE BARBER.

23 THE COURT - THE RESPONSE BY MR. BENDER DOES.

24 MR. HAMMOND - WELL, ---

25 THE COURT - CONSTITUTES FRAUD?

1 MR. HAMMOND - YES, BECAUSE WHY WOULD MR. BENDER
2 REQUEST THAT THE CASE BE SCHEDULED WHEN IT WAS ALREADY
3 SCHEDULED. THESE ARE CONVERSATIONS THAT'S MOOT BETWEEN
4 MR. BARBER --- BETWEEN JUDGE BARBER AND MR. BENDER.

5 THE COURT - ALL RIGHT, SO MR. BENDER WRITES BACK
6 SAYING THE CASE IS SUBJECT TO A MOTION FOR SUMMARY
7 JUDGMENT, A HEARING HAD BEEN SET ON THE MOTION PREVIOUSLY
8 BUT CONTINUED BECAUSE IT CAME UP AT A TIME I WAS IN TRIAL.
9 THE SAME PLAINTIFF HAD FILED AN IDENTICAL ACTION AGAINST
10 THE STATE MANY YEARS AGO AND THAT ACTION HAD BEEN RESOLVED
11 IN FAVOR OF THE NEWSPAPER. IN THIS MOST RECENT ACTION THE
12 PLAINTIFF HAS SUED THE NEWSPAPER AND HIS FORMER LAWYERS.
13 FORMER LAWYERS HAVE HAD THEIR SUMMARY JUDGMENT GRANTED.
14 I WOULD HOPE THAT THE NEWSPAPER'S MOTION COULD BE
15 SCHEDULED FOR A HEARING SOON. AND MR. BENDER SAYS THAT AT
16 THAT TIME HE WAS UNAWARE THAT IT HAD BEEN SCHEDULED BEFORE
17 JUDGE LEE, WHICH APPARENTLY WAS SET BEFORE JUDGE LEE ON
18 NOVEMBER THE 27TH, AND HE INDICATED THAT HE DID NOT APPEAR
19 BECAUSE HE WAS UNAWARE THAT IT HAD BEEN SCHEDULED BEFORE
20 JUDGE LEE AND THAT'S WHY HE WROTE THIS LETTER. YOU'RE
21 QUESTIONING THE TRUTHFULNESS OF ALL THAT?

22 MR. HAMMOND - WELL, JUDGE --- IF JUDGE BARBER --
23 - IF JUDGE BARBER'S CLEARED OF MY ACCUSATIONS, WHY WOULD
24 HE HAVE TO LIE UNDER OATH BEFORE THE COMMITTEE AT THE
25 STATE HOUSE, OR, YOUR HONOR, WHY WOULD HE --- WHEN THIS

1 CASE WAS SCHEDULED ON MARCH THE 9TH, WHY WOULD HE HAVE
2 PAUL AT THE CLERK'S OFFICE CALL AND LEAVE ME A MESSAGE
3 WITHOUT THE KNOWLEDGE OF JUDGE LEE, I MEAN JUDGE CHILDS
4 EXPLAINING TO ME THAT SHE HAD SOMETHING THAT HAD COME UP
5 WITH HER. WHEN I DIDN'T RECEIVE A LETTER IN SUPPORT OF
6 THAT PHONE CALL I KNEW SOMETHING WAS WRONG AGAIN, SO WHAT
7 I DID WAS I SHOWED UP ON MARCH THE 9TH AT THE COURTROOM
8 THAT JUDGE CHILDS WOULD HAVE COURT. SHE WAS, IN FACT,
9 THERE, AND I HAD A TALK WITH HER IN THE COURTROOM. SHE
10 HAD NO KNOWLEDGE OF HER HAVING SOMETHING TO DO FOR MY ---
11 THIS MOTION TO BE CONTINUED. NOW, WHAT'S SIGNIFICANT
12 ABOUT THAT? JUDGE BARBER PULLED THE SAME THING AGAIN,
13 RESCHEDULED THE CASE, LISTED ANOTHER JUDGE AS THE CHIEF
14 ADMINISTRATIVE JUDGE AND THERE YOU GO, WE --- IT SEEMS
15 LIKE HE'S TRYING TO PREDICT OR DICTATE WHOEVER'S GOING TO
16 HEAR THIS CASE AND IT SHOULDN'T --- THAT SHOULDN'T BE THE
17 CASE. JUDGE BARBER SHOULD KEEP HIS HAND OUT OF IT AFTER -
18 -- ESPECIALLY AFTER BEING AT THE STATE HOUSE BEFORE --- TO
19 A HEARING TO ACCUSATIONS MADE BY THIS PLAINTIFF. I HAVE
20 THE MESSAGE ALSO AS PART OF THE RECORD, THE AUDIO-TAPE
21 MESSAGE THAT WAS RECEIVED BY PAUL AND THAT JUDGE LEE HAD
22 NO KNOWLEDGE OF. JUDGE BARBER IS UP TO SOMETHING, YOUR
23 HONOR, AND PURSUANT TO THE FACTS OF THIS CASE, THE STATUTE
24 THAT PROTECT THIS MINOR --- PROTECTED THIS PLAINTIFF AS A
25 MINOR, IT WAS CLEARLY VIOLATED BY MR. BENDER AND JUDGE

1 BARBER ALLOWING IT TO HAPPEN. SIMPLE AS THAT. THANK YOU,
2 SIR.

3 THE COURT - ALL RIGHT.

4 MR. HAMMOND - OH, DO I NEED TO STAND UP ---

5 THE COURT - I WAS GOING TO ASK MR. BENDER A
6 QUESTION CONCERNING JUST THE STATUTE IN GENERAL THAT MR.
7 HAMMOND HAS ARGUED IS UNCONSTITUTIONAL AND I GUESS --- YOU
8 HAVE A DIFFERENT OPINION THAN HE HAS CONCERNING THE RIGHT
9 TO PUBLISH THE NAME OF A JUVENILE IN THE NEWSPAPER?

10 MR. BENDER - YES, SIR.

11 THE COURT - EXPLAIN YOUR --- THAT LAW TO ME AS
12 FAR AS YOUR UNDERSTANDING.

13 MR. BENDER - THE FORMER VERSION OF THE STATUTE
14 MR. HAMMOND RELIES ON WAS DECLARED UNCONSTITUTIONAL BY THE
15 SOUTH CAROLINA SUPREME COURT IN STATE, EX REL MCCLOUD
16 WHERE IN RE THE TIMES AND DEMOCRAT, BUT I DON'T HAVE THE
17 CITE IN FRONT OF ME, BUT I CAN GET IT.

18 THE COURT - THIS TIMES AND DEMOCRAT CASE IS
19 REFERENCED IN SOME OF THESE ORDERS HERE.

20 MR. BENDER - OKAY. I THINK IT'S IN ONE OF THE
21 ORDERS. IN THAT CASE THE SUPREME COURT OF SOUTH CAROLINA
22 SAID THAT A STATUTE THAT PROHIBITS THE PUBLICATION OF THE
23 NAME OF A JUVENILE IS UNCONSTITUTIONAL. THE STATUTE WAS
24 RECODIFIED AS THE STATUTE THAT MR. HAMMOND IS SEEKING TO
25 USE AS THE BASIS OF HIS CLAIM. THE GENERAL ASSEMBLY BY

1 RECODIFYING IT DID NOT MAKE IT CONSTITUTIONAL. IT MERELY
2 RESTATED IT AND ULTIMATELY REPEALED IT.

3 THE COURT - REPEALED THE ONE THAT THEY
4 RECODIFIED?

5 MR. BENDER - THAT'S CORRECT. I SPOKE TO THE
6 CHAIRMAN OF THE HOUSE JUDICIARY COMMITTEE WHEN THE
7 CHILDREN'S CODE WAS BEING REVISED, MR. DAVID WILKINS, AND
8 I SUGGESTED THAT THE STATUTE HAD BEEN DECLARED
9 UNCONSTITUTIONAL BY THE SUPREME COURT SOME NUMBER OF YEARS
10 EARLIER, AND MR. WILKINS SAID, IT'S THE JOB OF THE
11 LEGISLATURE TO PASS LAWS. IT'S THE JOB OF THE COURT TO
12 DETERMINE IF THEY'RE CONSTITUTIONAL, SO HE WAS UNPERSUADED
13 THAT IT HAVING BEEN PREVIOUSLY HELD UNCONSTITUTIONAL WAS
14 IN THE MOMENT TO THE GENERAL ASSEMBLY, BUT ULTIMATELY THE
15 GENERAL ASSEMBLY CAME TO VIEW THAT THERE SHOULD BE NO
16 PROHIBITION IN A STATUTE AGAINST THE PUBLICATION OF THE
17 NAME OF A JUVENILE ACCUSED OF A SERIOUS CRIME, AND THAT
18 WAS THE STATE OF THE LAW AT THE TIME MR. HAMMOND BROUGHT
19 HIS SECOND SUIT. THERE'S A SUPREME COURT --- THERE ARE
20 TWO OTHER SUPREME COURT CASES, ONE U.S. SUPREME COURT AND
21 ONE SOUTH CAROLINA SUPREME COURT THAT BEAR ON THIS
22 QUESTION THAT UNDERLIES THIS WHOLE LAWSUIT. IN DORMAN VS.
23 AIKEN COMMUNICATIONS A SEXUAL ASSAULT VICTIM SUED THE
24 AIKEN NEWSPAPER CLAIMING THAT SHE WAS ENTITLED TO DAMAGES
25 BECAUSE HER NAME HAD BEEN PUBLISHED IN THE NEWSPAPER, AND

1 WE HAVE A STATUTE THAT SAYS THAT IT IS UNLAWFUL TO PUBLISH
2 THE NAME OF A SEXUAL ASSAULT VICTIM. THE SOUTH CAROLINA
3 SUPREME COURT HELD THAT THAT STATUTE WAS CONSTITUTIONAL,
4 BUT THAT IT DID NOT CREATE A PRIVATE CAUSE OF ACTION, SO
5 JOYCE DORMAN HAD NO CLAIM AGAINST THE NEWSPAPER FOR HER
6 NAME HAVING BEEN PUBLISHED AS A SEXUAL ASSAULT VICTIM.
7 THAT'S ANALOGOUS TO THE CLAIM THAT MR. HAMMOND HAS SOUGHT
8 TWICE TO BRING, AND IT WOULD BE THE DEFENDANT'S POSITION
9 THAT THERE IS NO PRIVATE CAUSE OF ACTION CREATED BY ANY
10 STATUTE THAT PROHIBITED THE PUBLICATION OF THE NAME OF THE
11 JUVENILE, AND THE SECOND CASE IS FLORIDA STAR VS. BJF, A
12 U.S. SUPREME COURT CASE WHERE A SEXUAL ASSAULT VICTIM IN
13 FLORIDA FILED SUIT AGAINST A NEWSPAPER, THE FLORIDA STAR
14 WHEN IT PUBLISHED HER NAME AS A VICTIM OF SEXUAL ASSAULT,
15 AND THE UNITED STATES SUPREME COURT SAID IN THAT
16 CIRCUMSTANCE THERE COULD BE NO CLAIM AGAINST THE NEWSPAPER
17 WHERE THE INFORMATION WAS IN PUBLIC, BECAUSE IT WAS
18 CONTAINED IN PUBLIC RECORDS, AND THE SAME CIRCUMSTANCE
19 APPLIES WITH RESPECT TO MR. HAMMOND. HE WAS IDENTIFIED
20 BECAUSE HIS IDENTITY BECAME KNOWN THROUGH PUBLIC RECORDS
21 AND THROUGH A COURT APPEARANCE. AND I'M SORRY THAT MR.
22 HAMMOND DOESN'T LIKE IT WHEN I BRING UP THAT HE WAS, IN
23 FACT, ARRESTED FOR MURDER AND OTHER SERIOUS CHARGES.
24 OBVIOUSLY, THE DISPOSITION OF IT WAS SOMETHING OTHER THAN
25 A CONVICTION THAT HAD PUT HIM IN JAIL, BUT IT WAS TRUE AT

1 THE TIME THAT THAT'S WHAT HE WAS ARRESTED FOR AND THAT'S
 2 WHAT WAS PUBLISHED. AND IT'S LONG BEEN THE LAW THAT
 3 PUBLICATION OF TRUTHFUL INFORMATION LAWFULLY OBTAINED
 4 CANNOT BE THE BASIS OF A CLAIM BY ANY PERSON WHO SUGGEST
 5 THAT THEY HAVE BEEN INJURED BY THAT PUBLICATION. FOR
 6 THOSE REASONS AND FOR THE ABSOLUTE FAILURE OF MR. HAMMOND
 7 TO OFFER ANYTHING OTHER THAN HIS WILD SPECULATION THAT
 8 THERE'S BEEN FRAUD IN AN ATTEMPT TO GAIN SOME ADVANTAGE
 9 AGAINST HIM, HIS MOTION SHOULD BE DISMISSED.

10 THE COURT - NOW, AS FAR AS THE CURRENT STATUS OF
 11 THE LAW, IF A FIFTEEN YEAR OLD AND, YOU KNOW, WITH
 12 SHOOTINGS EVERY WEEKEND SEEMINGLY AND IF THEY --- MURDERS
 13 EVERY WEEKEND, SO IF YOU HAD A FIFTEEN YEAR OLD WHO IS
 14 CHARGED WITH COMMITTING A MURDER LAST WEEKEND HERE IN
 15 COLUMBIA AND THE STATE NEWSPAPER PUBLISHES A STORY
 16 CONCERNING THAT SHOOTING AND THAT ARREST, WOULD THEY
 17 PUBLISH THE MINOR'S NAME?

18 MR. BENDER - WITH A MURDER I THINK THEY MIGHT,
 19 PARTICULARLY IF THE JUVENILE WERE AT LARGE. HAPPENS
 20 FREQUENTLY THAT IF THERE IS A SUSPECT WHO IS AT LARGE
 21 REGARDLESS OF THE AGE OF THE SUSPECT THAT NAME WOULD BE
 22 PUBLISHED, BUT AS A MATTER OF THE NEWSPAPER'S CHOICE, IN
 23 MANY INSTANCES THE NAMES OF JUVENILES ARE NOT PUBLISHED,
 24 BUT THERE IS NO PROHIBITION AGAINST THAT THAT COULD BE
 25 IMPOSED BY THE STATE THAT WOULD BE CONSTITUTIONAL, AND

* he add that news C publ.

1 THERE IS NO PRIVATE CAUSE OF ACTION ON BEHALF OF ANY
2 JUVENILE WHOSE NAME HAS BEEN PUBLISHED.

3 THE COURT - AND THERE IS NO STATUTE PROHIBITING
4 IT, OR IS IT AS MR. HAMMOND SAYS, YOU MUST HAVE A COURT
5 ORDER TO PUBLISH THE NAME OF A JUVENILE SUSPECT?

6 MR. BENDER - THAT WOULD BE A CLASSIC PRIOR
7 RESTRAINT AND THE PRESUMPTION IS THAT A PRIOR RESTRAINT IS
8 UNCONSTITUTIONAL UNDER THE FIRST AND FOURTEENTH AMENDMENT,
9 SO EVEN IF THERE WERE A STATUTE THAT SAID THAT AND I
10 HAVEN'T LOOKED AT IT IN A WHILE --- I KNOW WHEN THE LAST
11 TIME THE GENERAL --- THE LAST TIME I WAS INVOLVED WHEN THE
12 GENERAL ASSEMBLY WAS DEALING WITH THE CHILDREN'S CODE AND
13 THIS PARTICULAR REQUIREMENT, THE SENTIMENT WAS THAT
14 JUVENILE CRIME HAD BECOME SO SERIOUS AND SO PREVALENT ---
15 SERIOUS JUVENILE CRIME HAD BECOME SO PREVALENT THAT THE
16 THOUGHT WAS IF YOU PUBLISH THE NAMES OF JUVENILE
17 DEFENDANTS AND THESE SERIOUS CHARGES, IT WILL MAKE IT LESS
18 ABSTRACT AND MORE REAL AND PEOPLE IN THE COMMUNITY WILL
19 UNDERSTAND THE SERIOUSNESS OF THESE CRIMINAL ACTS BEING
20 COMMITTED BY YOUNG PEOPLE.

21 THE COURT - AND DO YOU BELIEVE ANY OF THAT IS
22 BEFORE ME TODAY OR THAT ADDRESSES THE MERITS OF THE CASE
23 AND WE ARE HERE NOT ON THE MERITS OF HIS CLAIM BUT ON THE
24 PROCEDURE --- PROCEDURALLY AS TO WHETHER THIS CASE SHOULD
25 STILL BE IN COURT?

1 MR. BENDER - NO, I THINK THAT'S ALL BACKGROUND.
2 I THINK WHAT WE'RE HERE ON TODAY IS WHETHER OR NOT MR.
3 HAMMOND HAS MADE ANY APPROPRIATE SHOWING UNDER RULE
4 60(B)(2) OR (3) WHICH IS THE BASIS OF HIS WRITTEN MOTION,
5 BUT THERE IS NO NEWLY DISCOVERED EVIDENCE PRESENTED HERE
6 TODAY, AND HIS CLAIM OF FRAUD IS THAT EX PARTE LETTER OF
7 NOVEMBER 17TH WHICH CERTAINLY DOES NOTHING MORE THAN
8 RECITE THE CONTENTS OF THE PUBLIC RECORD, AND THAT DOES
9 NOT RISE TO FRAUD UNDER ANYBODY'S DEFINITION OF FRAUD
10 EXCEPT MR. HAMMOND'S.

11 MR. HAMMOND - YOUR HONOR ---

12 THE COURT - OF COURSE --- JUST ONE SECOND, MR.
13 HAMMOND. OF COURSE, THE --- THE RULES PROHIBITING EX
14 PARTE COMMUNICATION SPECIFICALLY EXCLUDES COMMUNICATIONS
15 BY THE COURT REGARDING SCHEDULING MATTERS WHICH IS A
16 PERMISSIBLE FORM OF EX PARTE COMMUNICATION. HOW DO YOU --
17 - HOW DOES ALL THAT FACTOR INTO THIS MATTER?

18 MR. BENDER - WELL, I THINK THIS LETTER IS
19 REQUESTING SCHEDULING AND I THINK --- AND ORDINARILY MR.
20 HAMMOND WOULD'VE GOTTEN A COPY OF IT, THEN NEITHER MY
21 SECRETARY NOR I HAVE AN EXPLANATION FOR WHY HE DID NOT GET
22 A COPY OF THIS LETTER BECAUSE AS A MATTER OF ROUTINE I
23 SEND COPIES OF ALL CORRESPONDENCE ABOUT A CASE TO THOSE
24 PERSONS INVOLVED IN IT, AND THIS IS CLEARLY ABOUT A
25 SCHEDULING MATTER AND RECITES NOTHING BUT THE STATUS OF

1 THE CASE. I DO KNOW THAT THE JUDICIAL SCREENING COMMITTEE
2 HEARD THIS MATTER WITH RESPECT TO JUDGE LEE AND JUDGE
3 BARBER AND CONCLUDED IN BOTH INSTANCES THAT THERE WAS
4 NOTHING UNTOWARD ABOUT THEIR ACTIONS IN THE CASE AND THE
5 COMMITTEE ON GRIEVANCES IN THE SOUTH CAROLINA BAR HAD THIS
6 VERY MATTER BEFORE IT AND CONCLUDED THAT THERE WAS NO
7 BREACH OF ANY DUTY I OWED TO ANY LITIGANT OR TO THE COURT
8 AS A CONSEQUENCE OF THAT LETTER. WOULD I HAVE PREFERRED
9 MR. HAMMOND TO HAVE A COPY OF MY LETTER? CERTAINLY. WAS
10 I SEEKING TO GAIN ANY ADVANTAGE, FAIR OR UNFAIR, BY THAT
11 LETTER? NO, I WAS MERELY TRYING TO GET THE MOTION
12 SCHEDULED BECAUSE I WAS ---

13 MR. HAMMOND - IT WAS ALREADY SCHEDULED.

14 MR. BENDER - I WAS CONFIDENT WHEN IT WOULD BE
15 HEARD IT WOULD BE GRANTED BECAUSE OF THE REASONS ADVANCED
16 IN THE MOTION AND IN THE 1997 CASE.

17 THE COURT - ALL RIGHT, NOW TYPICALLY --- AND I'M
18 GOING TO COME TO YOU AFTER --- AFTER THIS LAST QUESTION TO
19 MR. BENDER AND I'M COMING TO YOU, MR. HAMMOND, AND GIVE
20 YOU A CHANCE TO TALK AS WELL. TYPICALLY MOTIONS UNDER
21 RULE 60 RELATING TO CONDUCT, NEWLY DISCOVERED EVIDENCE,
22 FRAUD, ETCETERA, IT GENERALLY --- THOSE ALLEGATIONS
23 GENERALLY CONCERN THE CONDUCT OF THE PARTIES AND NOT
24 CONCERNING THE CONDUCT OF THE JUDGE AS BEING THE BASIS FOR
25 THE MOTION. AS A CIRCUIT COURT JUDGE WHAT LIMITATIONS IF

1 ANY DO I HAVE IN CONSIDERING THE ALLEGED CONDUCT OF THE
2 JUDGE AS A BASIS OF A MOTION FOR 60(B) --- RULE 60 RELIEF.

3 MR. BENDER - I'VE BEEN THAT TROUBLED BY THAT
4 ASPECT OF IT. IN ESSENCE YOU'RE ASKED --- YOU'RE BEING
5 ASKED TO OVERRULE A DECISION BY A FELLOW CIRCUIT JUDGE,
6 WHICH AS WE KNOW IS PRECLUDED BY THE RULES, AND I WOULD
7 THINK THAT NO MATTER HOW IT'S COUCHED, YOU WOULD NOT HAVE
8 THE AUTHORITY TO OVERRULE THE ACTIONS OF A JUDGE THAT THE
9 APPROPRIATE REMEDY, IF ANY, THERE EXISTED FOR MR. HAMMOND
10 WAS AN APPEAL TO THE COURT OF APPEALS OR THE SUPREME COURT
11 FROM THE ORDER GRANTING THE MOTION TO DISMISS AND FROM THE
12 DENIAL OF HIS MOTION FOR RECONSIDERATION WHICH WAS FILED
13 MAY 23, 2007, SO CLEARLY THE TIME FOR AN APPEAL IS LONG
14 GONE, AND YOU'RE BEING ASKED TO MAKE A JUDGMENT THAT LOOKS
15 TO ME TO BE AN APPELLATE COURT JUDGMENT, AND I THINK IT
16 WOULD BE INAPPROPRIATE FOR A CIRCUIT JUDGE TO SAY, WELL,
17 THE MOTION TO DISMISS WAS IMPROPERLY GRANTED BECAUSE THE
18 JUDGE ENGAGED IN IMPROPER CONDUCT. I THINK THAT'S THE
19 SAME AS ASKING YOU TO REVISIT THE SUBSTANCE OF THE MOTION
20 AND THE RULING.

21 THE COURT - WHERE THE JUDGE IS NOT A PARTY AND
22 NOT --- AND NOT RECEIVING ANY TESTIMONY BUT MERELY
23 ARGUMENTS REGARDING THAT ISSUE AND WHERE THE JUDGE IS NOT
24 A PARTY PARTICULARLY, HOW SHOULD THE COURT CONSIDER THOSE
25 ARGUMENTS, THE SUBSTANCE OF THEM?

1 MR. BENDER - WELL, I DON'T SEE HOW YOU CAN,
2 BECAUSE THERE'S NO ONE HERE TO DEFEND JUDGE BARBER. MY
3 DEFENSE IS OF MY CLIENTS AND BY EXTENSION MYSELF FROM
4 THESE FRIVOLOUS CHARGES, AND TO RECITE MY UNDERSTANDING OF
5 THE RECORD, I THINK THAT THE WAY JUDICIAL ERRORS GET
6 REVIEWED AND REVERSED, IF APPROPRIATE, IS BY APPEAL, AND
7 MR. HAMMOND HAS FOREGONE HIS OPPORTUNITY TO FILE AN APPEAL
8 IN THIS CASE. I DON'T SEE HOW YOU COULD RULE WITH RESPECT
9 TO JUDGE BARBER AT ALL.

10 THE COURT - ALL RIGHT, MR. HAMMOND?

11 MR. HAMMOND - THANK YOU, YOUR HONOR.

12 THE COURT - YES, SIR.

13 MR. HAMMOND - MR. BENDER MADE A POINT THAT ---
14 A CIRCUIT --- ANOTHER CIRCUIT COURT JUDGE SHOULD NOT BE
15 ALLOWED TO CORRECT ANOTHER CIRCUIT COURT JUDGE, YOUR
16 HONOR, I'D LIKE TO CONTEND THAT IF THE COURT IS ANY ERROR,
17 ANY JUDGE SHOULD BE ABLE TO CORRECT ANY MISTAKES
18 REGARDLESS OF THAT. THAT'S JUST RESPECT OF THE LAW. AS
19 IT RESPECTS TO HIS ARGUMENT THAT WELL, YOU KNOW, IT WAS
20 DISMISSED IN THE CIRCUIT COURTS, DISMISSED IN APPEALS
21 COURT OR JUDICIAL SELECTION COMMITTEE, THE STATE HOUSE SAW
22 NO WRONG DOING. WELL, I DON'T FIND IT TO BE THE SITUATION
23 IN JUDGE ANDREWS CASE WHICH WAS RECENTLY IN THE NEWSPAPER
24 ABOUT A WEEK OR TWO AGO. IN THAT PARTICULAR CASE THE
25 NEWSPAPER SAID THAT SHE MADE A GOOD RULING, IT WENT TO THE

1 APPEALS COURT AND IT WENT THROUGH, BUT WHEN SHE GOT TO THE
2 JUDICIAL SELECTION COMMITTEE SHE LOST HER JOB. SAME
3 THING. WHAT --- WHAT ENTITY SHOULDN'T BE ABLE TO BLOCK
4 THE OTHER --- THOSE TWO MIGHT BE ---

5 COURT REPORTER - I'M HAVING TROUBLE
6 UNDERSTANDING HIM, JUDGE.

7 MR. HAMMOND - THAT ONE MIGHT JUST BE CLEARLY IN
8 THE RIGHT.

9 THE COURT - OKAY. SAYS ONE ENTITY MIGHT ---
10 SHOULD BE ABLE TO BLOCK ANOTHER ENTITY? DIDN'T YOU SAY
11 ONE ENTITY SHOULD BE ABLE TO BLOCK ANOTHER OR CHECK
12 ANOTHER ENTITY?

13 MR. HAMMOND - OH, AS FAR AS JUDGES?

14 THE COURT - YES, SIR.

15 MR. HAMMOND - IF THE COURT IS IN ERROR, A JUDGE
16 --- THE COURT SHOULD BE ALLOWED TO CORRECT ITSELF IF IT'S
17 IN ERROR. AND LIKE I SAID ABOUT JUDGE ANDREWS, SHE WAS
18 ABLE TO HEAR A DIVORCE CASE AND IT WAS A SOUND GOOD
19 DECISION SHE MADE IN THE DIVORCE CASE; IT WENT TO THE
20 APPEALS COURT, BUT WHEN IT GOT TO THE STATE HOUSE, SHE
21 LOST HER JOB. LIKE I SAID, BECAUSE TWO PEOPLE AGREE TO
22 SOMETHING THAT WAS NOT --- WAS --- HAD NO MERIT, DOESN'T
23 MEAN THAT ONCE --- KIND OF LIKE ONE --- ONE MIGHT HAVE
24 PRECEDENCE. YOUR HONOR, AS IT RESPECT TO REPEAL OF
25 STATUTES 27-780, MR. BENDER CONTINUES TO SAY THAT AT ---

1 THAT IT WAS REPEAL AT THE TIME OF THE FILING OF THE
2 PLAINTIFF'S COMPLAINT. THAT IS A CLEAR --- THAT'S A CLEAR
3 VIOLATION OF THE CONSTITUTION OF THE FOURTEENTH AMENDMENT
4 BECAUSE NO --- LIKE I SAID BEFORE, NO LAW SHOULD BE MADE
5 TO DIVERSE OR DIVEST A PLAINTIFF'S RIGHT THAT WAS VESTED
6 AT THE TIME OF INJURY. I WOULD LIKE TO DIRECT THE COURT'S
7 ATTENTION TO A MEMORANDUM THAT WAS FILED BY JAY BENDER IN
8 THE 1997 CASE IN RESPECTS TO APPEAL, AND THIS IS THE THEIR
9 WORD. IF STATUTE 27-780 IS APPLICABLE EVEN THOUGH ---
10 EVEN THOUGH IT HAS BEEN REPEALED, IT IS LIKELY THAT THE
11 PLAINTIFF DOES HAVE PRIVATE CAUSE OF ACTION. IN ORDER TO
12 SHOW THE DEFENDANT OWED SOME DUTY OF CARE ARISING FROM THE
13 STATUTE, THE PLAINTIFF MUST SHOW TWO THINGS THAT ESSENTIAL
14 --- THAT --- ESSENTIAL PURPOSE OF THE STATUTE TO PROTECT
15 PLAINTIFF FROM THE KIND OF HARM THAT PLAINTIFF HAS
16 SUFFERED, NUMBER TWO, THAT HE IS A MEMBER OF THE CLASS OF
17 PERSONS THE STATUTE IS INTENDED TO PROTECT. THEN IT GOES
18 ON TO SAY, THE ESSENTIAL PURPOSE OF STATUTE 27-780 IS
19 APPARENTLY TO PROTECT THE MINOR UNDER THE JURISDICTION OF
20 THE COURT FROM HAVING HIS IDENTITY PUBLISHED. IN THIS
21 CASE, THE PLAINTIFF WAS A JUVENILE APPEARING IN FAMILY
22 COURT AND THE STATUTE WAS INTENDED TO PROTECT HIM, THUS,
23 THE DEFENDANT OWED HIM A DUTY OF CARE UNDER STATUTE 27-
24 780. CONCLUSION, TO THE SAME MEMORANDUM, IT IS LIKELY THE
25 PLAINTIFF WOULD HAVE HAD A CAUSE OF ACTION UNDER 27-780

1 SINCE THE STATUTE'S ESSENTIAL PURPOSE WAS PROTECTING THE
2 IDENTITY OF MINORS, AND THE PLAINTIFF WAS A MINOR THE
3 STATUTE INTENDED TO PROTECT, HOWEVER, THE STATUTE HAD BEEN
4 REPEALED, THEREFORE, ANY PROCEEDINGS UNDER IT WERE
5 EFFECTIVELY FOUNDED OUT (SIC) AND THAT'S WHY THE CASE WAS
6 DISMISSED. NOW, ---

7 THE COURT - THAT CASE WAS FILED IN 1997?

8 MR. HAMMOND - IT WAS FILED IN 1997 AND DISMISSED
9 IN THE SAME YEAR.

10 THE COURT - AND HOW OLD WERE YOU IN 1997?

11 MR. HAMMOND - IN 1997 I WAS EIGHTEEN YEARS OLD.

12 THE COURT - EIGHTEEN?

13 MR. HAMMOND - YES, SIR.

14 THE COURT - AND ---

15 MR. HAMMOND - I WAS SIXTEEN WHEN THE ACTUAL
16 THING THAT WAS HAPPENING TO ME.

17 THE COURT - NOW, WE'RE THIRTEEN YEARS DOWN THE
18 ROAD? THIRTEEN YEARS LATER WE'RE HERE AND YOU FILED
19 ANOTHER CASE TEN YEARS LATER?

20 MR. HAMMOND - I'M GLAD YOU BROUGHT THAT UP, SIR.
21 I'M GLAD YOU BROUGHT THAT UP.

22 THE COURT - OKAY.

23 MR. HAMMOND - AND I HAVE A GOOD EXPLANATION FOR
24 THAT. WELL, LIKE I SAY, MY CIVIL ATTORNEY AT THE TIME
25 MISLED ME. THAT'S WHY WE BATTLED OUT AS FAR AS A

1 MALPRACTICE CASE AGAINST HIM.

2 THE COURT - ALL RIGHT.

3 MR. HAMMOND - WHAT'S IMPORTANT TO NOTICE --- TO
4 NOTE THAT --- GOD, I MESSED MY WORDS. GOD. WHAT'S
5 IMPORTANT TO NOTICE ABOUT THE --- CAN YOU REFRESH --- I
6 HATE THIS. LET ME GET BACK TO ---

7 THE COURT - WELL, LET ME ASK YOU THIS AND THEN
8 IT MIGHT JOG YOUR MIND, IF IT DOESN'T FINE, BUT --- IF YOU
9 --- YOU FILED A LAWSUIT AGAINST THE NEWSPAPER IN 2007?

10 MR. HAMMOND - I HAD CIVIL ATTORNEYS FILING IT IN
11 1997 THE FIRST TIME.

12 THE COURT - RIGHT.

13 MR. HAMMOND - THE SECOND TIME WAS 2006.

14 THE COURT - I THINK YOU FILED IN 06.

15 MR. HAMMOND - YES, SIR.

16 THE COURT - WELL, THE QUESTION I HAVE AND THEN
17 YOU CAN RESPOND TO EVERYTHING INCLUDING WHATEVER YOU HAVE
18 ON YOUR MIND IS THAT ---

19 MR. HAMMOND - OKAY.

20 THE COURT - --- IF YOU --- YOU FILED A LAWSUIT
21 IN 2006 ALMOST TEN YEARS AFTER YOUR ORIGINAL LAWSUIT ---
22 DO YOU HAVE STATUTE OF LIMITATIONS ISSUES ---

23 MR. HAMMOND - YES, SIR. AND I ---

24 THE COURT - --- IN THIS CASE?

25 MR. HAMMOND - --- YOU HELPED ME REFRESH MY

1 MEMORY WITH THAT.

2 THE COURT - ALL RIGHT.

3 MR. HAMMOND - IN 2002, THERE WAS A MURDER THAT
4 OCCURRED IN SUMTER COUNTY, SOUTH CAROLINA. THERE WERE TWO
5 WHITE JUVENILES THAT WAS INVOLVED IN THIS MURDER STABBING
6 A MASTER SERGEANT AT SHAW AIR FORCE BASE TO DEATH. THE
7 STATE NEWSPAPER STATED IN ITS --- IN ITS NEWSPAPER THAT IT
8 COULD NOT IDENTIFY THOSE MINORS BECAUSE IT WAS AGAINST
9 SOUTH CAROLINA LAW. THAT IS A CLEAR VIOLATION OF THE
10 CONSTITUTION WHEN IT COMES TO EQUAL PROTECTION UNDER THE
11 LAW, AND THAT'S WHY A RAISED ISSUE TO KEEP THIS CASE BACK
12 ON THE DOCKET FAR AS DISCOVERY RULE HERE IN SOUTH
13 CAROLINA. WHEN I DISCOVERED THAT PARTICULAR SITUATION I
14 FELT UNEQUAL TREATMENT UNDER THE LAW; I ACTED WITH
15 DILIGENCE TO GET TO THE BOTTOM OF IT, AND THAT'S WHY WE'RE
16 HERE TODAY, YOUR HONOR. I FILED SUIT --- CIVIL SUITS
17 AGAINST THE ATTORNEY MISLEADING ME IN THAT 1997 DISMISSAL
18 AND I FILED A NEW COMPLAINT AGAINST THE CORRECT ENTITY
19 BECAUSE MY CIVIL ATTORNEYS SUED THE WRONG ENTITY IN THE
20 ACTION, AND IN 2006 SUED THE CORRECT ENTITY, YOUR HONOR,
21 AND THAT'S WHY WE'RE HERE TODAY. AS FAR AS THE DISCUSSION
22 ON POTENTIAL ISSUE --- OH, AND ALSO, MR. BENDER ALSO HAD
23 TOLD ON HIS CLIENT INITIALLY THAT I HAD A CASE AGAINST
24 THEM BECAUSE I HAD BRING IT TO HIM AT THE SUPREME
25 COURTHOUSE WHICH HE --- I'M PRETTY SURE HE REMEMBERS IT.

1 HE BASICALLY TOLD ME THAT MY CIVIL ATTORNEY SUED THE WRONG
2 --- WRONG ENTITY, AND THAT'S BASICALLY WHAT LED TO THIS
3 LAWSUIT, AND I THANK YOU, SIR.

4 THE COURT - ALL RIGHT, NOW, THE CANONS THAT YOU
5 REFERRED TO A FEW TIMES, CANON 7 --- 3(A)(7) THAT SAYS ---
6 I BELIEVE IT'S 3(A)7 --- YES. CANON 3(A) SUBSECTION 7
7 THAT SAYS THAT A JUDGE SHALL ACCORD TO EVERY PERSON WHO
8 HAS A LEGAL INTEREST IN A PROCEEDING THE RIGHT TO BE HEARD
9 ACCORDING TO LAW. A JUDGE SHALL NOT INITIATE, PERMIT OR
10 CONSIDER EX PARTE COMMUNICATIONS OR CONSIDER OTHER
11 COMMUNICATIONS MADE TO THE JUDGE OUTSIDE THE PRESENCE OF
12 THE PARTIES CONCERNING A PENDING OR IMPENDING PROCEEDING
13 EXCEPT THAT WHERE CIRCUMSTANCES REQUIRE EX PARTE
14 COMMUNICATIONS FOR SCHEDULING AND ADMINISTRATIVE PURPOSE
15 OR EMERGENCIES THAT DO NOT DEAL WITH THE SUBSTANTIVE
16 MATTERS OR ISSUES ON THE MERITS ARE AUTHORIZED, PROVIDED
17 THE JUDGE REASONABLY BELIEVES THAT NO PARTY WOULD GAIN A
18 PROCEDURAL OR TACTICAL ADVANTAGE AS A RESULT OF THE EX
19 PARTE COMMUNICATIONS AND THE JUDGE MAKES PROVISIONS
20 PROMPTLY TO NOTIFY ALL OTHER PARTIES OF THE SUBSTANCE OF
21 THE EX PARTE COMMUNICATIONS AND ALLOW AN OPPORTUNITY TO
22 RESPOND.

23 MR. HAMMOND - YOUR HONOR, IF I MAY ---

24 THE COURT - SO IN CONSIDERING THAT AND YOUR
25 COMPLAINT ABOUT EX PARTE COMMUNICATIONS PERIOD, THAT IS

1 BARRED, I MEAN DO YOU ACCEPT THAT EX PARTE COMMUNICATIONS
2 IS SOMETIMES NECESSARY OR DO YOU --- DO YOU QUESTION
3 WHETHER IT WAS NECESSARY UNDER THE INSTANCE OF THIS
4 NOVEMBER 16TH LETTER TO MR. BENDER AND, SECONDLY, DID YOU
5 RECEIVE A COPY OF THE LETTER OR ANY RESPONSE OR
6 COMMUNICATIONS GENERATED AS A RESULT OF THAT LETTER TO MR.
7 BENDER?

8 MR. HAMMOND - WELL, I DID NOT RECEIVE A COPY OF
9 THE LETTER. I HAD TO RETRIEVE IT JUST BY HAPPEN TO LOOK -
10 -- TRIP OVER IT OVERLOOKING --- LOOKING OVER MY FILES AT
11 CLERK OF COURT. THAT'S HOW I DISCOVERED THE LETTER. I DO
12 FEEL THAT THE COURT SHOULD HAVE DISCRETION TO COMMUNICATE
13 WITH ATTORNEYS, BUT WITH RESPECT TO THIS CASE, I FEEL LIKE
14 IT WAS INAPPROPRIATE BECAUSE AS YOU SAID, THE CANON DOES
15 PROVIDE THAT A JUDGE SHOULD GIVE THE PARTY A CHANCE TO AT
16 LEAST RESPOND TO IT, AND I WAS NOT GIVEN THAT OPPORTUNITY.
17 I TRIED TO OBJECT TO THE HEARING AND HE IGNORED IT, SO I
18 DO --- AGAIN, I DO FEEL LIKE THERE ARE SOME NEEDS TO HAVE
19 COMMUNICATION, BUT IN THIS PARTICULAR SITUATION IT'S
20 UNCALLED FOR, BECAUSE IF IT WAS SO MUCH OF A SCHEDULING
21 MATTER, I MEAN --- LIKE I SAY, THE CASE WAS SCHEDULED
22 SINCE OCTOBER 31ST. I MEAN THE LETTER'S DATED TEN DAYS
23 PRIOR. HE --- ACTIONS HAVE OCCURRED BETWEEN THE
24 DEFENDANTS AND JUDGE BARBER TO REALLY GIVE THAT LETTER
25 SOME LIGHT, AND I FEEL LIKE IT'S INAPPROPRIATE. LIKE I

1 SAY, IT WAS ALREADY SCHEDULED, AND WHY WOULD YOU ASK FOR
2 SOMETHING TO BE SCHEDULED THAT WAS ALREADY SCHEDULE. I
3 MEAN IT JUST DOESN'T MAKE ANY SENSE AND DEFENDANT SHOULD
4 NOT BE ALLOWED TO CONTINUE TO GIVE MISLEADING AND FALSE
5 ASSERTION OF THE EVENTS THAT HAPPENED IN THE CASE AND ALSO
6 FALSE ASSERTIONS OF THE LAW AS IT PERTAINS TO THE CASE.
7 YOUR HONOR, ALL I ASK IS A FAIR TREATMENT OF THE LAW ---
8 BEFORE I SIT DOWN, CONSTITUTION OF THE CASE THAT JUDGE
9 BARBER HAS CITED, THE TIMES VERSUS DEMOCRAT HAS NO MERITS
10 --- HAS --- HAS NO BEARING OVER THE SITUATION, BECAUSE IN
11 THAT CASE THE JUVENILE IN THAT --- THAT COMMITTED THE
12 CRIME IN THAT CASE WAS NOT UNDER JURISDICTION OF THE COURT
13 AND THAT IS VERY --- THAT IS VERY IMPORTANT TO KNOW, THAT
14 THE REPORTER IN THAT CASE GOT THE PICTURE OF THAT JUVENILE
15 AT THE SCENE OF THE CRIME, AND THEREFORE, THAT JUVENILE
16 WAS NOT UNDER THE JURISDICTION OF THE COURT, THEREFORE,
17 ANY PUNISHMENT THAT WAS --- WAS TO BE IMPOSED AGAINST HIM
18 WOULD HAVE BEEN UNCONSTITUTIONAL BECAUSE THE INFORMATION
19 ABOUT THAT PARTICULAR JUVENILE IN THAT CASE WAS LEGALLY
20 AND LAWFULLY OBTAINED, BUT IN THIS CASE IT WASN'T. TWO
21 DIFFERENT CASES, YOUR HONOR. THANK YOU.

22 THE COURT - ALL RIGHT. ANYTHING ELSE NEED TO BE
23 SAID?

24 MR. BENDER - NOTHING, YOUR HONOR, THANK YOU.

25 THE COURT - ALL RIGHT. WELL, I WILL TAKE THE

1 OPPORTUNITY TO REVIEW EVERYTHING THAT HAS BEEN SUBMITTED
2 TO ME INCLUDING THE MATTERS THAT ARE IN THE FILE AND MR.
3 HAMMOND'S MEMORANDUM AND ATTACHMENT. YOU DON'T HAVE
4 ANYTHING ELSE TO HAND, DO YOU, MR. BENDER?

5 MR. BENDER - NO, YOUR HONOR.

6 THE COURT - ALL RIGHT. WILL REVIEW ALL THESE
7 MATTERS AND I WILL ISSUE A WRITTEN ORDER, AND THE ORDER
8 WILL BE FILED AND SERVED ON BOTH PARTIES. AND YOUR
9 CURRENT ADDRESS, MR. HAMMOND, IS THE ADDRESS ON LAKESIDE
10 AVENUE?

11 MR. HAMMOND - YES, SIR.

12 THE COURT - 508?

13 MR. HAMMOND - YES, YOUR HONOR.

14 THE COURT - ALL RIGHT. VERY GOOD. THANK YOU
15 ALL.

16 MR. BENDER - THANK YOU, YOUR HONOR.

17 (END OF TRANSCRIPT)

18

19

20

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CERTIFICATE

I, SHIRLEY G. BROOM, THE UNDERSIGNED COURT REPORTER, HEREBY CERTIFY THAT THE FOREGOING 45 PAGES CONSTITUTE A TRUE RECORD OF PROCEEDINGS TAKEN IN THE CASE OF STATE OF ADRIAN HAMMOND VS. THE STATE-RECORD COMPANY, INC., ET AL., AS TAKEN BY ME AT THE TIME AND PLACE STATED.

I DO FURTHER CERTIFY THAT THE PERSONS WERE PRESENT AS STATED, THAT I AM NOT OF COUNSEL FOR, RELATED TO, OR IN THE EMPLOYEE OF ANY OF THE PARTIES TO THIS ACTION AND THAT I HAVE NO INTEREST WHATSOEVER IN THE OUTCOME OF THIS CASE.

THIS THE 13th DAY OF Jan., 2010.


SHIRLEY G. BROOM
CIRCUIT COURT REPORTER
SIXTEENTH JUDICIAL CIRCUIT

STATE OF SOUTH CAROLINA)

IN THE COURT OF COMMON PLEAS

COUNTY OF RICHLAND)

Adrian Hammond,)

Case No. 2006-CP-40-2788

Plaintiff Pro Se,

vs.)

MEMORANDUM IN SUPPORT

The State-Record Company, Inc.,)

OF PLAINTIFF MOTION FOR

Lezlie Patterson, Tanya R. Fogg,)

RELIEF FROM ORDER

Monte Paulson, Lisa Greene and)

Cliff LeBlance,)

Defendants.)

_____)

COMES NOW, the Plaintiff and submits the following memorandum in support of his Motion for Relief from Judgment or Order:

FACTUAL BACKGROUND

This plaintiff directed the courts attention to the first initial complaint filed in 1997 against Knight-Ridder, Inc., because the facts are identical to the within-captioned case which will show a history between Judge Barber and Mr. Bender counsel for the defendants.

In 1994 at the time of plaintiff initial injury, SC Code Ann. 20-7-780 (1976) was in effect which provided in part that "[t]he name, identity, or picture of any child under the jurisdiction of the court [family court], pursuant to this chapter, shall not be made public by any newspaper, radio or television station except as authorized by order of the court..." The plaintiff filed a civil lawsuit, Adrian Hammond v. Knight-Ridder, Inc. d/b/a The State Newspaper, Lezlie Patterson,

Monte Paulson and Lisa Greene, individually and as employees of Knight-Ridder, Inc., Case No. 97-CP-40-0294 (hereinafter "1997 case"), against the State Newspaper, and a photographer in their individual capacities alleging they had violated Section 20-7-780 by publishing the plaintiff's picture and identifying information without first obtaining a court order. Section 20-7-780 was repealed by the SC General Assembly effective June 30, 1996.

By order dated December 1, 1997, the Honorable James R. Barber dismissed the 1997 case based on the fact that Section 20-7-780 had been repealed.

In 2006 pursuant to the South Carolina Discovery Rule this plaintiff was able to file the within-captioned case (hereinafter "2006 case"). On May 30, 2006, defendants filed motions to dismiss pursuant to 12(b) (6), SCRPC. A motion hearing was set for July 20, 2006 to be heard by the Judge Lee.

On the day of July 20th counsel for the defendants without notice could not attend hearing, but the courts recognized that he in fact had trial that week so hearing was continued. On October 31, 2006 the same motion was rescheduled by the clerk of court for November 27, 2006 before Judge Lee.

In that November 27th hearing counsel for defendants was not present so Judge Lee recessed the hearing to contact counsel for defendants, she got no response then she subsequently dismissed motion in his absence.

On December 14, 2006 without any pleadings being filed by either party in this matter, the courts under its own discretion rescheduled the same motion that Judge Lee dismissed on November 27th for January 2, 2007. Plaintiff filed motion to object the January 2nd hearing but was ignored so he was forced to appear as ordered by the court.

This court must be mindful that Judge Barber was in fact serving as Chief Administrative Judge for the Richland County Circuit Court from July 2, 2006 to December 30, 2006. But if you pay close attention to that December 14th court notice Judge Barber in a misleading effort listed Judge Lee as chief judge to cover up the fact that he assigned himself to the case to in fact act in harmony with an ex parte letter received from the defendants which facts to support will follow.

days prior to that November 27th hearing before Judge Lee that was set since Oct. 31, 2006. Judge Barber acted in harmony with that letter by permitting the defendants to miss that November 27th hearing without any reason known by neither plaintiff nor Judge Lee. (C. See order to dismiss by Judge Lee) Pursuant to the language of that ex parte letter Jay Bender intended to be a no show, and Judge Barber followed that irresponsible act by abuse his authority when he issued out new court notices to hear same motion to dismiss on behalf of defendants without any pleadings filed by neither party in this matter. (D. See December 14, 2006 notice) Plaintiff then filed a motion to object that hearing and it was in fact ignored. (E. See motion to object) This court must recognize the fact that Judge Barber issued the new court notices listing himself as the new presiding judge and named Judge Lee as the Chief Administrative Judge when in fact he was serving as chief. In December of 2008 after reporting Judge Barber actions to Judicial Merit Selection Commission we all were present for a hearing held at the Statehouse where Judge Barber lied under oath about the facts mentioned-above. Please be mindful that at that time Judge Lee was listed as Chief Judge on that December 14, 2006 courts notice. In the 2006 matter I never mentioned anything about Judge Barber listing another judge as Chief Judge because I knew that Judge Barber could easily claim that a mistake was made. Unfortunately, by me withholding the fact that Judge Barber assigned himself to the case was crucial because he fell directly in my trap in the hearing before the J.M.S.C. by claiming that December 14, 2006 court notice to be good and that he was not Chief Administrative Judge at that time. (F. See Transcripts pg. 134 & Chief Judge Chart for 2006)

After Judge Barber dismissed the 2006 case the plaintiff then had 10 days to file for reconsideration with the judge that presided over the matter. The plaintiff at that time of the case did not feel that Judge Barber ruling was fair but plaintiff did not have any knowledge that an ex parte letter existed at that very point. So instead of filing the motion to reconsider Judge Barber as required by the rules, plaintiff filed the motion with Judge Lee with a letter attached explaining why I fear that Judge Barber was abusing his power as chief judge. Note that at time motion was filed with Judge Lee she was then serving as chief judge. (G. See

motion to reconsider & letter explaining why) Moreover, Judge Barber abused his authority for a second time when he in fact pulled the same exact stunt he pulled in 2006, when the clerk of court scheduled this same motion in question it was set to be heard by Judge Childs on March 9, 2010. On March 3, 2010 Paul from the clerk's office called and left a message informing me that something had come up with Judge Childs and that this motion hearing had to be continued as a result. (H. See video tape of message) Do to the bad history between plaintiff and Judge Barber, plaintiff felt something fishy when he did not receive any thing by mail to support that phone call I received March 3rd. So the plaintiff and his mother decided to show up for that March 9th hearing before Judge Childs to see rather or not she in fact had something come up and according to her she knew nothing about something coming up. Such actions clearly show that Judge Barber abused his authority as chief judge for a second time by interfering in this case just as he did in 2006. (I. See affidavit of Vera Hammond)

Obviously Judge Barber is a liar and clearly he is biased and prejudice toward this plaintiff and he has acted in a way that is careless and\or reckless in respect to upholding integrity of the judicial process. Judge Barber with a great ill will toward me has clearly overreached in dictating who will hear any proceedings of this plaintiff. I plead with this court to not allow Judge Barber to personally assassinate my cause of action with no evidence allowing so other than how he personally feels about this matter. Judge Barber committed perjury by lying to the Judicial Merit Selection Commission. Judge Barber Committed forgery when he implicated Judge Lee as Chief Judge with the intent to deceive plaintiff. Judge Barber even accepted Ex Parte communications from Mr. Bender to give the defendants an unfair advantage. Pursuant to facts listed-above Judge Barber has many reasons to alter hearings involving this case and such actions should not be permitted in any court.

Canon 3 Section (7) clearly provides language that prohibits any judge to initiate, permit, or consider ex parte communications, or consider other communications made to the judge outside the presence of the parties concerning a pending matter. In this case, Judge Barber violated section (7) of the Canons and the dismissal of this case should in fact be overruled pursuant to Rule 60.

By order dated January 30, 2007, Judge Barber dismissed the 2006 case in favor of defendants. The plaintiff then had 10 days to file Motion for Reconsideration pursuant to Rule 59. Instead of filing that particular motion with the presiding judge in this matter which was Judge Barber, plaintiff filed his Motion for Reconsideration with Judge Lee attached with a letter explaining why. Judge Lee later forwarded documents to Judge Barber and he dismissed without oral argument.

Just before plaintiff gave up in pursuing his cause of action he decided that he would take a final view of his files at the Clerk of Court office, and discovered an ex parte letter dated November 17, 2006. Upon the content of the contained language in that letter this plaintiff moved with diligence to file the within-captioned motion.

Plaintiff also filed a complaint with the Judicial Merit Selection Commission on Judge Barber for his misconduct involving this matter. Commission heard complaint on December 2, 2008 with Judge Barber and Mr. Bender present to testify.

ARGUMENTS

1. The Plaintiff's Complaint Should be Relieved from Order or Judgment Because Judge Barber Received An Letter Ex Parte at the Surprise of Plaintiff giving Defendants an Unfair Advantage

On October 31, 2006 the circuit courts issued notices for a motion hearing on behalf of defendants to be heard by Judge Lee, and Judge Barber was in fact the sitting Chief Administrative Judge (A. See Oct. 31, 2006 notice). On November 17, 2006 Judge Barber abused his authority as chief judge when he accepted an ex parte letter from Jay Bender counsel for the defendant's (B. See ex parte letter). The language contained in that letter clearly indicated the defendants were in fact seeking some special assistance from Judge Barber. This plaintiff is confident of such allegation because the ex parte letter was received by Judge Barber just 10

This case must be relieved from Judge Barber order of dismissal, because by allowing counsel for the defendants to submit that ex parte letter is a clear misconduct of the adverse party alone. Jay Bender and Judge Barber should be well aware of such rules provided in the canons. (J. See Canon 3)

2. Relief from Judgment or Order Should be Granted Because
Judge Barber In Fact Abused His Discretion in the "2006 Case".

A. When Judge Barber ruled in favor of the defendant's theory that as a result of the 1996 repeal of §20-7-780 plaintiff could not pursue his cause of action is a clear error of law.

Defendants contend that because the South Carolina General Assembly repealed §20-7-780 in 1996, prior to plaintiff filing complaint in 1997, that his cause of action was moot as a result. Judge Barber ruling is clearly in error as a result of the defendant's argument of laws that in fact was not enacted at the time of plaintiff injuries. It is an absolute error of law to allow the defendant to apply laws to a case other than ones enacted at time of injury. Once a cause of action accrues, it becomes a vested right which cannot be extinguished by legislative act. *Karl v. Bryant Air Conditioning Company, 705 F.2d 164.*

S.C. Code Ann. §20-7-780 is the applicable statute that governs this matter not §20-7-8520 as applied by defendants'. Pursuant to the clear reading of §20-7-780 it was a clear intent of the S.C. General Assembly to protect the identity of a minor under the jurisdiction of the court except as authorized by order of the court. It is absolute that at the time of plaintiff injury § 20-7-780 was enacted as South Carolina law, so therefore, this defendants owed the plaintiff a duty of care. Where the statutory language is plain and the meaning is clear, the courts do not search for legislative intent beyond the express terms of the statute and must give effect to the language as written, rather than determining what the law should be; *In the matter of Ingram, 965 P.2d 831.* Pursuant to Judge Barber ruling in both the 1997 and 2006 case, he clearly allowed the counsel for defendant to assert misleading assertions of the law that clearly went far beyond the

legislature intent to protect minors in the year of 1994. Any assertion of the law implied by defendants enacted after 1994 have no bearing over this matter. It is obvious that a statute enacted two years after the injury cannot be used to deny plaintiff rights which he enjoyed at the time of injury. *Nohrden v. North Eastern R.R. Co.*, 54 S.C. 492, 32 S.E. 524. The only laws this case must be governed by is §20-7-780 and §20-7-390.


In reference to plaintiff not filing complaint until after the repeal is of no significance because he had 3 years as a result of the statute of limitations to file his complaint.

The defendants 2006 order to dismiss clearly contradicts their own 1997 memorandum submitted in the 1997 case stating that; "If §20-7-780 is applicable even though it has been repealed, it is likely that the plaintiff does have a private cause of action. In order to show the defendant owes him a duty of care arising from a statute, the plaintiff must show two things: (1) that the essential purpose of the statute is to protect Plaintiff from the kind of harm the Plaintiff has suffered; and (2) that he is a member of the class of persons the statute is intended to protect. The essential purpose of §20-7-780 is apparently to protect a minor under the jurisdiction of the family court from having his identity published. In this case, the plaintiff was a juvenile appearing in family court and the statute was intended to protect him, thus, the defendants owed him a duty of care under the statute. In concluding, it is likely the plaintiff would have had a cause of action under §20-7-780, since the statutes essential purpose was to protect the identity of minors and the plaintiff was a minor this statute intended to protect; however, the statute had been repealed and, therefore, any proceedings under it were effectively blotted out." [K. See Memorandum pg. 4] Pursuant to the content of the language in that 1997 memorandum the defendants clearly was aware of the duty owed to plaintiff. But instead, Judge Barber allowed Mr. Bender to submit arguments that have no evidentiary support. It is important that the plaintiff point out the fact that the order to dismiss the 1997 case was solely based on that same memorandum. (L. See 1997 dismissal) The reason it is important to realize such facts is to show how Judge Barber displayed his prejudice toward this plaintiff by changing the bar on plaintiff. This case went from the repeal of §20-7-780 being the main issue in 1997, to allowing the defendant's to argue laws enacted many years later to have precedents over this matter. Judge Barber cannot be allowed to continue to insert

his own assertion of the law when it comes to this matter. An abuse of discretion arises where a judge issuing an order was controlled by an error of law or where the order is based on factual conclusions that are without evidentiary support. *BB&T v. Taylor*, 369 S.C. 548. Judge Barber is in error ruling against plaintiff case in 1997 & 2006 making such decisions without a care of the rule of law.

Moreover, on January 26, 1994, just one day prior to the first unlawful publication of plaintiff, the newspaper covered the story and wrote in its article stating; "A hearing is scheduled for today on the 16-year-old, who was not identified because the law does not consider him an adult until his 17th birthday." [M. See newspaper article] Based upon statements made in 1997 memorandum by counsel, along with the article published by defendants, clearly indicate that defendants had full knowledge of the laws enacted protecting the identity of this minor at the time of his injury and still declined to adhere to it and this court is in error allowing them to do so. The publication of a newspaper is a private business, and the publisher is subjected to the same restrictions as other individuals. Newspapers have no special privileges to invade the rights and liberties of others. *Branzburg v. Hayes* 488 U.S. 665. If the Plaintiff shows a duty arising from a statute and that the defendant violated a statute, the element is met by proof of negligence per se. *Norton v. Opening Break of Aiken, Inc.*, 319 S.C. 469.

Judge Barber Abused his Discretion when he dismissed the 2006 case based on a repeal that is inapplicable to the facts of this current matter at hand. The State Newspaper clearly owed this Plaintiff a duty of care arising from §20-7-780 and as a result plaintiff 2006 case upon motion should be reinstated. An abuse of discretion occurs when the ruling of the court is based on an error of law or a factual conclusion without evidentiary support. *H.C.H, LLC v. Mullon*, 381 S.C. 417

 B. Judge Barber ruling is in error by allowing Defendants assertion of The State v. The Times and Democrat to challenge the constitutionality of Plaintiff cause of action.

Defendants rely heavily upon State ex rel., *The Times and Democrat*, 276 S.C. 26, (hereinafter "The Times") as a defensive tactic challenging the constitutionality of §20-7-780. Under the facts of this case, the news reporter took a picture of the minor at the scene of the crime not in the courtroom. If that child had been in the

courtroom at the time that picture was taken, pursuant to §14-21-30 which was enacted as law at time of this case, a court order would in fact had to be secured by "The Times" before any identifying information could be released of that child. The minor in "The Times" case was not in the courtroom at the time his picture was taken, therefore, he was not considered a child under the jurisdiction of the court. Because of that fact, the news reporter was able to obtain the picture in question at the scene of the crime the courts considered that lawfully obtained.

Moreover, The Times only dealt with the right of the State of South Carolina to prosecute a newspaper for the publication of information legally obtained about a juvenile charged with a crime. Therefore, §14-21-30, was declared to be unconstitutional as it related to the state right to punish the newspaper for its dissemination of information concerning the minor. Although criminal prosecution for contempt was not available because of the court's decision, The Times case did not address the issue of civil exposure for violation of §14-21-30.

The statutory section is clear as to the necessary requirements governing the release of information concerning minors charged with an alleged crime; a court order must be secured by the court prior to publishing any identifying information of a minor. In the 2006 Case, the plaintiff was arrested at age of 16 and subjected to the control of the court, thereby placing him as a member of persons §20-7-780 was designed to protect. As a result, the newspaper in the 2006 Case was required to obtain an order from the court authorizing the release of the identifying information of this plaintiff. Defendants in fact failed to produce such order of the court authorizing their actions in this matter. If the Plaintiff shows a duty arising from a statute and that the defendant violated a statute, the element is met by proof of negligence *per se*. *Norton v. Opening Break of Aiken, Inc.*, 319 S.C. 469. The plaintiff in this matter has clearly demonstrated that the defendants owed him a duty of care under §20-7-780 and as a result this matter should be reinstated and set for trial.

Obviously the defendant's constitutional argument has no merit but they are entitled to their own opinion rather factual or not. Mr. Bender did a good job persuading the courts to adhere to arguments that have no facts to support. If this court allow such non factual arguments to continue to stand as precedence

over this matter, that action will be a clear violation of the plaintiff 14th Amendment Right. The 14th Amendment clearly states that "No State shall make or enforce any law which shall abridge the privileges or immunities of citizens" and in this case Judge Barber clearly allowed the defendants to argue laws enacted two years later to take away this plaintiff right which he enjoyed prior to inapplicable pleadings of the defendants. Judge Barber decision in this matter deprives this plaintiff of the right to liberty without a proper due process which is prescribed by the constitution. Moreover, when The State Newspaper failed to protect this plaintiff under §20-7-780 and chose to protect the identity of two white juveniles in Sumter County clearly indicated a violation of equal protection laws and racial discrimination against this plaintiff which all are protected under the good old constitution. The voice of the plaintiff is being allowed to be drowned out by this court when it comes to justice against The State Record Inc. and the constitution provides language to the contrary. (N. See 14th Amendment)

Pursuant to the language contained in §20-7-780 the constitutional requirements has been meet in this case. The language contained in that particular statute does not prevent the media from being present in the courtroom, nor does it prevent media from reporting information about the alleged crime. However, §20-7-780 does prohibit the media from making public the name and/or picture of any child under the jurisdiction of the court without a court order. Statutes are to be construed in favor of constitutionality, and court presumes legislative act is constitutionally valid unless clear showing to the contrary is made. *Bradley v. Hullander*, 277 S.C. 327. The defendant's constitutional arguments are clearly without merit because it does not accord with the rule of law. The press is not free to publish with impunity everything and anything it desires to publish. *Branzburg v. Hayes*, 408 U.S. 665, 683.

CONCLUSION

It is the belief of the plaintiff that Judge Barber clearly overreached by abusing his authority as chief judge assigning himself to this case to protect himself and Jay Bender misrepresentation of the facts in this matter. Accepting ex parte letters is a clear violation of the canons that governs the conduct of judges. Judge Barber accepted an ex parte letter with a clear attempt to put this plaintiff at a disadvantage by acting in harmony with the unfair intentions of the defendants.

Judge Barber rulings in this matter are misleading and are clearly a misrepresentation of the law. A misrepresentation is fraudulent if the maker intends his assertion to induce a party to manifest his assent and the maker knows that he does not have the basis that he states or implies for the assertion. Restatement (Second) of Contracts §162 (1) Judge Barber knew that his rulings had no merit and that's why he was forced to overreach in a misleading way to cover up his decisions against this plaintiff that had no evidentiary support. Pursuant to facts mentioned above Judge Barber and Jay Bender clearly made a joint effort to deny this plaintiff justice without any legal basis other than depending on the ignorance of this pro se plaintiff. A misrepresentation is actionable where one who himself knows the law, deceive another by misrepresenting the law to him, or, knowing such other to be ignorant of the law, takes advantage through such ignorance. Moody v. Stem, 214 SC 45 Judge Barber clearly change the bar on this plaintiff as it relate to the 1997 case solely being dismissed because of the repeal of §20-7-780, to allowing the defendants to change their defensive position to arguments that applied laws later enacted which clearly is a violation of the constitution.

Based on the foregoing, this Plaintiff respectfully requests that his motion pursuant to Rule 60 be granted in his favor.

April 12, 2010

Respectfully submitted,



Adrian Hammond

508 Lakeside Ave.

Columbia, SC 29203

803-933-9688

MEMORANDUM

To: Judge James R. Barber
From: Saundra N. Bauer
Date: October 31, 1997
Re: Adrian Hammon v. Knight-Ridder, Inc., d/b/a
The State Newspaper, Lezlie Patterson, Monte Paulsen,
and Lisa Greene, individually and as employees of
Knight-Ridder, Inc.

FACTS

On January 25, 1994, plaintiff, Adrian Hammond, was arrested by the Columbia Police Department, detained and subsequently charged with the assault and murder of Earnest Dunlap. At that time, the plaintiff was 16 years old. On January 27, 1994, January 29, 1994, and February 6, 1994, The State Newspaper published the name, identity, and picture of the plaintiff, alleging his involvement in the murder case.

At the time The State Newspaper published the information on plaintiff, S.C. Code of Laws 20-7-780 (1976) was still in effect. This section states: "[t]he name, identity or picture of any child under the jurisdiction of the court pursuant to this chapter, shall not be made public by any newspaper, radio or television station except as authorized by order of the court. . . ." S.C. Code Ann. §20-7-780 (1976) was repealed effective July 1, 1996. The Complaint in this case was filed January 27, 1997. Thereafter, the Complaint was served on Lezlie Patterson, Monte Paulsen, Lisa Greene, and Fred Mott, President and an officer of The State Newspaper, Inc., on January 30, 1997.

ISSUES

May a party pursue a cause of action under a repealed statute?

Does S.C. Code Ann. §20-7-780 (1976) provide a basis for a private cause of action?

RULES

The general rule in South Carolina is that the repeal of a statute operates retrospectively, and has the effect of blotting it out completely as if it had never existed and of putting an end to all proceedings under it. Taylor v. Murphy, 360 S.E.2d 314, (1987). Moreover, where the statute is regarded as providing a remedy, rather than creating a right, its repeal has the effect of taking away the remedy for acts or omissions occurring while the statute was still in force. *Id.*

"In order to show the Defendant owes him a duty of care arising from a statute, the Plaintiff must show two things: (1) that the essential purpose of the statute is to protect Plaintiff from the kind of harm the Plaintiff has suffered; and (2) that he is a member of the class of persons the statute is intended to protect." Rayfield v. S.C. Dept. of Corrections, 374 S.E.2d 910 (Ct.App. 1988).

ANALYSIS

The plaintiff should not be permitted to pursue a cause of action based on a statute which

has been repealed. "[T]he repeal of a statute under which penalties have been incurred removes the right to recover such penalties unless a savings clause preserves the right or suit brought under the statute has been prosecuted to judgment before the repealing act takes effect."

Vaughan v. Kalyvas, 342 S.E.2d 617 (S.C.App. 1986). The general rule in South Carolina is that the repeal of a statute operates retrospectively, and has the effect of blotting it out completely as if it had never existed and of putting an end to all proceedings under it. Taylor v. Murphy, 360 S.E.2d 314, (1987). Moreover, where the statute is regarded as providing a remedy, rather than creating a right, its repeal has the effect of taking away the remedy for acts or omissions occurring while the statute was still in force. *Id.* In the instant case, the alleged violation of rights occurred in January and February of 1994, while S.C. Code of Laws §20-7-780 (1976) was still in effect; however, the present action was not commenced until January 27, 1997 which was after the statute had been repealed by the South Carolina Legislature. Even if §20-7-780 provided a private remedy, the repeal of that section had the effect of taking away that remedy. Thus, the plaintiff may not pursue any cause of action under the statute even though the acts of the defendant occurred while the statute was still in effect.

The plaintiff argues that because the statute was repealed after the time of the action complained of and since the repeal did not have a remedial or procedural effect, the plaintiff should not be precluded from maintaining his action. The plaintiff cites Hercules, Inc. v. The South Carolina Tax Commission, et al., which holds in the construction of statute, there is a presumption that statutory enactments are to be considered prospective rather than retroactive in their operation unless the statute is remedial or procedural in nature. 262 S.E.2d 45 (1980). This case refers to a newly enacted statute, not a statute which has been repealed, therefore, it is

inapplicable to the case at hand.

If §20-7-780 is applicable even though it has been repealed, it is likely that the plaintiff does have a private cause of action. "In order to show the Defendant owes him a duty of care arising from a statute, the Plaintiff must show two things: (1) that the essential purpose of the statute is to protect Plaintiff from the kind of harm the Plaintiff has suffered; and (2) that he is a member of the class of persons the statute is intended to protect." Rayfield v. S.C. Dept. of Corrections, 374 S.E.2d 910 (Ct.App. 1988). The essential purpose of §20-7-780 is apparently to protect a minor under the jurisdiction of the family court from having his identity published. In this case, the plaintiff was a juvenile appearing in the Family Court and the statute was intended to protect him, thus, the defendant owed him a duty of care under the statute.

CONCLUSION

It is likely the plaintiff would have had a cause of action under §20-7-780, since the statutes essential purpose was protecting the identity of minors and the plaintiff was a minor this statute intended to protect; however, the statute had been repealed and, therefore, any proceedings under it were effectively blotted out.

STATE OF SOUTH CAROLINA)

COUNTY OF RICHLAND)

Adrian Hammond,)

Plaintiff,)

vs.)

Knight-Ridder, Inc.,)
d/b/a The State News-)
paper, Leslie Patterson,)
Monte Paulsen, and Lisa)
Greene, individually and)
as employees of Knight-)
Ridder, Inc.,)

Defendants,)

IN THE COURT OF COMMON PLEAS

C. A. No. 97-CP-40-0294

AFFIDAVIT OF FREDERICK B. MOTT, JR.

FILED
1997 NOV 23
COURT

I, Frederick B. Mott, Jr., being duly sworn, state:

The matters stated by me herein are known by me to be true unless stated upon information and belief, and, as to those matters, I believe them to be true.


I am President of The State-Record Co., Inc., and Publisher of The State newspaper. The State newspaper is published by The State-Record Co., Inc. and not by Knight-Ridder, Inc.

Knight-Ridder, Inc. is a corporation separate and distinct from The State-Record Co., Inc. which is a South Carolina corporation maintaining an independent identity. Knight-Ridder, Inc. owns the shares of stock of The State-Record Co., Inc., but the corporations maintain separate identities and observe appropriate corporate formalities to preserve the separate nature of the corporations.

Knight-Ridder, Inc. had no role to play in the publication of The State newspaper on the dates complained of by the plaintiff in

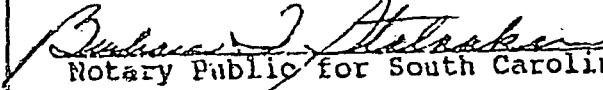
the within-captioned action.

FURTHER AFFIANT SAYETH NOT.


Frederick B. Mott, Jr.

Sworn to before me this 6th

day of March, 1997

 (L.S.)
Notary Public for South Carolina

My Commission Expires: 10/28/03

Renee



BAKER RAVENEL BENDER

ATTORNEYS AT LAW

Schedule, Sec 11

already set for 11/27/06

CHARLES E. BAKER
D. CRAVENS RAVENEL
JAY BENDER
S. MARKEY STUBBS
CATHARINE GARBEЕ GRIFFIN
WILLIAM PEARCE DAVIS
KIRBY D. SHEALY III
ELIZABETH M. DALZELL
HOLLY PALMER BEESON
NATHAN J. VAN GINHOVEN
AMY L. MILLIGAN
BRADLEY L. LANFORD
SAMUEL M. MOKEBA
EMMA ISABELLE BRYSON
GEORGE A. REEVES III

November 17, 2006

The Honorable James R. Barber
Chief Administrative Judge
Fifth Judicial Circuit
Richland Judicial Center
1701 Main Street
Columbia, South Carolina 29201

Re: Adrian Hammond v. The State Record Company, Inc., Lezlie
Patterson, Tanya R. Fogg, Monte Paulsen, Lisa Greene, and Cliff
LeBlanc
C. A. No. 2006-CP-40-02788
Our File No. 5859.60

Dear Judge Barber:

The above-referenced case is subject to a Motion for Summary Judgment by defendant. A hearing had been set on the Motion previously, but continued because it came up at a time I was in trial. This same plaintiff had filed an identical action against The State many years ago, and that action had been resolved in favor of the newspaper. In this most recent action, the plaintiff has sued the newspaper and his former lawyers. The former lawyers have had their Summary Judgment Motion granted. I would hope that the newspaper's Motion could be scheduled for a hearing soon.

Best regards.

Yours very truly,

Jay Bender

JJB/tkt
cc: Mr. Mark Lett

115

D

Richland County Clerk Of Court
1701 Main Street
P. O. Box 2766
Columbia, SC 29202

December 14, 2006

Adrian Pro Se Hammond
508 Lakeside Ave
Columbia, SC 29203

Case Number: 2006CP4002788

Adrian Pro Se Hammond vs. The State-Record Inc

MOTION(S) FILED: Dismiss

The above referenced case is scheduled for a Motion Hearing on January 2, 2007 at 11:00 AM before Judge James R. Barber, III in Courtroom 2-C.

The Plaintiff's Attorney is to notify the Defendant in writing of the time and date of all Default and Damages Hearings.

All requests for continuances must be in writing and received by the Chief Administrative Judge prior to the hearing. Please notify the Court in writing if the Motions are resolved prior to the hearing.

Questions concerning this Notice should be directed to the Chief Administrative Judge.

Alison R. Lee
Chief Administrative Judge

THE STATE OF SOUTH CAROLINA

RECEIVED

In The Court of Appeals

DEC 21 2012

SC Court of Appeals

APPEAL FROM RICHLAND COUNTY

Court of Common Pleas

Clifton Newman, Circuit Court Judge

Case No.: 2006-CP-40-2788

Adrian Hammond,

Appellant,

v.

The State-Record Company, Inc., Lezlie

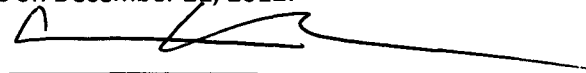
Patterson, Tanya R. Fogg, Monte Paulson,

Lisa Green and Cliff LeBlance,

Respondents.

PROOF OF SERVICE

I, Adrian Hammond certify that I served a copy of this Supplemental Record on Appeal in this matter by hand delivery to the office of Mr. Jay Bender counsel for the defendants on December 21, 2012.



12-21-12

Adrian Hammond

Jay Bender

508 Lakeside Ave.

3710 Landmark Dr.

Columbia, S.C. 29203

Columbia S.C. 29202

803-933-9688

THE STATE OF SOUTH CAROLINA

In The Court of Appeals

RECEIVED

DEC 21 2012

APPEAL FROM RICHLAND COUNTY

SC Court of Appeals

Court of Common Pleas

Clifton Newman, Circuit Court Judge

Case No.: 2006-CP-40-2788

Adrian Hammond,

Appellant,

v.

The State-Record Company, Inc., Lezlie

Patterson, Tanya R. Fogg, Monte Paulson,

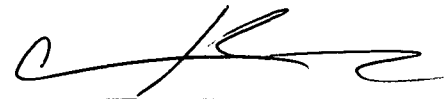
Lisa Green and Cliff LeBlance,

Respondents.

SUPPLEMENTAL CERTIFICATE OF COUNSEL

I, Adrian Hammond, certify that the Supplemental Record on Appeal contains all materials proposed to be included by both parties with the addition of pages 38, 39, and 40, which were missing from the original Record on Appeal.

December 21, 2012



Adrian Hammond

508 Lakeside Ave.

Columbia, S.C. 29203

803-933-9688