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SC Court of Appeals

The State of South Carolina
In The Court of Appeals

Appeal from Charleston County
Hon. Deadre Jefferson, Circuit Court Judge

Case No. 2014-CP-10-4591
Appeal 2017-002392

Jane Doe 202, by John Doe MM and John Doe HS, each of whom holds power of attorney for Jane Doe,

Appellant

v.

City of North Charleston,
Leigh Anne McGowan, individually,
Charles Francis Wohlleb, individually,
Anthony M. Doxey, individually,

Respondents

Record On Appeal
Volume One

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Volume One

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FORM 4

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON
IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE

CASE NO. 2014 **CP-**10-4591

FILED
2015 JAN 23 PM 3:20
JULIE J. ARMSTRONG
CLERK OF COURT
BY

Jane 202 Doe, et al — PLAINTIFF(S)

City of North Charleston — DEFENDANT(S)

Submitted by:

Attorney for : ☐ Plaintiff ☐ Defendant or ☐ Self-Represented Litigant

DISPOSITION TYPE (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. ☐ <u>See Page 2 for additional information.</u>

☐ **ACTION DISMISSED** (*CHECK REASON*): ☐ Rule 12(b), SCRCP; ☐ Rule 41(a), SCRCP (Vol. Nonsuit); ☐ Rule 43(k), SCRCP (Settled); ☐ Other

☐ **ACTION STRICKEN** (*CHECK REASON*): ☐ Rule 40(j), SCRCP; ☐ Bankruptcy; ☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; ☐ Other

☐ **DISPOSITION OF APPEAL TO THE CIRCUIT COURT** (*CHECK APPLICABLE BOX*): ☐ Affirmed; ☐ Reversed; ☐ Remanded; ☐ Other

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: ☐ See attached order (formal order to follow) ☒ Statement of Judgment by the Court: Plaintiff's Motion for Leave to use Pseudonym, filed on 11/12/14, is GRANTED.

ORDER INFORMATION

This order ☐ ends ☒ does not end the case.
Additional Information for the Clerk :

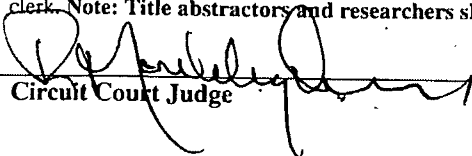
INFORMATION FOR THE JUDGMENT INDEX

Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)
N/A		$
		$
		$

If applicable, describe the property, including tax map information and address, referenced in the order:

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. **Note: Title abstractors and researchers should refer to the official court order for judgment details.**



Circuit Court Judge — 2060 **Judge Code** — 1/20/2015 **Date**

FORM 4 2014-CP-10-4591

FILED
2017 OCT 16 PM 2:18
JULIE J. ARMSTRONG
CLERK OF COURT

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON
IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE

CASE NO. 2014-CP-10-04591

Jane Doe 202, through John Doe MM and John Doe HS, each of whom holds power of the attorney for Jane Doe,

PLAINTIFF

v.

City of North Charleston, Leigh Anne McGowan, individually, Charles Frances Wholleb, individually, and Anthony M. Doxey, individually,

DEFENDANTS

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), SCRCP; ☐ Rule 41(a), SCRCP (Vol. Nonsuit); ☐ Rule 43(k), SCRCP (Settled); ☐ Other

☐ **ACTION STRICKEN** (*CHECK REASON*): ☐ Rule 40(j), SCRCP; ☐ Bankruptcy; ☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; ☐ Other

☐ **DISPOSITION OF APPEAL TO THE CIRCUIT COURT** (*CHECK APPLICABLE BOX*):

☐ Affirmed; ☐ Reversed; ☐ Remanded; ☐ Other
NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: ☐ See attached order. (Formal order to follow)
☒ Statement of Judgment by the Court:

This case was called before the Court for a jury trial on October 2, 2017. On October 13, 2017, a judgment in favor of the Defendants was rendered by the jury.

At the end of the trial, Plaintiff made a Motion for a New Trial. The Court heard and respectfully denied this motion. The Defendants made a post-trial motion for sanctions pursuant to South Carolina Rule of Civil Procedure 11 and S.C. Code Ann. § 15-36-10. Defendants further moved for attorney's fees as the prevailing party in accordance with 42 U.S.C. § 1988. The Court instructed Defendants to file a Motion in support of its request for sanctions in accordance with § 15-36-10(D). The Court additionally instructed Defendants to file a separate motion with the Court in support of their request for attorney's pursuant to 42 U.S.C. § 1988.

ORDER INFORMATION

This order ☒ ends ☐ does not end the case.

Additional Information for the Clerk : ______________________________

INFORMATION FOR THE JUDGMENT INDEX Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.		
Judgment in Favor of (List name(s) below)	**Judgment Against (List name(s) below)**	**Judgment Amount To be Enrolled (List amount(s) below)**
If applicable, describe the property, including tax map information and address, referenced in the order:		

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. **Note: Title abstractors and researchers should refer to the official court order for judgment details.**

Circuit Court Judge | 2128 **Judge Code** | 10/13/17 **Date**

For Clerk of Court Office Use Only

This judgment was entered on the _________ day of _______________, 20___ and a copy mailed first class or placed in the appropriate attorney's box on this _____day of _________________, 20____to attorneys of record or to parties (when appearing pro se) as follows:

Gregg Meyers, Esq.

ATTORNEY FOR PLAINTIFF

Sandy Senn, Esq.
Christopher Dorsel, Esq.

ATTORNEYS FOR DEFENDANTS

CLERK OF COURT

Court Reporter: Joyce Rueger

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

IN THE COURT OF COMMON PLEAS
CIVIL ACTION NO.: 2014-CP-10-4591

Jane Doe 202, by John Doe MM and John Doe HS, each of whom holds power of attorney for Jane Doe,

Plaintiffs,

v.

City of North Charleston; Leigh Anne McGowan, individually, Charles Francis Wholleb, individually, and Anthony M. Doxey, individually;

Defendants.

VERDICT FORM

FILED
2017 OCT 16 PM 2:19
JULIE J. ARMSTRONG
CLERK OF COURT

This is the verdict form for this matter. Please answer each question and then follow the directions that coincide with your answer. The Foreperson must sign and date the verdict form when it is complete.

AS TO PLAINTIFFS' CLAIMS AGAINST DEFENDANT CITY OF NORTH CHARLESTON

1. Do you find that the Plaintiff has proven by a preponderance of the evidence that the City of North Charleston violated Rhonda Doe's constitutional rights by being deliberately indifferent with regard to training its officers?

_____ yes (go to #2)   __✓__ no (stop deliberations on this cause of action and sign the bottom of this form)

2. If you answered yes to #1, do you find that Plaintiff has proven by a preponderance of the evidence that any such constitutional violation by the City of North Charleston proximately caused damage to Rhonda Doe?

_____ yes (go to #3)   _____ no (stop deliberations on this cause of action and sign the bottom of this form)

3. If the answers to #1 and #2 are yes, please state the amount of damages that should be awarded to Plaintiff for the allegation that the City of North Charleston was deliberately indifferent with regard to training its officers.

$ ____________________________
(please state damages award in numbers)

YOUR VERDICT MUST BE UNANIMOUS.

October 13, 2017
Date

#126 [signature]
Foreperson

STATE OF SOUTH CAROLINA COUNTY OF CHARLESTON	IN THE COURT OF COMMON PLEAS CIVIL ACTION NO.: 2014-CP-10-4591
Jane Doe 202, by John Doe MM and John Doe HS, each of whom holds power of attorney for Jane Doe, Plaintiffs, v. City of North Charleston; Leigh Anne McGowan, individually, Charles Francis Wholleb, individually, and Anthony M. Doxey, individually; Defendants.	**VERDICT FORM**

FILED
2017 OCT 16 PM 2:19
JULIE J. ARMSTRONG
CLERK OF COURT

This is the verdict form for this matter. Please answer each question and then follow the directions that coincide with your answer. The Foreperson must sign and date the verdict form when it is complete.

AS TO PLAINTIFFS' CLAIMS AGAINST DEFENDANT LEIGH ANNE MCGOWAN

1. Do you find that Plaintiff has proven by a preponderance of the evidence that Leigh Anne McGowan violated Rhonda Doe's constitutional rights by making a warrantless entry into Rhonda Doe's residence on the night of March 27, 2014?

_____ yes (go to #2)

__✓__ no (stop deliberating on this cause of action and sign the bottom of this form)

2. If you answered yes to #1, do you find that Leigh Anne McGowan is entitled to Qualified Immunity?

_____ yes (stop deliberating on this cause of action and sign the bottom of this form)

_____ no (go to #3)

3. If you answered yes to #1 and no to #2, do you find that Plaintiff has proven by a preponderance of the evidence that the constitutional violation proximately caused damages to Rhonda Doe?

_____ yes (go to #4)

_____ no (stop deliberating on this cause of action and sign the bottom of this form)

4. If the answer to both # 1 and #3 is yes and the answer to #2 is no, please state the amount of actual damages that should be awarded to Plaintiff for the allegation that Leigh Anne McGowan violated Rhonda Doe's constitutional rights.

$ ____________________________

(please state damages award in numbers)

5. If you answered #4, do you find that Plaintiff has proven through clear and convincing evidence that punitive damages should be awarded against Leigh Anne McGowan.

_____ yes (go to #6)

_____ no (stop deliberating on this cause of action and sign the bottom of this form)

6. If the answer to #5 is yes, please state the amount of punitive damages that should be awarded to Plaintiff for the allegation that Leigh Anne McGowan violated Rhonda Doe's constitutional rights.

$ ____________________________

(please state damages award in numbers)

YOUR VERDICT MUST BE UNANIMOUS.

October 13, 2017
Date

#726 [signature]
Foreperson

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

IN THE COURT OF COMMON PLEAS
CIVIL ACTION NO.: 2014-CP-10-4591

Jane Doe 202, by John Doe MM and John Doe HS, each of whom holds power of attorney for Jane Doe,

Plaintiffs,

v.

City of North Charleston; Leigh Anne McGowan, individually, Charles Francis Wholleb, individually, and Anthony M. Doxey, individually;

Defendants.

VERDICT FORM

FILED
2017 OCT 16 PM 2:20
JULIE J. ARMSTRONG
CLERK OF COURT

This is the verdict form for this matter. Please answer each question and then follow the directions that coincide with your answer. The Foreperson must sign and date the verdict form when it is complete.

AS TO PLAINTIFFS' CLAIMS AGAINST DEFENDANT CHARLES WOHLLEB

1. Do you find that Plaintiff has proven by a preponderance of the evidence that Charles Wohlleb violated Rhonda Doe's constitutional rights by making a warrantless entry into Rhonda Doe's residence on the night of March 27, 2014?

_____ yes (go to #2)

__✓__ no (stop deliberating on this cause of action and sign the bottom of this form)

2. If you answered yes to #1, do you find that Charles Wohlleb is entitled to Qualified Immunity?

_____ yes (stop deliberating on this cause of action and sign the bottom of this form)

_____ no (go to #3)

3. If you answered yes to #1 and no to #2, do you find that Plaintiff has proven by a preponderance of the evidence that the constitutional violation proximately caused damages to Rhonda Doe?

_____ yes (go to #4)

_____ no (stop deliberating on this cause of action and sign the bottom of this form)

4. If the answer to both # 1 and #3 is yes and the answer to #2 is no, please state the amount of actual damages that should be awarded to Plaintiff for the allegation that Charles Wohlleb violated Rhonda Doe's constitutional rights.

$ ____________________________
(please state damages award in numbers)

5. If you answered #4, do you find that Plaintiff has proven through clear and convincing evidence that punitive damages should be awarded against Charles Wohlleb.

_____ yes (go to #6)

_____ no (stop deliberating on this cause of action and sign the bottom of this form)

6. If the answer to #5 is yes, please state the amount of punitive damages that should be awarded to Plaintiff for the allegation that Charles Wohlleb violated Rhonda Doe's constitutional rights.

$ ____________________________
(please state damages award in numbers)

YOUR VERDICT MUST BE UNANIMOUS.

October 13, 2017
Date

#126 [signature]
Foreperson

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

IN THE COURT OF COMMON PLEAS
CIVIL ACTION NO.: 2014-CP-10-4591

Jane Doe 202, by John Doe MM and John Doe HS, each of whom holds power of attorney for Jane Doe,

Plaintiffs,

v.

City of North Charleston; Leigh Anne McGowan, individually, Charles Francis Wholleb, individually, and Anthony M. Doxey, individually;

Defendants.

VERDICT FORM

FILED
2017 OCT 16 PM 2:20
JULIE J. ARMSTRONG
CLERK OF COURT

This is the verdict form for this matter. Please answer each question and then follow the directions that coincide with your answer. The Foreperson must sign and date the verdict form when it is complete.

AS TO PLAINTIFFS' CLAIMS AGAINST DEFENDANT ANTHONY DOXEY

1. Do you find that Plaintiff has proven by a preponderance of the evidence that Anthony Doxey violated Rhonda Doe's constitutional rights by making a warrantless entry into Rhonda Doe's residence on the night of March 27, 2014?

_____ yes (go to #2)

✓ no (stop deliberating on this cause of action and sign the bottom of this form)

2. If you answered yes to #1, do you find that Anthony Doxey is entitled to Qualified Immunity?

_____ yes (stop deliberating on this cause of action and sign the bottom of this form)

_____ no (go to #3)

3. If you answered yes to #1 and no to #2, do you find that Plaintiff has proven by a preponderance of the evidence that the constitutional violation proximately caused damages to Rhonda Doe?

_____ yes (go to #4)

_____ no (stop deliberating on this cause of action and sign the bottom of this form)

4. If the answer to both # 1 and #3 is yes and the answer to #2 is no, please state the amount of actual damages that should be awarded to Plaintiff for the allegation that Anthony Doxey violated Rhonda Doe's constitutional rights.

$ ___________________________
(please state damages award in numbers)

5. If you answered #4, do you find that Plaintiff has proven through clear and convincing evidence that punitive damages should be awarded against Anthony Doxey.

_____ yes (go to #6)

_____ no (stop deliberating on this cause of action and sign the bottom of this form)

6. If the answer to #5 is yes, please state the amount of punitive damages that should be awarded to Plaintiff for the allegation that Anthony Doxey violated Rhonda Doe's constitutional rights.

$ ___________________________
(please state damages award in numbers)

YOUR VERDICT MUST BE UNANIMOUS.

October 12, 2017
Date

[signature] #126
Foreperson

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

IN THE COURT OF COMMON PLEAS
CIVIL ACTION NO.: 2014-CP-10-4591

Jane Doe 202, by John Doe MM and John Doe HS, each of whom holds power of attorney for Jane Doe,

Plaintiffs,

v.

City of North Charleston; Leigh Anne McGowan, individually, Charles Francis Wholleb, individually, and Anthony M. Doxey, individually,

Defendants.

ORDER DENYING DEFENDANTS' MOTION FOR ATTORNEYS' FEES AND COSTS PURSUANT TO 42 U.S.C. § 1983

FILED
2018 APR -3 PM 3: 36
JULIE J. ARMSTRONG
CLERK OF COURT
BY

Presiding Judge:	Hon. Deadra L. Jefferson
Counsel for Plaintiff:	Gregg Meyers, Esq.
Counsel for Defendants:	Sandra Senn, Esq.
	Christopher Dorsel, Esq.
Date of Trial:	October 2, 2017 – October 13, 2017
Court Reporter:	Joyce Rueger

THIS MATTER is before the Court on Defendants' Motion for Attorneys' Fees and Costs pursuant to 42 U.S.C. § 1988, filed with the Charleston County Clerk of Court on October 23, 2017 and received by the Court on the same date. A trial by jury was held from October 2, 2017 until October 13, 2017 at which time the jury returned a verdict in favor of the Defendants: City of North Charleston, Leigh Anne McGowan, Charles Wholleb, and Anthony Doxey. Present at the trial were Gregg Meyers, Esquire on behalf of the Plaintiff, Jane Doe 202, and Sandra Senn, Esquire and Christopher Dorsel, Esq. on behalf of the four Defendants.

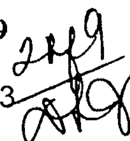
At the conclusion of trial and after the verdict, the Defendants moved the Court for Attorneys' Fees and Costs as the prevailing party in accordance with 42 U.S.C. § 1988. The Court instructed the Defendants to file a motion in support of their request for attorneys' fees pursuant to 42 U.S.C. § 1988. Accordingly, the Defendants filed a Motion for Attorneys' Fees and Costs pursuant to 42 U.S.C. § 1988

on October 23, 2017. Plaintiff filed a Memorandum in Opposition to Defendants' Motion for Fees and Costs on November 3, 2017. Having fully considered the pleadings, briefs, and affidavits submitted by the parties as well as the evidence of record, the Court hereby denies Defendants' Motion for Attorneys' Fees and Costs under 42 U.S.C. § 1988.[1]

FACTUAL AND PROCEDURAL HISTORY

The Plaintiff in this matter, Jane Doe, is a sixty-nine (69) year old female who has suffered from dementia and early onset Alzheimer's disease since 2012. This case arises from a civil rights claim for damages allegedly suffered by Plaintiff when the Defendants conducted a warrantless entry into her residence in North Charleston, South Carolina. The entry occurred on March 27, 2014 and was conducted by the City of North Charleston police officers: Leigh Anne McGowan, Charles Wholleb, and Anthony M. Doxey. On the night of March 27, 2014, Plaintiff's neighbors, Jake and Sarah Sadler, called the North Charleston Police Department to report a disturbance at Plaintiff's residence involving Plaintiff's daughter. Mr. Sadler informed the Police Department that Plaintiff, Jane Doe, and her adult daughter and caretaker, Daughter Doe, lived in the residence, and that Daughter Doe was pounding on the front door and screaming. Mr. Sadler also reported that Daughter Doe's car door was open, that her shoes were on the sidewalk, and that she "looked like a mess." Mr. Sadler further observed Daughter Doe urinating on the front lawn. This account of events was corroborated by the trial testimony of Daughter Doe who admitted, that she was indeed yelling and banging on the front door of the residence on the night of March 27, 2014 because she had locked herself out.

[1] This motion has been determined on the briefs and affidavits filed by the parties without oral argument with the consent of counsel. "A hearing is not always required on a motion for an award of fees under 42 U.S.C. § 1988 as briefing alone may be adequate." Coop v. City of South Bend, 635 F.2d 652, 655 (7th Cir. 1980). Indeed, a full evidentiary hearing on a motion for an award of attorney fees in a civil rights suit is unnecessary where the plaintiff requested neither hearing nor oral argument on fee motion and the affidavits and record before the Court allowed it to consider all factors requisite to an award. See Am. Con. Party v. Munro, 6540 F.2d. 184, 186. (9th Cir. 1981).



The first officer to respond to the call from Plaintiff's neighbor was Defendant Leigh Anne McGowan. Upon arrival at the residence, Officer McGowan completed a visual inspection of the front yard. Officer McGowan testified that she did not observe anyone in the front or back yard of the residence, but that she did, however, see a pair of high-heeled shoes by the driver's side of the vehicle in the driveway, a light on inside the vehicle, and wine bottles in the back of the vehicle. Most significantly, Officer McGowan testified that she discovered a purse with what appeared to be blood on it in the backyard.

Officer McGowan proceeded to knock on the front door of the residence, but received no response. At this time, two other officers, Defendants Charles Wholleb and Anthony M. Doxey, arrived at the residence to provide back-up to Officer McGowan. The officers made a decision to enter the residence to conduct a welfare check based on the exigent circumstances at the scene. Once inside the house, the officers were met by Plaintiff who made no objection to the officers being in the house. In fact, the testimony at trial reveals that Jane Doe met the officers at the door, spoke with them, and then escorted the officers upstairs to Daughter Doe's bedroom. During this interaction, Plaintiff did not appear to be injured, physically or mentally disabled, or to be in any acute distress. Moreover, all three officers testified at trial that they were not notified at any time that Plaintiff suffered from dementia.

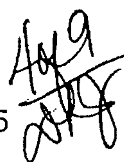
When the officers arrived in Daughter Doe's bedroom, they discovered her lying face up on her bed, on top of her covers, fully clothed, with a large red wine stain down the front of her shirt. Upon waking Daughter Doe, the officers talked with her and asked her if she was in need of medical assistance. Officers testified that Daughter Doe seemed disoriented and that Officers further observed a big, red wine stain on Daughter Doe's shirt. her speech was slurred during their conversation with her. Daughter Doe also attempted to walk towards the officers, but was unsteady on her feet.

During the conversation with Daughter Doe, Officers Wholleb and Doxey left the bedroom to gather her belongings, leaving Officer McGowan alone with Daughter Doe. Daughter Doe testified that

she was assaulted by Officer McGowan when they were alone. Officer McGowan, on the other hand, testified that Daughter Doe lunged at her, swinging her hands and arms and poking Officer McGowan in the eye. As a result of this encounter, Daughter Doe was arrested for assault on a police officer and taken to the Al Cannon Detention Center where she remained for approximately seventeen (17) hours because she was belligerent and aggressive towards prison staff. Shortly after her arrival it was necessary for detention staff to place Daughter Doe in a restraint chair for her safety and that of the officers. Daughter Doe refused to answer questions or provide information to officers at the detention center during her intake interview. Instead, Daughter Doe repeatedly asked officers why she was arrested and why she was at the detention center. Notably, Daughter Doe asked officers if "her f-ing mom had her arrested" at least two times. Daughter Doe's interactions with prison staff were marked by profane language and racial slurs. As a result of this antagonistic behavior and her overall failure to cooperate, Daughter Doe's bail was delayed; indeed, Daughter Doe was not released from the detention center on bail until 2:00 PM on March 28, 2014.

Meanwhile, Plaintiff remained alone at the residence where she was purported to have been abandoned for seventeen (17) hours without care. Plaintiff was, however, visited by her brother after receiving a phone call from Daughter Doe, John Doe SH, on March 28, 2014 around lunch time. John Doe HS fed Plaintiff her usual lunch of ice cream, gave her water, and changed her diaper. John Doe HS assessed Plaintiff's physical and mental state, and deemed Plaintiff to be well enough to be left alone again so that he could bail Daughter Doe out of jail. John Doe HS did not call emergency services or Plaintiff's doctor at that time. Daughter Doe returned home around 4:00 PM on March 28, 2014, however, she did not take her mother to a doctor until the next day.

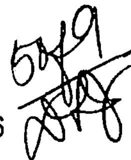
Plaintiff alleges that she sustained a urinary tract infection ("UTI") as a result of being left alone after Daughter Doe was arrested. Plaintiff also attributes an appreciable decline in her dementia to this



incident. Accordingly, Plaintiff filed suit against the City of North Charleston, Officer Leigh Anne McGowan, Officer Charles Wholleb, and Officer Anthony Doxey alleging that these Defendants abandoned Plaintiff in the residence following the arrest of her daughter and caretaker, Daughter Doe, without providing for her care or protection. In her Complaint, Plaintiff claimed that the intrusion into her home and subsequent arrest of her daughter by Defendants caused her to suffer injury resulting in a hospitalization at MUSC from March 29, 2014 to April 18, 2014. Plaintiff initially asserted eleven (11), independent causes of action against Defendants; however, only three causes of action remained at trial: (1) deprivation of civil rights by Defendant City of North Charleston under 42 U.S.C. § 1983; (2) deprivation of civil rights by Defendants McGowan, Wholleb, and Doxey under 42 U.S.C. § 1983; and (3) invasion of privacy against the City of North Charleston. The Court dismissed Plaintiff's Invasion of Privacy claim on directed verdict; the remaining Section 1983 claims were submitted to the jury on October 12, 2017.

On October 13, 2017, the jury rendered a judgment in favor of the Defendants after approximately seven (7) hours of deliberation over the course of two days. During the course of this deliberation, the jury asked eight (8) follow-up questions of the Court, the majority of which were related to the issue of liability. The Court reinstructed the jury on the applicable law in its entirety on the second day of deliberations per the jury's request. The Court also reinstructed the jury on the elements of 42 U.S.C. § 1983, again at the request of the jury.

Upon issuance of the verdict, Defendants made an oral post-trial motion for attorneys' fees and costs pursuant to 42 U.S.C. § 1988. The Court instructed the Defendants to file a motion in support of its request for attorneys' fees and costs in accordance with the statute. Accordingly, the Defendants filed the instant Motion for Attorneys' Fees and Costs on October 23, 2017 in which they seek reimbursement for the attorneys' fees and costs expended by them in defending the case under 42 U.S.C. § 1988.



STANDARD OF REVIEW

42 U.S.C. § 1988 allows the award of a "reasonable attorney's fee" to "the prevailing party" in various types of civil rights cases, including suits brought under § 1983. Fox v. Vice, 563 U.S. 826, 832–33, 131 S.Ct. 2205, 2213 (2011). "The purpose of § 1988 is to ensure effective access to the judicial process for persons with civil rights grievances." Hensley v. Eckerhart, 461 U.S. 424, 429, 103 S. Ct. 1933, 1937 (1983). Successful plaintiffs as well as defendants are entitled to an award of fees under § 1988. Lotz Realty Co., Inc. v. U.S. Dep't Hous. and Urban Dev., 717 F.2d 929, 931 (4th Cir. 1983). Indeed, "the language of the statute does not distinguish between plaintiffs and defendants, stating only that 'prevailing parties' may receive a reasonable attorney's fee." Id.

However, the standard for determining whether a party is entitled to attorney's fees differs depending on the requesting party. Id. A prevailing plaintiff is ordinarily entitled to attorney's fees unless special circumstances would render such an award unjust. Christiansburg Garment Co. v. E.E.O.C, 434 U.S. 412, 418, 98 S. Ct. 695, 698 (1978). Conversely, in order to obtain fees, a prevailing defendant "must show that the plaintiff's claim was frivolous, unreasonable, or groundless, or that the plaintiff continued to litigate after it became clearly so." Id. at 422, 98 S. Ct. at 701. A prevailing defendant is not entitled to attorney's fees simply because he prevails on the merits of the case. See Allen v. City of Los Angeles, 66 F.3d 1052, 1057 (9th Cir. 1995). The court may only award attorney's fees to a prevailing defendant "upon a finding that the plaintiff's action was frivolous, unreasonable, or without foundation." Fox, 563 U.S. at 833, 131 S. Ct. at 2213.

DISCUSSION AND ANALYSIS

Defendants, City of North Charleston, Leigh Anne McGowan, Charles Wholleb, and Anthony Doxey, prevailed on the Plaintiff's 42 U.S.C. § 1983 claim at trial. Defendants now move for attorney's fees and costs as the prevailing parties under 42 U.S.C. § 1988. In support of this request, Defendants contend that they are entitled to fees under § 1988 because the claims made by Plaintiff were frivolous,

and in some instances, malicious. Defendants raise a number of arguments in support of this contention; however, these arguments are best summarized as follows: (1) Plaintiff filed suit for an improper and malicious purpose: (2) Plaintiff pursued claims unsupported by the law and/or facts, and (3) Plaintiff drove up discovery costs for the Defendants unnecessarily.[2] Counsel for Plaintiff disputes that Defendants are entitled to attorney's fees on the basis that Plaintiff had a good faith basis to bring claims against the City of North Charleston under § 1983.

An award of attorney's fees to a prevailing defendant depends on the initial finding that the claims on which the Defendants ultimately prevailed were frivolous, unreasonable, and without foundation. See Christiansburg Garment Co., 434 U.S. at 421, 98 S. Ct. at 698. In determining whether this standard has been met, the Court must assess the claim at the time it was filed, avoiding an after-the-fact reasoning that because plaintiff did not ultimately prevail the claim must have been frivolous. See Andrade v. Jamestown Hous. Auth., 82 F.3d 1179, 1192 (1st Cir.1996)). Upon reviewing the Complaint, the trial record, and the arguments of counsel, the Court concludes that the standard for attorney's fees is not and cannot be met by the Defendants in this case. Plaintiff had a good faith, non-frivolous reason for proceeding with litigation, and, as such, attorney's fees under § 1988 are improper.

Indeed, the claims alleged by Plaintiff in the Complaint were clearly warranted under existing federal and state law. All of Plaintiff's claims arise from a warrantless entry into Plaintiff's residence by Defendant' officers on March 27, 2014. It is a "basic principle of Fourth Amendment law that searches and seizures inside a home without a warrant are presumptively unreasonable." Payton v. New York, 445 U.S. 573, 586, 100 S. Ct. 1371, 1380 (1980); see also See, e.g., State v. Peters, 271 U.S. 498, 501, 248 S.E.2d 475, 476 (1978) ("Searches conducted without a warrant are per se unreasonable unless an

[2] The Court notes that the Defendants raise the very same arguments in support of their accompanying Motion for Attorney's Fees and Costs pursuant to the South Carolina Frivolous Proceedings Act. The Court has addressed each of these arguments, in turn, in its Order denying Defendants' Motion for Attorney's Fees and Costs pursuant to the South Carolina Frivolous Proceedings Act.

exception to the warrant requirement is presented, and the burden is on the State to justify a warrantless search."). In considering this well-settled Fourth Amendment jurisprudence, the Court finds that it was reasonable for Plaintiff to believe that the warrantless entry into her home violated her constitutional rights under the Fourth Amendment. Additionally, 42 U.S.C. § 1983 affords Plaintiff a remedy for the very constitutional violation that forms the basis of her Complaint. See 42 U.S.C. § 1983 ("A state actor who deprives a citizen of the United States or any person within the jurisdiction thereof of any rights, privileges, or immunities secured by the Constitution and laws, is liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress."). In filing suit, Plaintiff merely exercised her statutory right for redress against an arguable Fourth Amendment violation, and this Court is disinclined to penalize an indigent Plaintiff in declining health for doing so. After all, the very purpose of § 1983 is to ensure effective access to the judicial process for persons with civil rights grievances." See Hensley, 461 U.S. at 429, 103 S. Ct. at 1937.

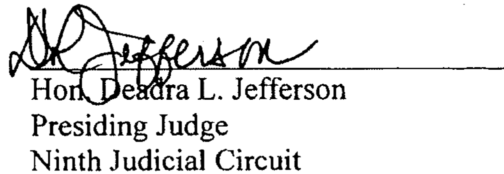
Moreover, counsel for Plaintiff articulated a non-frivolous theory for Plaintiff's claims at trial. Plaintiff offered the testimony of two police experts at trial, both of whom testified that the warrantless entry violated the Fourth Amendment, and that Defendants were consequently liable for the injuries suffered by the Plaintiff as a result of the violation. The Plaintiff also tendered medical evidence at trial tending to demonstrate that Plaintiff did, in fact, experience a decline in her health, notably a UTI, following the unlawful entry by the Defendants. Perhaps most significant of all, it took the jury approximately seven (7) hours to render a verdict on the evidence before them after initially indicating they were deadlocked. During the course of these deliberations, the jury submitted eight (8) notes to the Court that centered on the propriety of the search, issues of immunity, and whether exigency existed. These notes clearly reflect that the exception to the warrantless search was a legitimate issue of concern for the jury. In light of the verdict, the allegations set forth in the Complaint, and the evidence presented

at trial, the Court is not able to conclude that Plaintiff's claims were completely meritless, frivolous, and unfounded as is required for an award of attorney's fees under § 1988. Accordingly, the Court is constrained to deny the Defendants' Motion for Attorney's Fees and Costs pursuant to 42 U.S.C. § 1988.

CONCLUSION

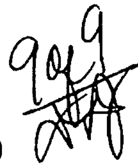
Based on the pleadings, affidavits, and arguments of counsel, the Court finds that the Defendants are not entitled to fees under 42 U.S.C. § 1988. The Defendants have not made the requisite showing that Plaintiff's claims, though ultimately unsuccessful, were "frivolous, unreasonable or groundless." See Christiansburg, 434 U.S. at 418, 98 S. Ct. at 698. Thus, the Court hereby denies the Defendants' Motion for Attorneys' Fees and Costs pursuant to 42 U.S.C. § 1988.

IT IS SO ORDERED!



Hon. Deadra L. Jefferson
Presiding Judge
Ninth Judicial Circuit

March 30, 2018
Charleston, South Carolina



STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

IN THE COURT OF COMMON PLEAS
CIVIL ACTION NO.: 2014-CP-10-4591

Jane Doe 202, by John Doe MM and John Doe HS, each of whom holds power of attorney for Jane Doe,

Plaintiffs,

v.

City of North Charleston; Leigh Anne McGowan, individually, Charles Francis Wholleb, individually, and Anthony M. Doxey, individually,

Defendants.

ORDER DENYING DEFENDANTS' MOTION FOR ATTORNEYS' FEES AND COSTS PURSUANT TO THE SOUTH CAROLINA FRIVOLOUS PROCEEDINGS SANCTIONS ACT

FILED
2018 APR -3 PM 3:36
JULIE J. ARMSTRONG
CLERK OF COURT
BY

Presiding Judge:	Hon. Deadra L. Jefferson
Counsel for Plaintiff:	Gregg Meyers, Esq.
Counsel for Defendants:	Sandra Senn, Esq. Christopher Dorsel, Esq.
Date of Trial:	October 2, 2017 – October 13, 2017
Court Reporter:	Joyce Rueger

THIS MATTER is before the Court on Defendants' Motion for Attorneys' Fees and Costs pursuant to the South Carolina Frivolous Proceedings Act, filed with the Charleston County Clerk of Court on October 23, 2017 and received by the Court on the same date. A trial by jury was held from October 2, 2017 until October 13, 2017 at which time the jury returned a verdict in favor of the Defendants City of North Charleston, Leigh Anne McGowan, Charles Wholleb, and Anthony Doxey. Present at the trial were Gregg Meyers, Esquire on behalf of the Plaintiff, Jane Doe 202, and Sandra Senn, Esquire and Christopher Dorsel, Esquire on behalf of the four Defendants.

At the conclusion of trial and after the verdict, the Defendants made a post-trial motion for sanctions pursuant to S.C. Code Ann. § 15-36-10. The Court instructed the Defendants to file a motion in support of its proposal for sanctions in accordance with the requirements of S.C. Code

Ann. § 15-36-10(D). Accordingly, the Defendants filed a Motion for Attorneys' Fees and Costs pursuant to the South Carolina Frivolous Proceedings Act on October 23, 2017.[1] Plaintiff filed a Memorandum in Opposition to Defendants' Motion for Fees and Costs on November 3, 2017. Having fully considered the pleadings, briefs, and affidavits submitted by the parties as well as the evidence of record, the Court hereby denies Defendants' Motion for Attorneys' Fees and Costs under the South Carolina Frivolous Proceedings Act.[2]

FACTUAL AND PROCEDURAL HISTORY

The Plaintiff in this matter, Jane Doe, is a sixty-nine (69) year old female who has suffered from dementia and early onset Alzheimer's disease since 2012. This case arises from a civil rights claim for damages allegedly suffered by Plaintiff when the Defendants conducted a warrantless entry into her residence in North Charleston, South Carolina. The entry occurred on March 27, 2014 and was conducted by the City of North Charleston police officers: Leigh Anne McGowan, Charles Wholleb, and Anthony M. Doxey. On the night of March 27, 2014, Plaintiff's neighbors, Jake and Sarah Sadler, called the North Charleston Police Department to report a disturbance at Plaintiff's residence involving Plaintiff's daughter. Mr. Sadler informed the Police Department that Plaintiff, Jane Doe, and her adult daughter and caretaker, Daughter Doe, lived in the residence, and that Daughter Doe was pounding on the front door and screaming. Mr. Sadler also reported that Daughter Doe's car door was open, that her shoes were on the sidewalk, and that she "looked

[1] Defendants' Motion for Attorneys' Fees and Costs was timely filed and served upon the Court. "A motion for sanctions must be filed within ten days of the notice of entry of judgment." Russell v. Wachovia Bank, N.A., 370 S.C. 5, 20, 633 S.E.2d 722, 730 (2006). Judgment was rendered in this case on October 13, 2017 and Defendants filed the Motion for Attorneys' Fees and Costs on October 23, 2017.

[2] This motion has been determined on the briefs and affidavits filed by the parties without oral argument with the consent of counsel. S.C. Code Ann. § 15-36-10 (D) affords the party opposing sanctions notice and an opportunity to respond prior to the imposition of sanctions. However, a hearing is not required by the South Carolina Frivolous Civil Proceedings Sanctions Act. A court imposing sanctions need only issue an Order describing the conduct determined to constitute a violation of the Act and explain the basis for the sanction imposed. See Ex parte Gregory, 378 S.C. 430, 438, 663 S.E.2d 46, 50 (2008).

like a mess." Mr. Sadler further observed Daughter Doe urinating on the front lawn. This account of events was corroborated by the trial testimony of Daughter Doe who admitted that she was indeed yelling and banging on the front door of the residence on the night of March 27, 2014 because she had locked herself out.

The first officer to respond to the call from Plaintiff's neighbor was Defendant Leigh Anne McGowan. Upon arrival at the residence, Officer McGowan completed a visual inspection of the front yard. Officer McGowan testified that she did not observe anyone in the front or back yard of the residence, but that she did, however, see a pair of high-heeled shoes by the driver's side of the vehicle in the driveway, a light on inside the vehicle, and wine bottles in the back of the vehicle. Most significantly, Officer McGowan testified that she discovered a purse with what appeared to be blood on it in the backyard.

Officer McGowan proceeded to knock on the front door of the residence, but received no response. At this time, two other officers, Defendants Charles Wholleb and Anthony M. Doxey, arrived at the residence to provide back-up to Officer McGowan. The officers made a decision to enter the residence to conduct a welfare check based on the exigent circumstances at the scene. Once inside the house, the officers were met by Plaintiff who made no objection to the officers being in the house. In fact, the testimony at trial reveals that Jane Doe met the officers at the door, spoke with them, and then escorted the officers upstairs to Daughter Doe's bedroom. During this interaction, Plaintiff did not appear to be injured, physically or mentally disabled, or to be in any acute distress. Moreover, all three officers testified at trial that they were not notified at any time that Plaintiff suffered from dementia.

When the officers arrived in Daughter Doe's bedroom, they discovered her lying face up on her bed, on top of her covers, fully clothed, with a large red wine stain on the front of her shirt.

Upon waking Daughter Doe, the officers talked with her and asked her if she was in need of medical assistance. Officers testified that Daughter Doe seemed disoriented and that her speech was slurred during their conversation with her. Daughter Doe also attempted to walk towards the officers, but was unsteady on her feet.

During the conversation with Daughter Doe, Officers Wholleb and Doxey left the bedroom to gather her belongings, leaving Officer McGowan alone with Daughter Doe. Daughter Doe testified that she was assaulted by Officer McGowan when they were alone. Officer McGowan, on the other hand, testified that Daughter Doe lunged at her, swinging her hands and arms and poking Officer McGowan in the eye. As a result of this encounter, Daughter Doe was arrested for assault on a police officer and taken to the Al Cannon Detention Center where she remained for approximately seventeen (17) hours because she was belligerent and aggressive towards prison staff. Daughter Doe was placed in a restraint chair as a result of her combative behavior and for her own safety and that of the detention staff. Daughter Doe refused to answer questions or provide information to officers at the detention center during her intake interview. Instead, Daughter Doe repeatedly asked officers why she was arrested and why she was at the detention center. Notably, Daughter Doe asked officers if "her f-ing mom had her arrested" at least two times. Daughter Doe's interaction with prison staff was marked by profane language and racial slurs. As a result of this antagonistic behavior and her overall failure to cooperate, Daughter Doe's bail was delayed; indeed, Daughter Doe was not released from the detention center on bail until 2:00 PM on March 28, 2014.

Meanwhile, Plaintiff remained alone at the residence where she was purported to have been abandoned for seventeen (17) hours without care. Plaintiff was, however, visited by her brother, John Doe SH, on March 28, 2014 around lunch time after a phone call from Daughter Doe. John

Doe HS fed Plaintiff her usual lunch of ice cream, gave her water, and changed her diaper. John Doe HS assessed Plaintiff's physical and mental state, and deemed Plaintiff to be well enough to be left alone again so that he could bail Daughter Doe out of jail. John Doe HS did not call emergency services or Plaintiff's doctor at that time. Daughter Doe returned home around 4:00 PM on March 28, 2014, however, she did not take her mother to a doctor until the next day.

Plaintiff alleges that she sustained a urinary tract infection ("UTI") as a result of being left alone after Daughter Doe was arrested. Plaintiff also attributes an appreciable decline in her dementia to this incident. Accordingly, Plaintiff filed suit against the City of North Charleston, Officer Leigh Anne McGowan, Officer Charles Wholleb, and Officer Anthony Doxey alleging that these Defendants abandoned Plaintiff in the residence following the arrest of her daughter and caretaker, Daughter Doe, without providing for her care or protection. In her Complaint, Plaintiff claimed that the intrusion into her home and subsequent arrest of her daughter by Defendants caused her to suffer injury resulting in an initial hospitalization at MUSC from March 29, 2014 to April 18, 2014, and a subsequent hospitalization at the MUSC Institute of Psychiatry from March 21, 2015 to June 1, 2017 for treatment of her advancing dementia.[3]

Plaintiff initially asserted eleven (11), independent causes of action against Defendants; however, only three causes of action remained at trial: (1) deprivation of civil rights by Defendant City of North Charleston under 42 U.S.C. § 1983; (2) deprivation of civil rights by Defendants McGowan, Wholleb, and Doxey under 42 U.S.C. § 1983; and (3) invasion of privacy against the City of North Charleston. The Court dismissed Plaintiff's Invasion of Privacy claim on directed verdict; the remaining Section 1983 claims were submitted to the jury on October 12, 2017.

[3] The Court was informed that the Plaintiff was transferred to a long-term care nursing facility located in Monck's Corner, SC on or about June 1, 2017.

On October 13, 2017, the jury rendered a judgment in favor of the Defendants after approximately seven (7) hours of deliberation over the course of two days. During the course of this deliberation, the jury asked eight (8) follow-up questions of the Court, the majority of which were related to the issue of liability. The Court reinstructed the jury on the applicable law in its entirety on the second day of deliberations per the jury's request. The Court also reinstructed the jury on the elements of 42 U.S.C. § 1983, again at the request of the jury.

Upon issuance of the verdict, Defendants made an oral post-trial motion for sanctions pursuant to the South Carolina Frivolous Proceedings Act. The Court instructed the Defendants to file a motion in support of its request for attorneys' fees and costs in accordance with the Act. Accordingly, the Defendants filed the instant Motion for Attorneys' Fees and Costs pursuant to the South Carolina Frivolous Proceedings Act on October 23, 2017. Defendants seek an award of sanctions against the Plaintiff and her lawyer, Gregg Meyers, pursuant to the South Carolina Frivolous Proceedings Act.

STANDARD OF REVIEW

The South Carolina Frivolous Civil Proceedings Sanctions Act allows a prevailing party to pursue sanctions against an attorney, party, or pro se litigant for a frivolous claim where the court finds, by a preponderance of the evidence, that:

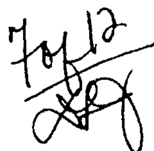
> (a) a reasonable attorney in the same circumstances would believe that under the facts, his claim or defense was clearly not warranted under existing law and that a good faith or reasonable argument did not exist for the extension, modification, or reversal of existing law;
>
> (b) a reasonable attorney in the same circumstances would believe that his procurement, initiation, continuation, or defense of the civil suit was intended merely to harass or injure the other party; or
>
> (c) a reasonable attorney in the same circumstances would believe that the case or defense was frivolous as not reasonably founded in fact or was interposed merely for delay, or was merely brought for

a purpose other than securing proper discovery, joinder of proposed parties, or adjudication of the claim or defense upon which the proceedings are based.

S.C. Code Ann. § 15-36-10(C)(1).

In determining if any attorney, party, or pro se litigant has violated the provisions of the South Carolina Frivolous Proceedings Sanctions Act, the court shall take into account: (1) the number of parties; (2) the complexity of the claims and defenses; (3) the length of time available to the attorney, party, or pro se litigant to investigate and conduct discovery for alleged violations of provisions of the Act; (4) information disclosed or undisclosed to the attorney, party, or pro se litigant through discovery and adequate investigation; (5) previous violations of the provisions of this section; (6) the response, if any, of the attorney, party, or pro se litigant to the allegation that he violated the provisions of this section; and (7) other facts the court considers just, equitable, or appropriate under the circumstances. The provisions of the Act do not, however, apply where an attorney, party, or pro se litigant establishes a basis to proceed with litigation, or to assert or controvert an issue therein, that is not frivolous, and which includes a good faith argument for an extension, modification, or reversal of existing law. See S.C. Code Ann. § 15-36-10(J).

The ultimate decision of whether to award sanctions under the Frivolous Proceedings Act is treated as one in equity by the court. Pee Dee Health Care, P.A. v. Estate of Thompson, 418 S.C. 557, 563, 795 S.E.2d 40, 43 (Ct. App. 2016). The court has wide discretion in ordering sanctions, and may impose a sanction "on a party, a party's attorney, or both for filing a pleading, motion, or other paper to cause delay or when no good grounds exist to support the filing." See Runyon v. Wright, 322 S.C. 15, 19, 471 S.E.2d 160, 162 (1996).



DISCUSSION AND ANALYSIS

Defendants move this Court to impose sanctions upon Plaintiff, Jane Doe, and her counsel, Gregg Meyers, pursuant to the South Carolina Frivolous Proceedings Sanctions Act for bringing and maintaining an allegedly frivolous action against them. Defendants raise a number of arguments in support of their contention that this Court should sanction Plaintiff and her counsel; however, these arguments can be distilled into three, fundamental arguments: (1) Plaintiff filed suit for an improper and malicious purpose: (2) Plaintiff pursued claims unsupported by the law and/or facts, and (3) Plaintiff drove up discovery costs for the Defendants unnecessarily. Plaintiff disputes these contentions and insists that it would therefore be inappropriate for this Court to impose sanctions upon her and her counsel.

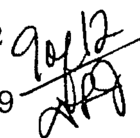
Having carefully considered the arguments of the parties and the record in this case, the Court finds that it would, indeed, be improper to impose sanctions on Plaintiff or her attorney under the South Carolina Frivolous Proceedings Sanctions Act, and the Court therefore declines to do so. In reaching this conclusion, the Court finds that Plaintiff had a good faith basis to proceed with the litigation of this case, and that counsel for Plaintiff acted reasonably in pursuing the case to trial. The Court cannot impose sanctions where, as here, an attorney or pro se litigant establishes a basis to proceed with litigation, or to assert or controvert an issue therein that is not frivolous." See S.C. Code Ann. § 15-36-10 (J).

As to the first argument set forth by Defendants, the Court is unable to hold with certainty that the Plaintiff or her counsel pursued this action against the Defendants in bad faith. Defendants rely upon conjecture and personal animus in arguing bad faith on the part of the Plaintiff and her counsel. Defendants inexplicably argue that malicious intent can be discerned from the fact that Daughter Doe sued the reporting neighbors, the Sadlers, in a separate suit based on an allegedly

"far-fetched" conspiracy theory.[4] However, because Daughter Doe and the Sadlers are non-parties to the instant case, Daughter Doe's motives for suing the Sadlers are wholly irrelevant in determining whether sanctions should be imposed in this particular case involving Jane Doe and the City of North Charleston and its police officers, and the Court declines to consider them. Further, there is nothing that precluded the Sadlers from pursuing any relief they deemed appropriate against Daughter Doe in the litigation between them. It would likewise be improper for the Court to impose sanctions upon the elderly, infirm, and indigent Plaintiff for allegedly "threatening" actions taken by her daughter, a non-party, against Jake and Sarah Sadler during the trial of Plaintiff's case.[5] Rather, Defendants must be able to demonstrate that the Plaintiff in this case, Jane Doe, had a malicious or improper motive for filing suit by a preponderance of the evidence, yet they have failed to provide any objective evidence of such on the part of the Plaintiff. To the contrary, the evidence of record reveals that Plaintiff pursued state and federal claims against the Defendant in good faith. Plaintiff felt that her constitutional rights were violated by the Defendants' actions on March 27, 2014, and filed suit to remedy this perceived wrong in accordance with 42 U.S.C. § 1983. The Court cannot discern a malicious or deviant intent in the Plaintiff exercising her right under state and federal law to file suit against those persons whom allegedly violated her constitutional rights. The Court thus declines to grant sanctions on the basis that the suit was brought for the sole purpose of "harassing" or "injuring" the officers who, admittedly, entered the Plaintiff's home without a warrant or consent.

[4] Daughter Doe currently has a 42 U.S.C. § 1983 cause of action pending in the Federal Court against the Defendants. The Court notes that nothing precludes them from pursuing any relief against Daughter Doe in the event her claims prove unsuccessful.

[5] Jake and Sarah Sadler testified that they have legal counsel. They also have experience with the legal system by virtue of their lawsuit with Daughter Doe. The Court notes that there exist no impediments to the Sadlers' availing themselves of any legal remedies available to them through the justice system if they wish to pursue legal action against Daughter Doe.



In that same vein, the Court finds that the claims set forth by Plaintiff were clearly exercised in good faith under existing federal law and state law. All of the claims asserted by Plaintiff arise from a warrantless entry into Plaintiff's residence by Defendant' officers on March 27, 2014. It is a "basic principle of Fourth Amendment law that searches and seizures inside a home without a warrant are presumptively unreasonable." Payton v. New York, 445 U.S. 573, 586, 100 S. Ct. 1371, 1380 (1980); see also See, e.g., State v. Peters, 271 U.S. 498, 501, 248 S.E.2d 475, 476 (1978) ("Searches conducted without a warrant are per se unreasonable unless an exception to the warrant requirement is presented, and the burden is on the State to justify a warrantless search."). In considering this well-settled Fourth Amendment jurisprudence, the Court finds that it was reasonable for Plaintiff to believe that the warrantless entry into her home violated her constitutional rights under the Fourth Amendment. Moreover, federal law, specifically 42 U.S.C. § 1983, affords Plaintiff a remedy for the very constitutional violation that forms the basis of her Complaint. See 42 U.S.C. § 1983 ("A state actor who deprives a citizen of the United States or any person within the jurisdiction thereof of any rights, privileges, or immunities secured by the Constitution and laws, is liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress."). Plaintiff clearly had a good faith basis under existing federal and state to challenge the police conduct at issue and it was therefore reasonable for her attorney to pursue claims under § 1983 as well as other related claims on her behalf. Counsel for the Plaintiff articulated a non-frivolous theory for Plaintiff's claims both in the Compliant and at trial. Plaintiff offered the testimony of two police experts at trial, both of whom testified that the warrantless entry violated the Fourth Amendment, and that Defendants were consequently liable for the injuries suffered by Plaintiff as a result of the violation. Plaintiff also tendered medical evidence at trial tending to demonstrate that Plaintiff did, in fact, experience a decline in her health, notably

a UTI and appreciable decline in her dementia, following the unlawful entry by the Defendants. Perhaps most significant of all, it took the jury approximately (7) hours to render a verdict on the evidence before them after initially indicating they were deadlocked. During the course of these deliberations, the jury submitted eight (8) notes to the Court that centered on the propriety of the search, issues of immunity, and whether an exigency existed. These notes clearly reflect that exception to the warrantless search was a legitimate issue of concern for the jury. Sanctions are not warranted simply because the jury ultimately did not agree with Plaintiff's theory of the case.

Lastly, the Court declines to award sanctions to Defendants on the basis that Plaintiff engaged in improper discovery practice. Defendants contend that Plaintiff's counsel improperly "used" this case to conduct discovery on unrelated matters. To illuminate this argument, Defendants note that the Plaintiff asked the City of North Charleston to produce department policy on the use of body cameras and deposed high-ranking officials employed by the City of North Charleston to question them regarding the same. Defendant argues that these requests were irrelevant and frivolous. Plaintiff, on the other hand, argues that her request for additional information regarding the Defendant's body camera policy was indeed relevant to this case concerning police practices.

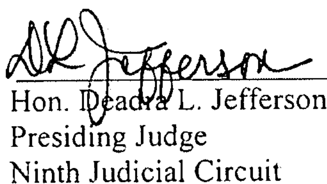
However, as acknowledged by both parties, the Court previously ruled upon the relevancy of these discovery requests in Plaintiff's favor. The Honorable R. Markley Dennis issued a Form Order on September 11, 2015 denying Defendants' request to prohibit the deposition of North Charleston officials and/or limit the scope of these depositions. Defendants presently renew their objection to Plaintiff's discovery requests by asking the Court to sanction Plaintiff for making these requests, ignoring that a court of concurrent jurisdiction previously allowed discovery on the same topic over their objection. This Court does not have ability to set aside or overturn the order issued

by Judge Dennis and substitute its own judgment as to the relevancy of the discovery requests, despite Defendant's assertions to the contrary. See, e.g., Enoree Baptist Church v. Fletcher, 287 S.C. 602, 604, 340 S.E.2d 546, 547 (1986) ("One Circuit Court Judge does not have the authority to set aside the order of another."). Judge Dennis's Order becomes the law of this case. By asking the Court to award sanctions based upon Plaintiff's discovery requests, the Defendants are effectively asking the Court to superimpose its opinion as to whether the requests were frivolous over that of another judge who found them to be relevant, germane, and rational to the case. The Court declines to set aside the opinion of a concurrent judge, and notes that any issues previously raised by Defendants as to the discovery issued by Plaintiff has been preserved for the appropriate appellate review.

CONCLUSION

Based on the pleadings, affidavits, arguments of counsel, and record of the case, the Court concludes, by a preponderance of the evidence, that the action is not frivolous under the "reasonable attorney" standard set forth by S.C. Code Ann. § 15-36-10. Defendants have failed to persuade the Court that Plaintiff's claims, though ultimately unsuccessful, were frivolous. Accordingly, the Court hereby denies the Defendants' Motion for Attorneys' Fees and Costs pursuant to the South Carolina Frivolous Proceedings Act.

IT IS SO ORDERED!



Hon. Deadra L. Jefferson
Presiding Judge
Ninth Judicial Circuit

March 29, 2018
Charleston, South Carolina

STATE OF SOUTH CAROLINA	) IN THE COURT OF COMMON PLEAS
COUNTY OF CHARLESTON	) CASE NO. 2014-CP-10-4591
Jane Doe 202, by John Doe MM and John Doe HS, each of whom holds power of attorney for Jane Doe, Plaintiffs, vs. City of North Charleston; Leigh Anne McGowan, individually, Charles Francis Wholleb, individually, Anthony M. Doxey, individually; Howard Thomas, individually, and Michael Kouris, individually, Defendants.	) Deprivation of Civil Rights (state created danger) Gross Negligence Defamation Intentional Infliction of Emotional Distress Declaratory relief Injunctive Relief Deprivation of Civil Rights (inadequate training) Civil Conspiracy

FILED
2014 SEP 22 PM 3:45
JULIE J. ARMSTRONG
CLERK OF COURT
BY

Second Amended Complaint

1. This is an action under state and federal law for money damages and injunctive relief. It is brought pursuant to 42 U.S.C. §§ 1983 and 1988, the Fourth, Fifth, and Fourteenth Amendments to the Constitution of the United States, and under the Constitution and laws of South Carolina.

2. This action is filed in state court even though federal question jurisdiction is also independently present by way of 28 U.S.C. § 1331, with pendent jurisdiction of the state law claims.

3. Jane Doe 202 is a citizen and resident of Charleston County, S.C.. She is referred to in this complaint as Jane Doe out of considerations for her privacy in light of her compromised neurological state, and to comply with S.C. Code § 43-35-60 to maintain as confidential information about vulnerable adults in need of protection. The Defendants will be informed of her identity upon their written agreement to maintain her

identity as confidential as to the public record or, if the defendants refuse to do so, upon order of the Court after a motion seeking an order to compel that compliance.

4. Jane Doe is in her mid sixties. She suffers from dementia diagnosed from early onset Alzheimer's disease, and suffers from a particularly aggressive form of the disease. Since 2012, her dementia has progressed rapidly and she has been unable to care for herself. Nor is she presently a competent adult. Since late 2012, she has required daily care and has been cared for by her daughter, also a citizen and resident of Charleston County, S.C..

5. John Doe MM and John Doe HS each hold Power of Attorney for Jane Doe. They are authorized to act individually or collectively. John Doe MM is a United States citizen and resident of a state other than South Carolina. John Doe HS is a citizen of South Carolina and a resident of Berkeley County.

6. The City of North Charleston is a political entity within Charleston County authorized to sue and be sued. Among other things, it operates a police force. It is referred to in this complaint as the City. In addition to claims for damages, the City is sued for injunctive relief, among other things to compel it to train its officers not to abandon people with dementia.

7. At all times pertinent to this complaint, Defendants Leigh Anne McGowan, Charles Francis Wholleb, Anthony M. Doxey, Howard Thomas, and Michael Kouris, each of whom is sued individually, were police officers with the City who had contact with Jane Doe in March, 2014. Defendant Wholleb's last name in City records is sometimes spelled as Wohlleb. In this complaint the spelling used is Wholleb. When referred to collectively, the individual defendants are identified as "the NCPD

Defendants." The City of North Charleston Police Department is referred to in this complaint as the NCPD.

8. The Court has jurisdiction over the subject matter of this action and jurisdiction over the parties to this action.

Nature of Wrongdoing

9. The case arises from both a warrantless entry by police at Jane Doe's residence in North Charleston and a subsequent response, by Defendant Kouris, to a complaint from Jane Doe that demonstrated her obvious confused mental state. After each visit from the NCPD individual defendants, Jane Doe was abandoned by the NCPD Defendants without any of them providing in any way for her care or protection, even as they removed her caregiver from where Jane Doe resided. As a result of the abandonments by each of the NCPD Defendants, Jane Doe required hospitalization and nearly died when she stopped eating from the confusion of being abandoned after her caregiver was removed by the Defendants without any of the Defendants providing for Jane Doe's care.

10. The warrantless entry by the Defendants was committed in March, 2014 by North Charleston City police officers McGowan, Wholleb, and Doxey. During that warrantless entry, officers McGowan, Wholleb, and Doxey encountered Jane Doe's adult daughter, in her bed and asleep. At that time, Jane Doe's daughter had been the caregiver for Jane Doe for more than a year. That daughter had no prior criminal record and at the time McGowan, Wholleb, and Doxey encountered her, she was engaged in no criminal conduct; she was in fact, asleep in her bed.

11. Officers McGowan, Wholleb, and Doxey entered Jane Doe's residence without a warrant and without a proper basis, woke and provoked Jane Doe's daughter, forcibly removed Jane Doe's daughter, Jane Doe's long-time caregiver, and did so in front of Jane Doe, knowing that Jane Doe had dementia. After removing her caregiver, the Defendant officers made no provision for Jane Doe's care or protection. They left Jane Doe alone in her confused state of dementia, unable to care for herself.

12. Because of Jane Doe's dementia, the Defendants' conduct was equivalent to traumatizing a minor child and then leaving that minor child to fend for herself without even periodic checks on her condition.

13. Two days later Jane Doe was still confused from the trauma and abandonment by Defendants McGowan, Wholleb, Doxey, and Thomas. Unable because of her dementia to herself use a telephone, she asked a passer-by to make a complaint on her behalf. That complaint reflected Jane Doe's state of extreme confusion. Jane Doe complained of a strange vehicle in her driveway with someone in it who wouldn't get out.

14. Upon investigation by Defendant Kouris, the vehicle being complained about was discovered to be the SUV belonging to Jane Doe's daughter. In Jane Doe's confusion, Jane Doe did not recognize the vehicle and did not recognize that the vehicle was empty. The report reflected Jane Doe's increasing confusion from the warrantless entry, the trauma of the forcible removal of Jane Doe's daughter, and Jane Doe's having been left to fend for herself for the two days since that warrantless entry.

15. Defendant Kouris responded to the call, discovered that the call was the product of Jane Doe's confusion, and after 7:30 p.m. again abandoned Jane Doe to fend for herself, taking no action after his investigation.

16. As a result of the confusion created by the Defendants twice abandoning her without any caregiver, Jane Doe required prolonged hospitalization at the Medical University of South Carolina (MUSC), nearly died when the trauma and confusion created for her by the Defendants caused her to stop eating, and as Jane Doe's condition deteriorated, caused MUSC to ask the Plaintiff John Doe HS to send to MUSC instructions on how to handle Jane Doe in the event she required resuscitation.

Factual Background

17. Jane Doe is afflicted with early onset Alzheimer's, and since 2012 has required daily care. Her dementia has caused her relatively rapid deterioration since its onset. By March, 2014, she was unable to dress herself, or to prepare food for herself, or even to open containers which contained food. She has continued to suffer neurological deterioration and her medical prognosis is that the neurological deterioration will continue and can be neither stopped nor reversed.

18. Since at least 2012, Jane Doe has not been competent. Decisions for her care and her life are made by trusted others.

19. Jane Doe's adult daughter has cared for Jane Doe since late 2012. The daughter moved to North Charleston from her home outside of South Carolina to care for her mother. After moving to North Charleston, Jane Doe's adult daughter found a job, for which she is over-qualified but which enables her the flexibility to care for her mother by periodic checks on her during the workday, and by direct care in the evenings. The daughter has no criminal record. The daughter has no driving infractions.

20. Since late 2012, Jane Doe has resided with her daughter and has received care from her daughter.

21. For a person with Alzheimer's disease, maintaining a consistent day-to-day routine is important to minimize confusion. Jane Doe's daughter has maintained as consistent a routine for her mother's care as has been possible for her to do.

22. In late March, 2014, at 10:06 p.m., the times being reflected on the 911 call detail, a neighbor to Jane Doe called 911 to report that a disturbance was in progress. The caller reported that Jane Doe had dementia, and that Jane Doe's daughter was locked out of her residence. The disturbance reported was Jane Doe's daughter trying to get Jane Doe's attention to unlock the front door of her own residence.

23. In response to the 911 call, eight minutes later, at 10:14 p.m., Defendant McGowan arrived at the residence. Assuming there had been a disturbance, by 10:14 p.m. the disturbance had ended. Jane Doe's daughter was in her residence.

24. McGowan spent two minutes at the scene of the reported "disturbance" and at 10:16 p.m., Defendant McGowan reported that no one was outside Jane Doe's residence. Defendant McGowan found that any disturbance, assuming there had been one, had ended. In fact, Jane Doe's daughter was inside her house and both Jane Doe and her daughter were asleep.

25. At 10:23 p.m., nine minutes after arriving at the scene, Defendant McGowan was told a second time that Jane Doe had dementia.

26. At 10:30 p.m., twenty-four minutes from the initial call about the disturbance and sixteen minutes since Defendant McGowan had arrived at the scene to find no disturbance, Defendants Doxey and Wholleb arrived on the scene, "backing up" Defendant McGowan for a disturbance that did not exist and which required no police involvement. No disturbance was taking place. No crime had been or was being committed.

27. At 10:32 p.m., eighteen minutes after McGowan had been on the scene, Jane Doe was awakened, presumably by the officers, and appeared at her front door to find Defendant Doxey. Presumably, Doxey had knocked on the front door.

28. Also by 10:32 p.m., Defendants McGowan and Wholleb entered Jane Doe's residence through the sliding back door, despite there being no disturbance, despite Jane Doe talking at the front door with Defendant Doxey, despite there being no proper reason for law enforcement to enter the residence, and despite the officers having neither consent to enter the home nor a warrant to enter the home.

29. By 10:32 p.m., McGowan had been on the scene for 18 minutes, and in that time had found no disturbance, had undertaken no steps to seek a warrant to enter Jane Doe's residence, and had no grounds for a warrant to enter the residence. No disturbance was taking place. Nor was any other crime taking place.

30. In addition to McGowan's access to a conventional search warrant, McGowan, Wholleb, and Doxey were each additionally authorized under state law, if any of them had any reason to believe Jane Doe was being abused or neglected, to (a) seek a warrant to access Jane Doe's residence, and (b) to take Jane Doe into protective custody. None of Defendants McGowan, Wholleb, or Doxey made any effort to seek such a warrant. Nor was Jane Doe in any manner being abused or neglected by her caregiver daughter, and as long as Jane Doe's caregiver was present there was neither a need for, nor a justification for, taking Jane Doe into protective custody.

31. Without Jane Doe's daughter, or some other competent caregiver, Jane Doe required protective custody. At minimum, Jane Doe requires periodic checking and needs extensive assistance for even routine activities of daily living, including eating.

32. For over a year, Jane Doe had been cared for capably by her daughter. During that time, Jane Doe has been kept alive by the care given to her by her daughter.

33. During the 18 minutes that Defendant McGowan waited outside the residence before her warrantless entry, McGowan had no grounds either to obtain a warrant to access Jane Doe's residence or to take Jane Doe into protective custody.

34. Defendants McGowan, Wholleb, and Doxey found no crime in progress at the scene. They entered Jane Doe's residence, without permission, without a warrant, and without a proper legal basis, forcibly removed Jane Doe's caregiver, did so in front of Jane Doe, and left Jane Doe to fend for herself without her caregiver and without periodic checks on her condition.

35. Defendants McGowan, Wholleb, and Doxey each acted unreasonably in responding to the lack of a disturbance, and to the lack of any crime taking place.

36. Defendants Wholleb, McGowan and Doxey collaborated to attempt to justify entering the residence without a warrant.

37. McGowan committed her first violation of Jane Doe's Constitutional rights in positioning herself to attempt to support the warrantless entry. Despite having no basis for a warrant, and despite making no effort to get a warrant, McGowan violated the curtilage of Jane Doe's residence by moving, without a warrant, from the front door to the back yard of the house.

38. In 2011 the South Carolina Supreme Court ruled in *State v. Dickey*, 716 S.E.2d 97, 104, that "Curtilage includes outbuildings, the yard around a dwelling, a garden of the dwelling, or the parking lot of a business." That holding applies to the events described in this Complaint.

39. McGowan violated the curtilage of Jane Doe's residence.

40. The curtilage violation occurred when McGowan left the front yard of the residence and entered the side yard without a warrant or a basis to do so. She apparently undertook that action during the 18 minutes she was alone at the scene where no disturbance was taking place, where no crime had been committed, and where no crime was being committed.

41. McGowan further violated the curtilage without a warrant or a proper basis by leaving the side yard and entering the backyard. To get to the back yard, Defendant McGowan crossed the fence line separating the front and back yards, unquestionably violating the curtilage of Jane Doe's residence without a warrant to do so.

42. Defendant McGowan violated the Constitutional rights Jane Doe possessed under the First, Fourth, Fifth, and Fourteenth Amendments to the Constitution of the United States when, without a warrant, Defendant McGowan twice violated the curtilage of Jane Doe's residence.

43. Without a warrant, and without permission to enter, Defendants McGowan and Wholleb entered the residence of Jane Doe through its sliding back door. Defendants McGowan and Wholleb did so despite Defendant Doxey having made contact with Jane Doe at the front door of the residence.

44. Defendants McGowan, Wholleb, and Doxey also violated Jane Doe's Constitutional rights by making a warrantless entry through her sliding back door. Warrantless entry is presumptively unreasonable under the Fourth, Fifth, and Fourteenth Amendments, and Defendants lacked justification to make warrantless entry.

45. Once inside Jane Doe's residence, Defendants McGowan and Wholleb found no crime that had been or was being committed.

46. Having violated Jane Doe's Constitutional rights by making entry into her residence, as alleged above, Defendants further violated Jane Doe's Constitutional rights by conducting a warrantless investigation within her residence.

47. Inside Jane Doe's residence, Defendants McGowan, Wholleb, and Doxey discovered no evidence of any crime.

48. Once inside Jane Doe's residence without a warrant, Defendants McGowan, Wholleb, and Doxey undertook an investigation to try to find a crime, given that they had made a warrantless entry.

49. Although Jane Doe's caregiving daughter was asleep in her bed, Defendants McGowan, Wholleb and Doxey elected to investigate Jane Doe. The Defendants elected to wake Jane Doe's caregiver so as to alarm her, and used her alarmed reaction to justify arresting Jane Doe's caregiver.

50. Defendants were aware that Jane Doe's residence had twice been broken into by criminals during the time that Jane Doe's daughter had cared for her. Independent of that information, each Defendant also knew that Jane Doe's daughter could be expected to react to being awakened to find multiple strangers in her bedroom at night.

51. The caregiver was arrested, interrogated by Defendants McGowan, Wholleb, and Doxey, taken into custody, all in front of Jane Doe.

52. The caregiver was charged with violating a North Charleston City ordinance.

53. Defendants McGowan, Wholleb, and Doxey removed Jane Doe's daughter from Jane Doe's residence.

54. Treatment of Jane Doe's caregiver by Defendants McGowan, Wholleb, and Doxey was forceful and aggressive and was both traumatic and confusing for Jane Doe, both for being done at all and for the manner by which it was done. The arrest was the product of a warrantless entry and was unlawful.

55. Defendant Thomas joined Defendants McGowan, Wholleb, and Doxey at Jane Doe's residence.

56. Defendant Thomas knew, or should have known, that Jane Doe had dementia and that the residence had twice been broken into before that night.

57. Jane Doe's daughter informed Defendants McGowan, Wholleb, Doxey, and Thomas that her mother had Alzheimers and was unable to care for herself. Each of Defendants McGowan, Wholleb, Doxey, and Thomas were deliberately indifferent to the information provided them by Jane Doe's caregiver.

58. Even without the warning by Jane Doe's caregiver, each of Defendants McGowan, Wholleb, Doxey, and Thomas knew that Jane Doe had dementia and was unable to provide for her own care or protection.

59. Knowing Jane Doe had dementia, after removing Jane Doe's caregiver Defendants McGowan, Wohllen, Doxey and Thomas made no provision for Jane Doe's care.

60. Jane Doe was, and is, a vulnerable adult as defined by South Carolina law, in that she has a mental condition caused by organic brain damage which substantially impairs her from adequately providing for her own care or protection. At all times pertinent to this complaint Jane Doe was a vulnerable adult.

61. Defendants McGowan, Wholleb, Doxey, and Thomas each knew Jane Doe was a vulnerable adult because (a) each was advised by Jane Doe's caregiver that her

mother needed care and could not care for herself, and (b) each knew that Jane Doe had dementia, and (c) due to the affirmative actions of Defendants McGowan, Wholleb, Doxey, and Thomas in removing her caregiver, Jane Doe was now known to be unable to provide for her own care or protection and to have no caregiver to perform those functions for Jane Doe.

62. Having removed Jane Doe's caregiver from her residence, Defendants McGowan, Wholleb, Doxey and Thomas each had a duty to report that Jane Doe was likely to be neglected because they had themselves removed Jane Doe's caregiver and were aware that Jane Doe had dementia and was unable to care for herself.

63. Defendants Defendants McGowan, Wholleb, Doxey, and Thomas had a duty to report within 24 hours that Jane Doe was likely to be neglected because Jane Doe had dementia and they had removed Jane Doe's caregiver, leaving her to fend for herself.

64. No report was made within 24 hours by any Defendant.

65. Breach of that duty by Defendants McGowan, Wholleb, Doxey, and Thomas constituted a criminal misdemeanor, for which there is a penalty of up to $2,500, and up to one year incarceration.

66. When Defendants McGowan, Wholleb, Doxey and Thomas removed the caregiver of a woman known to have dementia, leaving Jane Doe alone, it was the functional equivalent of traumatizing a minor child by an unlawful intrusion, traumatizing the minor child by forcibly removing her caregiver in front of her, and then leaving that minor child alone to fend for herself without even periodic checks on her condition.

67. Defendants McGowan, Wholleb, Doxey, and Thomas were deliberately indifferent to the danger each of them created for Jane Doe by their affirmative actions to remove her caregiver and leave Jane Doe to fend for herself.

68. Defendants McGowan, Wholleb, Doxey, and Thomas each failed to report Jane Doe's status as a vulnerable adult. Each had reason to believe she was a vulnerable adult likely to be neglected because of the conduct by Defendants McGowan, Wholleb, Doxey, and Thomas, and each Defendant violated a criminal statute which requires law enforcement officers to report vulnerable adults.

69. Defendants McGowan, Wholleb, Doxey and Thomas then exacerbated the problems they had created by reporting to the Charleston County Detention Center, falsely, that Jane Doe had caused her caregiver daughter to be arrested for abusing Jane Doe.

70. Defendants McGowan, Wholleb, Doxey and Thomas each knew that report was false, since they were each aware that Jane Doe had dementia and was not competent, and because Jane Doe was unharmed in any way when Defendants McGowan, Wholleb, Doxey, and Thomas removed Jane Doe's caregiver, and because Jane Doe's caregiver daughter had been arrested on a pretext other than her having abused Jane Doe.

71. By March, 2014, Jane Doe's dementia disabled her from caring for herself or even preparing food for herself. Jane Doe relied entirely on her daughter for her care and protection, and by the time of her removal by the Defendants, the daughter had cared for her mother for a year and five months, having started in late 2012 to undertake that care of Jane Doe.

72. Having forcibly removed in front of her the child that had cared for Jane Doe for more than a year was traumatic for Jane Doe.

73. Two days after Defendants McGowan, Wholleb, Doxey, and Thomas removed her caregiver, Jane Doe was herself too confused and disabled to operate a telephone, but persuaded a passer-by to call 911 on her behalf to report a "suspicious vehicle" at her residence with a person in it that would not get out. In fact, Jane Doe described as the "suspicious vehicle" the empty SUV of her caregiver daughter, the daughter that Defendants McGowan, Wholleb, Doxey and Thomas had removed.

74. Defendant Kouris responded to the 911 call made two days after Defendants McGowan, Wholleb, Doxey, and Thomas had left Jane Doe to fend her for herself. Responding to the 911 call, Defendant Kouris appeared at Jane Doe's residence.

75. No action was taken in response to the call, as the investigation by Defendant Kouris showed that the vehicle belonged to Jane Doe's daughter and was empty. No action on the complaint itself was necessary.

76. Defendant Kouris knew, or should have known, that Jane Doe was a vulnerable adult as defined in South Carolina law, and was likely to be neglected if left alone. Defendant Kouris knew, or should have known, that Defendants McGowan, Wholleb, Doxey, and Thomas had been told two days earlier that Jane Doe had dementia. In addition, Defendant Kouris knew that the incoherent nature of the 911 call Jane Doe asked be made for her reflected her confusion and her vulnerability.

77. Despite the demonstrated incoherence of Jane Doe's report that Defendant Kouris investigated, and despite the knowledge that Jane Doe had dementia, Defendant Kouris also left Jane Doe to fend for herself, the functional equivalent of leaving a

demonstrably confused minor child to fend for herself without even periodic checks on her condition.

78. Upon investigating the complaint made by Jane Doe it became apparent that Jane Doe was confused. There was no suspicious vehicle. There was no one inside the suspicious vehicle. From that complaint Defendant Kouris was aware that without her caregiver, Jane Doe was being neglected.

79. Defendant Kouris ended his investigation about 7:50 p.m., according to the 911 call detail.

80. Defendant Kouris made no report that Jane Doe was a vulnerable adult, or that she was being neglected. In making no report, Defendant Kouris violated a criminal statute which required he or she report, and he or she is subject to the penalties of a misdemeanor, a $2,500 fine, and 1 year incarceration.

81. Defendant Kouris was deliberately indifferent to the danger created for Jane Doe by leaving her to fend for herself, after she had demonstrated confusion from her known dementia, and after her caregiver had been removed from her residence in front of Jane Doe by the other Defendants. Defendant Kouris had reason to believe that Jane Doe was being neglected due to the affirmative acts of Defendants McGowan, Wholleb, Doxey, and Thomas, and that Jane Doe would continue to be neglected if he or she continued to leave Jane Doe alone to fend for herself.

82. Between the time of the warrantless entry and caregiver removal by Defendants McGowan, Wholleb, Doxey, and Thomas, and two days later when Defendant Kouris made a return visit to Jane Doe's residence, Jane Doe's brother, the Plaintiff John Doe HS, became aware that Jane Doe's caregiver had been removed. Upon

learning that, he went to check on Jane Doe and then tried to secure release of Jane Doe's daughter.

83. John Doe HS was aware that his niece, the caregiver daughter, had provided capable care of Jane Doe for more than a year. He was aware that for some time Jane Doe had been unable to provide her own care or protection.

84. After Defendant Kouris left Jane Doe unable to care for herself, John Doe HS checked on Jane Doe and found Jane Doe in a state of high agitation and confusion.

85. Faced with Jane Doe's inability to care for herself and the agitated and confused state she was in, John Doe HS called for an ambulance to have Jane Doe examined by a doctor. John Doe HS placed his 911 call about 8:06 p.m.

86. The agitated and disoriented state of Jane Doe's condition as found by John Doe HS was the same agitated and disoriented state in which Defendant Kouris had left Jane Doe.

87. Jane Doe was taken to the emergency room at MUSC and evaluated as needing hospitalization. She was admitted to the MUSC Institute of Psychiatry for an extended period of in-patient hospitalization that lasted until April 18.

88. MUSC assessed that Jane Doe required 24 hour supervision "due to her confusion."

89. Jane Doe's confusion was exacerbated by Defendants McGowan, Wholleb, Doxey, Thomas and Kouris disrupting her and then leaving her to fend for herself, all while each knew Jane Doe was a vulnerable adult unable to provide for her own care or protection.

90. During her hospitalization, Jane Doe was lethargic and was not eating, not from any physical problem but due to the confused state the Defendants McGowan,

Wholleb, Doxey, Thomas, and Kouris had caused in her by unlawfully intruding into her residence, traumatizing her by removing her caregiver before her, and leaving her to fend for herself knowing she was a vulnerable adult.

91. Because he holds power of attorney for Jane Doe, and because Jane Doe was rapidly deteriorating, MUSC asked John Doe HS to provide instructions on whether Jane Doe should be resuscitated. John Doe HS provided those instructions to MUSC.

92. Family members were advised by MUSC that Jane Doe would likely soon die.

93. MUSC was also given the false information, initiated by Defendants McGowan, Wholleb, Doxey, and Thomas, that Jane Doe had her caregiver daughter arrested for abusing Jane Doe. That false information complicated, and delayed, Jane Doe's caregiver daughter from having access to Jane Doe at MUSC.

94. Once Jane Doe's caregiver daughter got out of custody and the false information spread about her was offset by MUSC's own examination of Jane Doe and John Doe HS giving MUSC his experience and observations about the capable care his niece had given her mother for more than a year, the caregiver daughter was allowed to visit Jane Doe at MUSC. Because of her detailed knowledge of her mother's preferences, the caregiver daughter was able to advise MUSC, correctly, about what foods Jane Doe would eat and how to get her to eat and drink. With that information, Jane Doe's physical deterioration was delayed and she began to recover.

95. Jane Doe was discharged from MUSC on April 18.

96. The confusion caused by Defendants McGowan, Wholleb, Doxey, Thomas and Kouris exacerbated Jane Doe's dementia in irreversible ways and caused her physical harm. Defendants McGowan, Wholleb, Doxey, Thomas and Kouris neglected

Jane Doe when after traumatizing Jane Doe by removing her caregiver, none of them made provision for Jane Doe's care.

97. As it happened, Defendants McGowan, Wholleb, Doxey, Thomas and Kouris also made no provision for the family pets that Jane Doe's caregiver had also cared for, and for which Jane Doe was incapable of caring.

For a First Cause of Action:
Deprivation of Rights Under 42 USC §§ 1981 and 1983
(Against Defendants City of North Charleston for injunctive relief)

98. Allegations above are incorporated into this count as if fully stated.

99. This cause of action pursuant to 42 U.S.C. § 1983 is directed against the City of North Charleston for injunctive relief. The City of North Charleston is referred to as the City.

100. The City has failed to train its officers on the prohibitions against warrantless entry, the justification needed for warrantless entry, the proper protections to provide for vulnerable adults with dementia, and against creating dangers for vulnerable adults with dementia by making no provision for those vulnerable adults after removing their caregiver.

101. The City's officers acted under color of state law, pursuant to City policy, in affirmatively acting so as to violate Jane Doe's Constitutional rights and to remove her caregiver, knowing Jane Doe had dementia, leaving Jane Doe unable to care for herself.

102. Jane Doe is a citizen of the United States, and a citizen and resident of South Carolina.

103. Jane Doe has substantive Due Process rights to (a) her bodily integrity, (b) her personal security, (c) protections from unreasonable searches and seizures, (d)

protections from the government creating for her dangers and harm, and (e) protections from the government rendering her more vulnerable by placing Jane Doe in a worse position to sustain her life, thereby increasing her risk of harm. Under the Equal Protection Clause, Jane Doe also has an independent substantive right to not be denied protective services by the state, or to have the state remove her protective services, the state thereby affirmatively acting so as to create a danger for her and increase her risk of harm.

104. Under the First and Fourth Amendments, Jane Doe had a reasonable expectation of privacy while she was within her residence.

105. By 2014 those Constitutional protections for Jane Doe were clearly established, as it was clearly established that the state could not take affirmative action to create a danger for any citizen or increase a citizen's risk of harm. Those rights were established not later than by the 1989 United States Supreme Court decision in *DeShaney v. Winnebago County Dep't of Soc. Servs.*, 489 U.S. 189, 109 S.Ct. 998, 103 L.Ed.2d 249 (1989).

106. The City has inadequate procedures and training sufficient to compel its police officers to provide care for persons, such as Jane Doe, who are unable to provide their own care and protection after City officers remove the caregiver for such persons. The City should be enjoined from failing to develop adequate training and procedures sufficient for that purpose.

107. The North Charleston Police Department (NCPD) has a custom or policy that permits or requires its police officers to create a risk of harm to vulnerable adults by removing the caregiver for those persons and doing nothing to provide care and protection for that vulnerable adult. That custom or policy deprived Jane Doe of the

rights, privileges, or immunities secured to her by the Constitution and laws of the United States as well as of South Carolina, and subjected her to injuries which she would otherwise have avoided.

108. The City has a custom or policy to not spend the additional funds needed to have the proper training for its personnel, or resources for that personnel, so as to effectively provide for persons whose caregivers are removed by police action.

109. Unless enjoined, the City will continue to fund and operate its police department in a manner which deprives persons such as Jane Doe of constitutionally protected rights.

110. Jane Doe is entitled to injunctive relief sufficient to prevent the City from failing to provide funds sufficient to train and operate its police force so as to provide proper caregiving for disabled persons and vulnerable adults when the City removes a caregiver.

111. The City's policy of removing Jane Doe's caregiver and leaving her to fend for herself violated Jane Doe's Constitutional rights, caused injury to Jane Doe, increased her risk of harm, and in fact caused her harm. Unless enjoined by the Court, the City will continue to fail to train its officers against creating a danger to its citizens who are afflicted with dementia.

For a Second Cause of Action:
Deprivation of Rights Under 42 USC §§ 1981 and 1983
(Against Defendants McGowan, Wholleb, Doxey, Thomas and Kouris individually for damages for a State Created Danger: affirmative acts by which the state created a danger to Jane Doe and increased the risk of harm to her, and deliberate indifference to those dangers)

112. Allegations above are incorporated into this count as if fully stated.

113. Defendants McGowan, Wholleb, Doxey and Thomas, in this cause of action sued in their individual capacities, removed Jane Doe's caregiver knowing Jane Doe had dementia, and made no provision for Jane Doe's care or protection.

114. Defendant Kouris, in this cause of action sued in his individual capacity, also took affirmative steps to increase the risk of harm to Jane Doe. Having investigated her report to police two days after her caregiver's removal, in which report Jane Doe demonstrated her inability to care or protect herself by showing the degree of her confusion, Defendant Kouris also abandoned Jane Doe, knowing she had dementia, and knowing her caregiver had been removed two days earlier, and made no provision for Jane Doe's care.

115. Defendants McGowan, Wholleb, Doxey, Thomas, and Kouris were deliberately indifferent to Jane Doe's medical needs, and her inability to care for herself or to protect herself.

116. Defendants McGowan, Wholleb, Doxey, Thomas and Kouris took affirmative steps to disadvantage Jane Doe and by doing so, increased the risk of harm to her and in fact caused her harm.

117. As a result of the confusion created for Jane Doe, and her caregiver being removed by the Defendants McGowan, Wholleb, Doxey and Thomas, and the subsequent conduct of Defendant Kouris in abandoning Jane Doe after she had demonstrated her confusion and inability to care for herself, Jane Doe required hospitalization and nearly died, and suffered acceleration of her dementia, shortening her life span.

118. Conduct by each of Defendants McGowan, Wholleb, Doxey, Thomas and Kouris subjected Jane Doe to injury she would otherwise have avoided.

119. Jane Doe has been injured as a result of the conduct of the Defendants McGowan, Wholleb, Doxey, Thomas and Kouris. She was deprived of the rights, privileges or immunities secured to her by the Constitution and laws of the United States and South Carolina, and is entitled to actual and punitive damages against the individual Defendants McGowan, Wholleb, Doxey, Thomas and Kouris, in amounts to be determined by the finder of fact, to redress her injuries as a result of that deprivation and its consequential injuries.

For an Third Cause of Action:
Violation of the State Tort Claims Act: Gross Negligence
(Against the City of North Charleston)

120. Allegations above are incorporated as if fully stated.

121. For claims made under state law, the City is responsible for the actions of its employee police officers, and for properly training them.

122. It is the policy of South Carolina that every vulnerable adult is entitled to live in safety and in health. It is the policy and practice of the NCPD that vulnerable adults may be left to fend for themselves.

123. Jane Doe was entitled to live in safety and in health, and to not have state officers create a danger to her safety or her health. The City and its agents and employees had a duty under the Constitution to avoid creating a risk to her safety or her health, and a duty under state law to provide care and protection for her as a vulnerable adult.

124. This cause of action presumes that each of the Defendants McGowan, Wholleb, Doxey, Thomas and Kouris acted within the course and scope of their employment in their interactions with Jane Doe, and in their official capacity.

125. Through its agents and employees, the City was grossly negligent under state law in not properly training and supervising its police officers sufficient to cause them to properly protect a disabled person such as Jane Doe when the City removed from her Jane Doe's caregiver.

126. Agents and employees of the City violated a criminal statute in failing to report Jane Doe as a person likely to suffer neglect after the City removed her caregiver.

127. Agents and employees of the City violated a duty owed to Jane Doe to permit her to live in health and safety, and to not compromise her care or protection. Agents and employees of the City acted in a grossly negligent manner, exhibiting not even slight care, in abandoning Jane Doe to fend for herself after the City removed her long-time caregiver.

128. As a direct and proximate result of the gross negligence of the City, through its employees and agents, Jane Doe sustained physical and emotional injuries as well as violations of her rights under state law; violations of her rights under the South Carolina Constitution; physical pain and suffering and emotional trauma; and out of pocket costs, fees, and attorneys fees associated with this action.

129. Jane Doe is entitled to injunctive relief as well as actual damages against the City under the South Carolina Tort Claims Act, for her losses and actual damages, in amounts to be determined by the trier of fact.

For a Fourth Cause of Action: Declaratory Relief

130. Allegations above are incorporated into this cause of action as if fully stated.

131. Pursuant to 28 U.S.C. §§ 2201 and 2202, and 42 U.S.C. §§ 1983 and 1986,

the court should declare that the inadequate protections made for Jane Doe once the state defendants removed her caregiver violated Jane Doe's Constitutional Rights, as alleged above, her rights under Article 1 § 3 (Privileges and Immunities, Due Process and Equal Protection), Article 1 § 10 (Searches and Seizures, Invasion of Privacy), and Article 1 § 24 (Victim's Bill of Rights) of the South Carolina Constitution, her rights under state law, and that a continuing policy of inadequate provision for disabled persons and vulnerable adults whose caregivers are removed violates Jane Doe's rights under the First, Fourth, Fifth and Fourteenth Amendments to the United States Constitution.

132. Jane Doe is entitled to declaratory relief as requested above.

For a Fifth Cause of Action:
Defamation
(Against Defendant City of North Charleston)

133. Allegations above are incorporated into this cause of action as if fully stated.

134. This cause of action presumes that Defendants McGowan, Wholleb, Doxey, and Thomas, agents or employees of the City, each acted in their official capacity and within the course and scope of their employment in disseminating false information about Jane Doe, without specifically intending to harm Jane Doe.

135. Defendants McGowan, Wholleb, Doxey, and Thomas published false information about Jane Doe, claiming that Jane Doe herself caused her caregiver to be removed from her home by claiming that her daughter was abusing her.

136. In fact, Jane Doe had not reported her daughter had abused her. Jane Doe depended on the competent care her daughter had given her for over a year. Nor was

Jane Doe competent to make that or any other complaint about her daughter, and in fact the care given her by her daughter had been, and continues to be, beneficial to Jane Doe.

137. The publication of false information about her by Defendants McGowan, Wholleb, Doxey, and Thomas defamed Jane Doe in attributing to her (a) the false information that malice existed between Jane Doe and her daughter, and (b) the false information that Jane Doe was being abused by her daughter and (c) the false information that Jane Doe had accused her daughter of abusing her. The false statements impeached the honesty of Jane Doe, as well as her integrity, her virtue, her reputation, and falsely alleged defects attributed to her as having malice towards her daughter and being a victim of criminal acts of abuse.

138. After those false statements were initially published by Defendants McGowan, Wholleb, Doxey, and Thomas, the statements were circulated, as it was reasonably foreseeable the statements would be circulated. Among the places republishing the false statements was personnel at the Charleston County Detention Center and, later, to MUSC.

139. False statements were made by the Defendants McGowan, Wholleb, Doxey and Thomas not with the intention to harm Jane Doe, but because the Defendants had arrested Jane Doe's caregiver on a pretext, and they had not yet worked out among themselves what the pretext would be claimed to be. The false statements about Jane Doe being the cause of her daughter's arrest was an early version of the pretext that was later changed. The false statements were made without intent to harm Jane Doe but with knowledge that the statements were false or in reckless disregard of whether the statements were false. The statements were made not with actual malice (in the form of

ill will) towards Jane Doe but with Constitutional malice (in the form of knowledge of falsity or reckless disregard of falsity).

140. The false statements about Jane Doe reporting abuse were circulated to, among other additional sources, MUSC, and for a number of days Jane Doe suffered special damage in the form of her medical providers prohibiting her daughter from having access to her. Having heard the false information that Jane Doe had reported her daughter having abused her, Jane Doe's medical providers at MUSC had no choice but to initially consider that the statements could be true, and that the daughter who was her caregiver might in fact be a danger to Jane Doe. The information was false as to both Jane Doe and her daughter. The false information deprived Jane Doe of the care and comfort of her caregiving daughter, and deprived Jane Doe's medical providers of the detailed knowledge her caregiving daughter possessed about Jane Doe's condition and preferences.

141. The medical care providers checked Jane Doe thoroughly for signs of abuse but could find none. After that verification, and based on observations reported by Plaintiff HS that Jane Doe was not being abused by her own daughter, MUSC permitted the daughter access to Jane Doe.

142. Jane Doe benefitted while at MUSC from her daughter having access to Jane Doe. Among other things, the daughter's detailed understanding of Jane Doe's limitations enabled her to educate MUSC on how to get her mother to begin to eat and drink.

143. Information to date indicates that the defamatory publication was in spoken rather than written form. If it becomes known that a writing was made, this complaint will be amended.

144. The defamatory statements tended to degrade Jane Doe, that is, "to reduce [her] character or reputation in the estimation of his friends or acquaintances, or the public, or to disgrace [her], or to render [her] odious, contemptible, or ridiculous...." *Lesesne v. Willingham,* 83 F.Supp. 918, 921 (E.D.S.C.1949). The statements accused Jane Doe's daughter of a felony.

145. The defamatory statements were published in Charleston County and circulated in Charleston County outside any privilege the Defendants McGowan, Wholleb, Doxey, and Thomas might have had.

146. The Defendants McGowan, Wholleb, Doxey, and Thomas were at fault in publishing untruthful statements about Jane Doe.

147. At the time of the publications, Defendants McGowan, Wholleb, Doxey, and Thomas were employees of the City acting in their official capacity. The City is responsible for their conduct.

148. Jane Doe is entitled to actual damages against the City for the intentional tort of defamation, jointly and severally, as a result of the defamatory publications by Defendants, and punitive damages to the extent provided by law.

For a Sixth, Alternative Cause of Action:
Defamation
(Against Defendants McGowan, Wholleb, Doxey, and Thomas)

149. Allegations above, other than the allegations about Defendants McGowan, Wholleb, Doxey, and Thomas acting within the course and scope of their employment, are incorporated into this cause of action as if fully stated.

150. This cause of action presumes that Defendants McGowan, Wholleb, Doxey, and Thomas, although agents or employees of the City, acted outside the course

and scope of their employment, or with actual malice towards Jane Doe, in disseminating false information about Jane Doe. They are sued in this cause of action in their individual capacities.

151. False information about Jane Doe was published by Defendants McGowan, Wholleb, Doxey, and Thomas as alleged above, other than the allegations that they acted without the intention to harm Jane Doe but with knowledge that the statements were false or with reckless disregard of the truth of the statements about Jane Doe. This cause of action assumes both that the individual Defendants acted with actual malice as well as Constitutional malice towards Jane Doe.

152. Defendants McGowan, Wholleb, Doxey, and Thomas intended to harm Jane Doe, and used false statements about Jane Doe as a preliminary pretext to explain why her caregiver daughter had been arrested. Later, a different pretext was adopted among the individual Defendants as the justification of her daughter's arrest.

153. Jane Doe suffered harm from the statements, as alleged above.

154. Jane Doe is entitled to actual and punitive damages, jointly and severally, against Defendants McGowan, Wholleb, Doxey, and NC902 as a result of the defamatory publications by Defendants.

For a Seventh Cause of Action:
Invasion of Privacy
(Against Defendants McGowan, Wholleb, Doxey, and Thomas)

155. Allegations above are incorporated into this count as if fully stated, other than allegations of Defendants McGowan, Wholleb, Doxey, and Thomas operated within the course and scope of their employment.

156. This cause of action presumes that Defendants McGowan, Wholleb, Doxey, and Thomas acted outside the course and scope of their employment or with malice in their conduct as to Jane Doe. They are sued in this cause of action individually.

157. Jane Doe has a right to be left alone and to be free of unwarranted publicity of her private affairs.

158. Defendants McGowan, Wholleb, Doxey, and Thomas wrongfully intruded on the private affairs of Jane Doe, by substantial and unreasonable means, both by entering her home without authorization, and in using her disadvantaged neurological condition to spread false information about Jane Doe that her daughter was being abusive to her and that Jane Doe had, as a result, caused her daughter to be arrested.

159. Defendants McGowan, Wholleb, Doxey, and Thomas all cooperated so as to publicize private, but false, information about Jane Doe.

160. The intrusion concerned aspects of Jane Doe, her disadvantaged neurological condition, her home, her family, her personal relationship with her daughter and her communications with her daughter that Jane Doe reasonably expected would be private. It ascribed to Jane Doe false information about intensely private matters, and imputed, falsely, an alienation from her daughter that did not exist.

161. The public has no legitimate concern about Jane Doe's private health information or in information about her family relations.

162. The intrusion by the Defendants McGowan, Wholleb, Doxey, and Thomas into Jane Doe's private affairs was wrongful in that it was unauthorized and was the product of fabricated "evidence" by which the Defendants attempted to justify their intrusion into Jane Doe's privacy.

163. Defendants had no waiver from Jane Doe or those who hold her power of attorney, or any privilege, to create and publicize false private "information" about Jane Doe.

164. Defendants wrongfully intruded into Jane Doe's private activities, and did so in such a manner as to outrage or cause mental suffering, shame, or humiliation to a person of ordinary sensibilities.

165. Defendants McGowan, Wholleb, Doxey, and Thomas intruded into Jane Doe's private affairs intentionally, as part of the process by which they attempted to identify a pretext for the arrest of Jane Doe's caregiver.

166. Jane Doe is entitled to actual and punitive damages, jointly and severally, against Defendants McGowan, Wholleb, Doxey, and Thomas as a result of the wrongful intrusion into her private affairs.

For an Eighth, alternative Cause of Action:
Invasion of Privacy
(Against The City of North Charleston)

167. Allegations above are incorporated into this count as if fully stated, other than allegations that Defendants McGowan, Wholleb, Doxey, and Thomas acted outside the course and scope of their employment.

168. This cause of action presumes that Defendants McGowan, Wholleb, Doxey, and Thomas acted in their official capacity, within the course and scope of their employment and without malice in their conduct as to Jane Doe, and did so as agents and employees of the City.

169. Jane Doe has a right to be left alone and to be free of unwarranted publicity of her private affairs, as alleged above.

170. Defendants McGowan, Wholleb, Doxey, and NC902 wrongfully intruded on the private affairs of Jane Doe, as alleged above, and caused injury to Jane Doe, as alleged above.

171. Jane Doe is entitled to actual damages against the City as a result of the wrongful intrusion into her private affairs by its agents and employees.

For an Ninth, alternative Cause of Action:
Intentional Infliction of Emotional Distress
(Against Defendants McGowan, Wholleb, Doxey, and Thomas)

172. Allegations of paragraphs above, are incorporated into this cause of action as if fully stated, other than allegations that Defendants McGowan, Wholleb, Doxey, and Thomas acted within the course and scope of their employment.

173. This cause of action presumes Defendants McGowan, Wholleb, Doxey, and Thomas acted outside the course and scope of their employment with the City. In this cause of action they are sued individually.

174. Defendants McGowan, Wholleb, Doxey, and Thomas were aware that Jane Doe had dementia. Defendants take Jane Doe as they find her, with the severe neurological deficit she has.

175. Knowing Jane Doe was not competent as a result of her disease, and was a vulnerable adult, Defendants McGowan, Wholleb, Doxey, and Thomas intentionally inflicted on Jane Doe severe emotional distress in disrupting her as much as possible through their conduct in removing her caregiver, in using force and violence in front of her to remove her caregiver, in isolating Jane Doe and making her fend for herself even though she was a vulnerable adult, and in circulating information that Jane Doe had accused her caregiver of abusing her.

176. Defendants McGowan, Wholleb, Doxey, and Thomas were certain, or substantially certain, that such distress would result when the Defendants collaborated in their actions against the interest of Jane Doe. Injecting chaos into the life of a vulnerable adult with Alzheimer's disease was, for the Defendants McGowan, Wholleb, Doxey, and Thomas, an acceptable cost to the Defendants as the Defendants tried alternative fabrications to justify removing Jane Doe's caregiver. Alternatively, taking those actions to harm Jane Doe was regarded as a proper retaliation for animus by Defendants McGowan, Wholleb, Doxey, and Thomas that was directed at Jane Doe's caregiver.

177. Eventually the Defendants settled on an alternative fabrication to their initial fabricated claim that Jane Doe had reported being abused by her long-term caregiver daughter.

178. Such conduct by the Defendants McGowan, Wholleb, Doxey, and Thomas is so extreme and outrageous as to exceed all possible bounds of decency and must be regarded as atrocious and utterly intolerable in a civilized community. The Defendants are not qualified to carry the authority of the City on this ground and the other grounds alleged above.

179. Abandoning Jane Doe to fend for herself was a criminal violation by Defendants McGowan, Wholleb, Doxey, and Thomas.

180. Failing to report Jane Doe as a vulnerable adult was a criminal violation by Defendants McGowan, Wholleb, Doxey, and Thomas.

181. The actions of the defendants proximately caused Jane Doe emotional distress which is so severe that no reasonable person could be expected to endure it, particularly not a vulnerable adult with Jane Doe's neurological deficits from Alzheimer's disease. And in fact Jane Doe could not endure it. She was so confused and

agitated from the experience imposed on her by the Defendants McGowan, Wholleb, Doxey, and Thomas that two days later she made an incoherent complaint, and later that day she required prolonged hospitalization and later nearly died when she was isolated from her caregiver and stopped eating for a prolonged period.

182. The Defendants McGowan, Wholleb, Doxey, and Thomas are liable, jointly and severally, for actual and punitive damages as a result of their conduct.

For a Tenth Cause of Action:
Deprivation of Rights Under 42 USC §§ 1981 and 1983
(Against Defendant City of North Charleston for damages for failure to train)

183. Allegations above are incorporated into this count as if fully stated.

184. This cause of action pursuant to 42 U.S.C. § 1983 is directed against the City for damages relief. The City of North Charleston is referred to as the City. The cause of action presumes its officers acted in their official capacities as officers and agents of the City.

185. As alleged above, on multiple occasions as to Jane Doe, multiple City police officers, specifically McGowan, Wholleb, Doxey, Thomas and Kouris each made independent decisions to abandon Jane Doe to fend for herself after (a) her caregiver was removed (by McGowan, Wholleb, Doxey and Thomas) and, (b) after two days fending for herself, Defendant Kouris investigated Jane Doe's complaint that demonstrated her confusion in suspecting that the empty car in her driveway was a suspicious vehicle with someone in it who would not get out, when in fact it was her daughter's empty car.

186. A pattern and practice of abandoning vulnerable adults exists in the City. As to Jane Doe, the omissions by its officers were taken as a result of official governmental custom, policy or practice in North Charleston to leave to fend for himself or herself an adult known to be vulnerable when the City elects to have its agents or

employees remove that adult's caregiver, or when an adult displays his or her vulnerability by demonstrating to a City agent or employee confusion sufficient to make the adult vulnerable. On information and belief, the two instances on which Jane Doe was abandoned to fend for herself are not the only instances in which a vulnerable adult was deprived of a caregiver by City agents or employees and left alone.

187. City employees are apparently ignorant of the need to protect vulnerable adults after the City agents or employees take affirmative action to create a danger to its vulnerable adults by removing the caregiver and leaving the vulnerable adult to fend for herself. The need to protect vulnerable adults is obvious to the City. By statute, South Carolina requires that need to be addressed with mandatory reporting, yet each of officers McGowan, Wholleb, Doxey, Thomas and Kouris violated that state law, as officials of the City knew they would violate state law.

188. City officials were deliberately indifferent to the known problem of City employees taking affirmative steps to create a danger for its vulnerable adults and making no provision for their care.

189. As to Jane Doe, superiors of McGowan, Wholleb, Doxey, Thomas and Kouris reviewed and ratified the decisions to leave Jane Doe alone after her caregiver was removed and the disabling extent of her confusion had been demonstrated. The City has a custom of tolerating constitutional violations of City agents or employees taking affirmative steps to create dangers for its vulnerable adults.

190. The City has failed to train its officers on the prohibitions against warrantless entry, the justification needed for warrantless entry, the proper protections to provide for vulnerable adults with dementia, and not creating dangers for vulnerable adults with dementia by removing their caregiver.

191. The City's officers acted under color of state law and pursuant to City policy, in affirmatively acting so as to violate Jane Doe's Constitutional rights and to remove her caregiver, knowing Jane Doe had dementia, leaving Jane Doe unable to care for herself.

192. Jane Doe is a citizen of the United States, and a citizen and resident of South Carolina.

193. Jane Doe has substantive Due Process rights to (a) her bodily integrity, (b) her personal security, (c) protections from unreasonable searches and seizures, (d) protections from the government creating for her dangers and harm, and (e) protections from the government rendering her more vulnerable by placing Jane Doe in a worse position to sustain her life, thereby increasing her risk of harm. Under the Equal Protection Clause, Jane Doe also has an independent substantive right to not be denied protective services by the state, or to have the state remove her protective services, thereby affirmatively acting so as to create a danger for her and increase her risk of harm. Under the First and Fourth Amendments, Jane Doe had a reasonable expectation of privacy in her residence.

194. By 2014 those Constitutional protections for Jane Doe were clearly established, as it was clearly established that the state could not take affirmative action to create a danger for any citizen or increase a citizen's risk of harm. Those rights were established not later than by the 1989 United States Supreme Court decision in *DeShaney v. Winnebago County Dep't of Soc. Servs.*, 489 U.S. 189, 109 S.Ct. 998, 103 L.Ed.2d 249 (1989). Other rights were established in earlier case decisions.

195. The City has, and is aware that it has, inadequate procedures and training sufficient to compel its police officers to provide care for persons, such as Jane Doe, who

are unable to provide their own care and protection after City officers remove their caregiver. The City is liable to Jane Doe for failing to develop adequate training and procedures sufficient for that purpose in light of the known incidents of its officers taking affirmative action to expose vulnerable adults to harms.

196. The NCPD has a custom or policy that permits its police officers to create a risk of harm to vulnerable adults by removing the caregiver for those persons and doing nothing to provide care and protection for that vulnerable adult. That custom or policy deprived Jane Doe of the rights, privileges, or immunities secured to her by the Constitution and laws of the United States as well as of South Carolina, and subjected Jane Doe to injuries which she would otherwise have avoided.

197. The City has a custom or policy to not spend the additional funds needed to have the proper training for its personnel, or resources for that personnel, so as to effectively provide for persons whose caregivers are removed by police action.

198. Jane Doe is entitled to damages from the City for the City's policy of removing Jane Doe's caregiver and leaving her to fend for herself violated Jane Doe's Constitutional rights, caused injury to Jane Doe, and increased her risk of harm. Unless enjoined by the Court, the City will continue to fail to train its officers against creating a danger to its citizens who are afflicted with dementia.

For an Eleventh Cause of Action:
Post-Complaint Conduct: Civil Conspiracy
(Against all Defendants)

199. This cause of action concerns post-complaint conduct. Allegations of paragraphs 3 through 8, above, are incorporated into this cause of action as if fully stated.

200. In this cause of action the individual defendants McGowan, Wholleb, Doxey, Thomas, and Kouris are alleged to have acted individually, outside their official capacities as officers of the NCPD, and acted instead as individuals.

201. On September 2, 2014, Defendants collaborated among themselves to file an ostensibly "emergency" motion which was (a) based on no information not known to Defendants, or available to Defendants, since March, 2014, and (b) had as its objective to cause special harm to the Plaintiff, a 66 year old woman who suffers from an aggressive and debilitating form of early onset Alzheimer's disease, and harm to those who hold her health care power of attorney on her behalf, and to her family.

202. The goal of the "emergency" motion included a threat to disrupt the Plaintiff's steady routine with the constellation of health care providers and family members providing for the Plaintiff's health care, so as to remove the Plaintiff from among the known individuals who provide for her health care and who maintain the consistency of her care.

203. Routine is vital to the Plaintiff's well-being given her aggressive form of Alzheimer's disease.

204. The Defendants having disrupted the routine of the Plaintiff's care in March is the subject of the Complaint and Amended Complaint. This cause of action concerns solely post-complaint conduct undertaken in retaliation for the Plaintiff having initiated this action through those who hold her power of attorney.

205. In short, the Defendants are presently engaged in a civil conspiracy to attack the quality of the Plaintiff's health care as a collateral attack on the Plaintiff, to try to undermine her health by undermining her health care. The Defendants have undertaken this coordinated activity as a means of collateral attack on the Plaintiff to

dissuade those who hold power of attorney for the Plaintiff from pursuing this claim to hold the Defendants responsible for their first effort to strip the Plaintiff of all family care and protections.

206. The Defendants seek by their illegitimate collateral attack to undermine the Plaintiff's health by attempting to remove the Plaintiff from the care of her family so as to compel the Plaintiff to be cared for by strangers, at far greater expense for the family and so as to disorient the Plaintiff by an entire change of care providers. The Defendants have undertaken this strategy knowing that routine is critical to Alzheimer's patients, and knowing that if the Plaintiff's routine can be disrupted the Plaintiff will again be disoriented, and subjected to stress, as happened in March when the Defendants disrupted the Plaintiff's health care.

207. The City of North Charleston is party to this agreement to act in concert with the individual defendants to collaterally attack its own residents through a manufactured "emergency" in retaliation for the claim having been made. Among the illegitimate objectives of the collective action by the joint assent of the Defendants is to seek to use irrelevant information as evidence in this case, solely to threaten and harass the Plaintiff's family.

208. The Defendants, including the City of North Charleston, have undertaken combined action for the purpose of injuring the Plaintiff and causing her special damage.

209. Based on information that had been available to, and known to, the Defendants since March, on September 2 the Defendants declared an "emergency" condition existed from information that was six months old.

210. The allegation that an "emergency" condition existed was known on September 2 to be false, and was known to have been based on information available to the Defendants since March.

211. The specific threat made against the Plaintiff by this post-complaint conduct is the illegitimate threat to disrupt the Plaintiff's stable health care arrangements, so as to again increase stress on the Plaintiff, as was done in March, 2014, and to accelerate her demise further and faster than would exist without the threat.

212. As part of this agreement among Defendants, and as an overt act in furtherance of this joint objective of the Defendants, Defendant McGowan on September 3, 2014, drove to the Plaintiff's residence and positioned herself outside the Plaintiff's residence for an extended period. Defendant McGowan acted individually, as part of her individual contribution to the collaborative effort among Defendants to threaten to again disrupt the Plaintiff's health care routine and cause the Plaintiff special harm by that disruption and by the anxiety produced by that threatened disruption.

213. Defendants continue to maintain that an "emergency" condition is present, and that the Plaintiff's health care must be disrupted, even though the Defendants are aware, among other things,

(a) that the Plaintiff was hospitalized for an extended period after the Defendants' March disruption to the Plaintiff's care configuration,

(b) that the Plaintiff's daughter has cared for the Plaintiff since November, 2012, returned from out of state to live in North Charleston to do so, and during that time has succeeded in keeping her mother from being housed in any institution, so her mother can

as long as possible be cared for by family rather than cared for by strangers,

(c) that medical professionals visit the house weekly, as arranged by the Plaintiff's daughter, to monitor the progress of the Plaintiff's debilitating Alzheimer's disease,

(d) that through her daughter the Plaintiff makes visits to her doctors, at MUSC and other places, on the schedule determined by her doctors,

(e) that each of the health care providers involved in the Plaintiff's care is required to monitor and assess the suitability of the Plaintiff's care and the course of her incurable and inexorable disease, and would be required to report any problem with the Plaintiff's care,

(f) that the Plaintiff is seen by other family weekly, and at times more than weekly, and

(g) that the Plaintiff is taken weekly to church by a family member other than her daughter, and

(h) that the Plaintiff's condition is irreversible, and terminal.

214. Alleged above is not an exhaustive list of the information known to the Defendants to be contrary to their "emergency" motion. That motion is frivolous, is brought for the illegitimate collateral purpose of attacking the Plaintiff and her family, all in an effort to assert the collateral threat to disrupt the Plaintiff's care configuration in an attempt to diminish The Plaintiff's health, and her health care stability, and by doing so to try to pressure, through illegitimate means, those holding power of attorney to drop this litigation to hold the Defendants accountable for their wrongful and tortious conduct,

thereby enabling the Defendants to escape accountability, as they are accustomed to acting without accountability.

215. The conduct by the Defendants was undertaken collaboratively, as part of a joint plan to cause this special damage to the Plaintiff, and to cause the Plaintiff special damage by disrupting her heath care and making a collateral attack to threaten and harass the Plaintiff and her family. For example, care providers have had to be advised of what to do if and when the Defendants again intrude to the Plaintiff's residence without warning, as Defendant McGowan implicitly threatened by her prolonged presence on September 3 as she waited in the street outside the Plaintiff's residence to make her presence known, and to threaten another warrantless intrusion to the Plaintiff's residence.

216. The Defendants' agreement and concerted action to disrupt the Plaintiff's health care routine and to threaten continued disruption of the Plaintiff's health care routine are actions that reflect an agreement among Defendants to take joint action with malice and for illegitimate, collateral objectives.

217. Without intervention by the Court, the Defendants will continue to assert their power through illegitimate means, to threaten the Plaintiff's well-being, and to collaterally attack the Plaintiff and her caregivers.

218. The Plaintiff is entitled to injunctive relief to stop the Defendants from threatening to disrupt the Plaintiff's health care routine, from disrupting the Plaintiff's health care routine, and from their using disruption to the Plaintiff's health care routine as a means of collateral harassment of the Plaintiff and her family.

219. The Plaintiff is entitled to actual and punitive damages for the actions already taken as part of the post-complaint collusive conduct of the Defendants to intimidate, threaten, and to harass the Plaintiff and her family.

Demand for Jury Trial

220. Plaintiffs on behalf of Jane Doe demand a trial by jury.

Relief Sought

221. South Carolina statutes make two provisions for damages from claims against police officers, depending on the nature of the claim. These claims are brought within the authority of each of those provisions, and apply to these Defendants.

222. For certain acts of gross negligence, S.C. Code § 15-78-120 provides for damage limits of $300,000 and $600,000 from actions other than medical or dental negligence. Some actions alleged in this Complaint allege gross negligence, and multiple occurrences of gross negligence by the Defendants. This provision of South Carolina law applies to the individual Defendants and to the City of North Charleston through the conduct of the individual Defendants.

223. For violations of 42 U.S.C. § 1983, also alleged in this Complaint against the individual Defendants, S.C. Code § 1-11-460 authorizes the South Carolina Budget and Control Board to pay judgments for one employee of between $1 million and $5 million, subject to a maximum of $20 million in excess of $5 million in one fiscal year. This Complaint alleges violations of 42 U.S.C. § 1983 against five individual employees of North Charleston. That provision of South Carolina law applies to the claims against each of the individual Defendants.

224. S.C. Code § 15-78-90 authorizes the Budget and Control Board, or the political subdivision where it has not purchased insurance from the Budge and Control Board, to "compromise any claim." This provision of South Carolina law applies to these Defendants, and includes authority to compromise a claim that the Defendants acted so as

to violate 42 U.S.C. § 1983 in depriving Jane Doe of her civil rights. That provision of South Carolina law applies to each of the individual defendants and to the City of North Charleston.

225. Upon information and belief, each of the Defendants in this action is covered by a tort liability policy issued by the South Carolina Insurance Reserve Fund. Alternatively, or in addition, the five police officers sued individually in this action are protected by the support provided by South Carolina through S.C. Code § 1-11-460, and the South Carolina Budget and Control Board has express authority to compromise the claims, including the civil rights claims.

226. Under the Supremacy Clause of the United States Constitution, no state law can limit damage claims for any violation of 42 U.S.C. § 1983. The provisions of S.C. Code § 1-11-460 are not limitations on damage awards under 42 U.S.C. § 1983, but an assurance by the State that each police officer found liable in his or her individual capacity will be supported by the State fisc up to $5 million, subject to a maximum of $20 million in excess of $5 million in one fiscal year. The Supremacy Clause applies to each individual Defendant and to the claims against the City of North Charleston.

227. Beyond that $25 million limitation on the contribution the State will make towards any judgment under 42 U.S.C. § 1983, South Carolina law apparently leaves the individual officer Defendants in this action to fend for himself or herself, including the City of North Charleston. This provision of South Carolina law applies to each of these Defendants.

228. Wherefore, Plaintiffs on behalf of Jane Doe requests that this Court:

a. Enjoin Defendant City from failing to have adequate procedures sufficient to compel its police officers to provide for the interests of

vulnerable adults, including those suffering dementia if and when the City removes the caregiver of the vulnerable adult; from failing to develop adequate training and procedures sufficient for that purpose; from ceasing its custom or policy for its officers to remove caregivers of vulnerable adults without providing care for those whose caregivers are removed; from failing to expend sums sufficient to have the proper training and resources for its personnel to effectively provide care when a caregiver is removed by police action; and from operating its police department in a manner which deprives Jane Doe and others situated similarly to her of Constitutionally protected rights.

b. Award actual and punitive damages, individually, against Defendants McGowan, Wholleb, Doxey, Thomas and Kouris, and injunctive relief against them to enjoin them from removing the caregiver for, but then abandoning to fend for herself, any person suffering from dementia.

c. Award actual damages and injunctive relief under the South Carolina Tort Claims Act against the City of North Charleston and to enjoin it from failing to develop and fund proper policies and training for its officers to fully protect the interests of disabled persons whose caregivers are removed.

d. Award actual and punitive damages against Defendants McGowan, Wholleb, Doxey, Thomas, and Kouris for deliberate indifference to Jane Doe, a known dementia patient whose caregiver had been removed from her by police.

e. Award actual damages against the City of North Charleston for its deliberate indifference to its agents and employees infringing Jane Doe's rights, for failing to train its officers in the proper Constitutional limits of authority, for its custom, policy, or practice to have its officers violate Jane Doe's Constitutional rights and to take affirmative action to expose Jane Doe to dangers and then abandon her to those dangers, knowing she has dementia patient and knowing her caregiver had been removed from her by police.

f. Award declaratory relief pursuant to 28 U.S.C. §§ 2201 and 2202, and 42 U.S.C. §§ 1983, that inadequate protections made available to Jane Doe violated her First, Fourth, Fifth and Fourteenth Amendment rights to the United States Constitution, her rights under the South Carolina Constitution as specified above, and that the continuing policy of removing the caregiver for a person with dementia without providing care for that person with dementia violates Jane Doe's Constitutional rights as alleged in this Complaint.

g. Award compensatory and punitive damages to Jane Doe as determined by the finder of fact against the individual Defendants under the claims under federal law.

h. Award compensatory damages to Jane Doe as determined by the finder of fact against all Defendants for the claims under state law.

i. Award Jane Doe's costs of suit and reasonable attorneys' fees under 42 U.S.C. § 1988.

229. For the post-complaint conduct in the eleventh cause of action, the Plaintiff is entitled to injunctive relief, actual and punitive damages, as alleged above, and

230. For such other and further relief as the Court deems just and proper.

Respectfully submitted.

Gregg Meyers, SC Bar No. 9908
Jeff Anderson & Associates, PA
366 Jackson Street, Suite 100
Saint Paul, MN 55101
651-227-9990
Gregg@andersonadvocates.com

Attorney for Plaintiff

STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS

COUNTY OF CHARLESTON) CASE NO. 2014-CP-10-4591

Jane Doe 202, through John Doe MM and John Doe HS, each of whom holds power of attorney for Jane Doe,

Plaintiff,

vs.

City of North Charleston;
Leigh Anne McGowan, individually,
Charles Francis Wholleb, individually,
Anthony M. Doxey, individually;
Howard Thomas, individually, and
Michael Kouris, individually,

Defendants.

FILED
2014 NOV 12 AM 11:57
JULIE J. ARMSTRONG
CLERK OF COURT

TO: Counsel for Defendants

Motion for Leave to Use Pseudonym

Plaintiff Jane Doe 202 moves, pursuant to SCRCP 10 and 17, for leave to use the designation Jane Doe 202 in this action, for a protective order to preserve that right up through and including time of trial, and to enjoin the Defendants from further efforts to disclose her identity in the public record. Reasons for and support of this motion are set out more fully in the attached memorandum.

Respectfully submitted,

Dated November 7, 2014

Gregg Meyers, SC Bar No. 9908
Jeff Anderson & Associates, P.A.
366 Jackson Street Suite 100
Saint Paul MN 55101
651-227-9990, 651-297-6543 facsimile
gregg@andersonadvocates.com

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

Jane Doe 202, et al
Plaintiff,

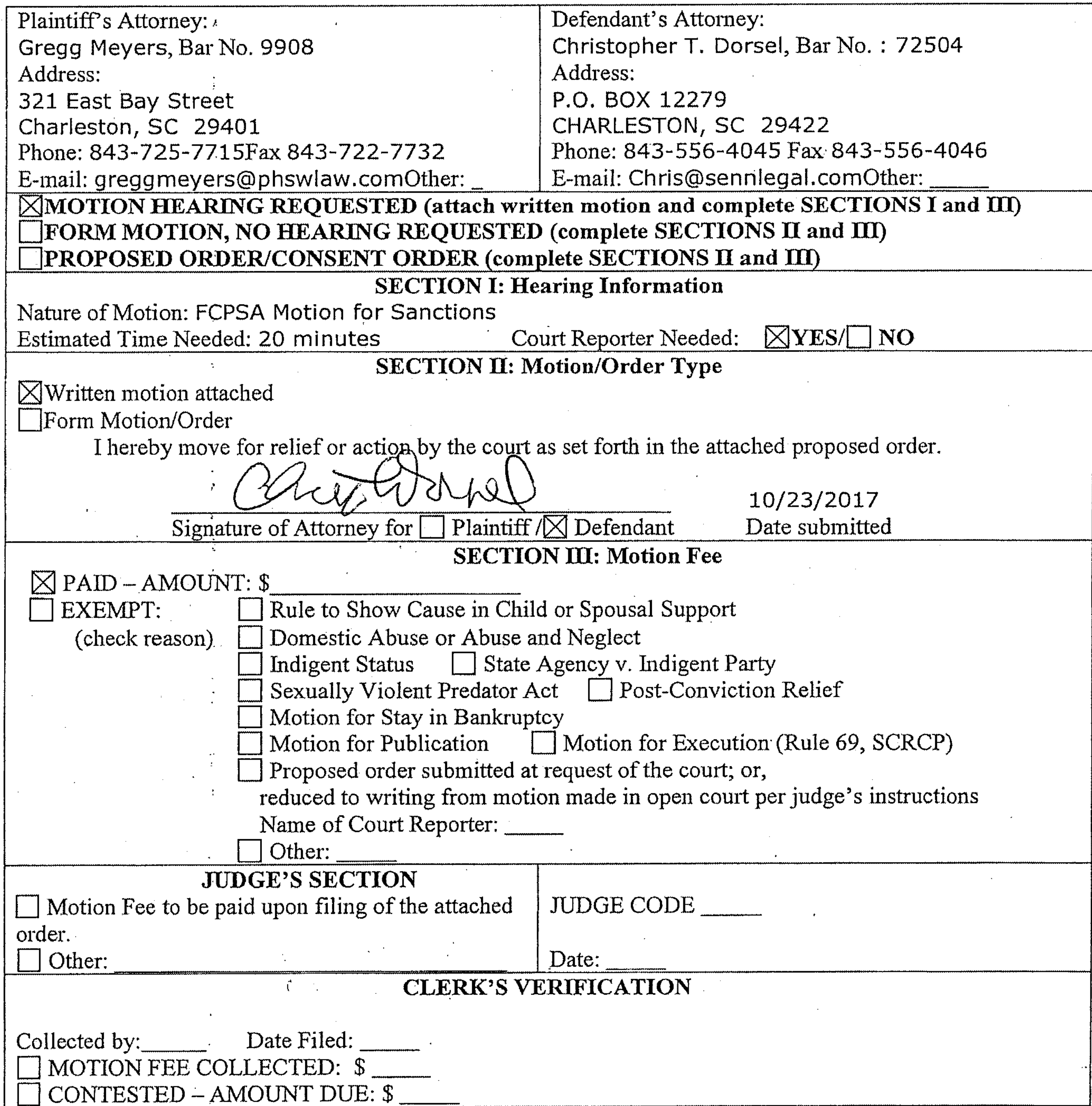
vs.

City of North Charleston, et al
Defendant.

IN THE COURT OF COMMON PLEAS
NINTH JUDICIAL CIRCUIT

CASE NO.: 2014-CP-10-4591

MOTION AND ORDER INFORMATION FORM AND COVERSHEET



Plaintiff's Attorney:	Defendant's Attorney:
Gregg Meyers, Bar No. 9908 Address: 321 East Bay Street Charleston, SC 29401 Phone: 843-725-7715Fax 843-722-7732 E-mail: greggmeyers@phswlaw.comOther: _	Christopher T. Dorsel, Bar No. : 72504 Address: P.O. BOX 12279 CHARLESTON, SC 29422 Phone: 843-556-4045 Fax 843-556-4046 E-mail: Chris@sennlegal.comOther: _____

☒ **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: FCPSA Motion for Sanctions
Estimated Time Needed: 20 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]   10/23/2017
Signature of Attorney for ☐ Plaintiff /☒ Defendant   Date submitted

SECTION III: Motion Fee

☒ PAID – AMOUNT: $__________
☐ EXEMPT: (check reason)
☐ Rule to Show Cause in Child or Spousal Support
☐ 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, SCRCP)
☐ 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:_____ Date Filed: _____
☐ MOTION FEE COLLECTED: $ _____
☐ CONTESTED – AMOUNT DUE: $ _____

SCCA 233 (11/2003)

STATE OF SOUTH CAROLINA COUNTY OF CHARLESTON Jane Doe 202, by John Doe MM and John Doe HS, each of whom holds power of attorney for Jane Doe, Plaintiffs, v. City of North Charleston; Leigh Anne McGowan, individually, Charles Francis Wholleb, individually, and Anthony M. Doxey, individually; Defendants.	IN THE COURT OF COMMON PLEAS CIVIL ACTION NO.: 2014-CP-10-4591 **DEFENDANTS' MOTION FOR ATTORNEYS' FEES AND COSTS PURSUANT TO THE SOUTH CAROLINA FRIVOLOUS PROCEEDINGS SANCTIONS ACT**

Come now the Defendants and move before this Court for an Order granting Defendants attorneys' fees and costs pursuant to the South Carolina Frivolous Proceedings Sanctions Act, S.C. Code Ann. § 15-36-10, *et seq.*. As will be discussed below, several of Plaintiff's claims in this case were without proper basis, were frivolous, and are sanctionable.

Brief Statement of Facts of Lawsuit

This lawsuit arises out of an incident that occurred on the night of March 27, 2014. On that night, Jane Doe's daughter, Parker Meyer, had attended a bridal shower and, after she returned home, locked herself out of the house she shared with her mother who had been diagnosed with dementia. As a result, at approximately 10pm, Parker Meyer began banging on the doors of her house and yelling for her mother. Upon hearing this and seeing this occur, Jane Doe's neighbors, Jake and Sarah Sadler (the "Neighbors") called the police to report a disturbance.

Officer McGowan was the first responding officer. She noted that no one was in the yard and no one was answering the door when she knocked. Further, she noted that the dome light of

the vehicle was on, a pair of high heel shoes were outside the driver's side door, and a purse with blood on it was in the backyard. After back-up officers, Officers Doxey and Wohlleb, arrived, an exigent entrance was made. The officers were met by Jane Doe who was able to speak with them, understand their questions, and direct the officers upstairs to where her daughter was asleep on top of her covers, with all of her clothing on, and with a large red wine stain down the front of her shirt.

After Parker Meyer woke up, the officers talked with her and asked if she was in need of medical assistance. The officers also advised Ms. Meyer that her car was unlocked and her belongings were outside. After Ms. Meyer attempted to walk and was unsteady on her feet, the officers offered to gather her belongings for her. After the two male officers left, the lone female officer, McGowan, was in the bedroom alone with Ms. Meyer and with Jane Doe just outside in the hallway. At some point, Ms. Meyer became agitated and was speaking in a demeaning fashion to her mother. Ms. Meyer then proceeded to come toward her mother with her arms flailing, but due to Officer McGowan being caught in the middle, Ms. Meyer struck McGowan and poked her in the eye. Ms. Meyer was then arrested for Assault on Police. Officer Michael Kouris was the North Charleston officer who transported Ms. Meyer to the detention center.[1]

The following day around lunch time, Jane Doe's brother, Sammy Huggins, checked on Jane Doe and found that she was doing well enough to leave Jane Doe alone again to bail Ms. Meyer out of jail. Once Ms. Meyer got home, she and Mr. Huggins left Jane Doe alone again so that Ms. Meyer could go meet with a criminal defense attorney. Then, the following day, March 29, 2014, Ms. Meyer left her mother alone yet again to go to a hospital from approximately 3pm

[1] Officer Kouris was initially named as a defendant, but all claims against him were dismissed by way of Summary Judgment.

to 7:30pm, leaving her mother alone despite being aware that Jane Doe experienced increased confusion at this very time of day.

While being left alone on March 29th, Jane Doe wandered outside and had a neighbor call police to report a suspicious vehicle in her driveway. Officer Howard Thomas responded and determined that the vehicle was actually Jane Doe's daughter's vehicle.[2] Once the family did come home, EMS was called and Jane Doe was transported to MUSC. While at MUSC, Jane Doe was treated for a UTI and was put on medication. During her hospital stay, her condition improved. Additionally, after she was released from the hospital, Jane Doe began receiving regular medical care and according to her doctors, was doing very well for the rest of 2014. However, in March of 2015, Jane Doe had some behavioral problems and was once again taken to MUSC. This time, Jane Doe's family left her there for 793 days until she was transferred to a nursing home on June 1, 2017.

Jane Doe through her joint Powers of Attorney, her brother Sammy Huggins and her son Mark Meyer, filed a 46-page Second Amended Complaint on September 19, 2014 (the "Complaint"). In her Complaint, Plaintiff alleged eleven different causes of action. After Summary Judgment, Plaintiff was left with only three causes of action.

Other Relevant Facts

Jane Doe was diagnosed with dementia in 2011 or early 2012. She had lost her job and was in three automobile accidents in a short length of time. Jane Doe's brother, Sammy Huggins, took over all of Jane Doe's finances in 2011. Jane Doe had two children, Mark Meyer and Parker Meyer. In 2012, Mark Meyer was living in Virginia and Parker Meyer had been living in Amsterdam for the preceding 3 years. Parker Meyer came home from Europe on

[2] Officer Thomas was also initially named as a Defendant, but was dismissed by way of a consent stipulation of dismissal.

November 1, 2012, to take care of her mother. Despite Jane Doe's dementia and inability to handle her own finances, Jane Doe signed over her half-interest in her family home to her two children, leaving her with a life estate, but no assets. This occurred on November 12, 2012, less than two weeks after her daughter returned from Europe. The testimony from the power of attorney was that he could not make sense of Doe's finances and that by the time she signed over the house, she personally had no way to comprehend her own assets.

The incident that gives rise to this lawsuit occurred on March 27, 2014. In the eight months prior to the incident, Parker Meyer had not taken her mother to a doctor and her mother was not on any medication for her dementia. Additionally, during that time frame, there were two confirmed burglaries and one report of a possible intruder. Further, during that time, Jane Doe began wandering from the house while Ms. Meyer left her alone. One time she was walking the neighborhood without a shirt on and one time she was carrying a disemboweled rat.

During the pendency of this lawsuit, Plaintiff's counsel, Gregg Meyers, filed or defended at least seven different lawsuits on behalf of various family members. He filed two federal lawsuits on behalf of Parker Meyer arising out of her March 27, 2014, arrest. *See* Doe v. Cannon, *et al.*, C/A No. 2:16-cv-00530-RMG-MGB; Doe v. McGowan, *et al.*, C/A No. 2:16-cv-00777-RMG-MGB. In both of those lawsuits, Gregg Meyers named Senn Legal, LLC and Sandra Senn as party defendants. The allegations against the Senn defendants in those cases were frivolous and were only included to conflict Senn Legal out of representing its long-time clients. This in turn required the Defendants in those cases to hire new counsel rather than the attorneys who had been working on the case for a year. In the lawsuit against the Sheriff's Office, which involved Ms. Meyer's time at the detention center, Ms. Meyer and her attorney alleged that the Senn defendants "knew or should have known that spoliation had been used

selectively to destroy the video record so as to distort it. It is not yet known if the Senn Defendants are part of the spoliation process." Doe v. Cannon, *supra* (Compl. ¶ 139). It is presumed that because Meyers claims that only one hour of jail video was saved versus the entire twelve-plus hours Ms. Meyer was in jail, that the Senn defendants or the Sheriff's Office may have had something to do with intentionally or unintentionally deleting the remaining footage. Mr. Meyers filed these two cases when he knew or should have known that Senn would not have been made aware of Parker Meyer's arrest until suit was imminent and after any recordings would have been purged as a matter of routine. Upon the Senn Defendants' Motion to Dismiss, the district judge dismissed all causes of action against the Senn Defendants in the North Charleston case. *See* Doe v. McGowan, *supra*, at ECF No. 39. In the County case, the Court dismissed the § 1983 and conspiracy claims with prejudice, and dismissed the defamation claim without prejudice giving Plaintiff ten days to move to amend the Complaint. The Court admonished Plaintiff to "consider whether the absolute privilege for statements related to judicial proceedings would render any proposed amendment futile." *See* Doe v. Cannon, *supra*, at ECF No. 76. Nonetheless, Mr. Meyers filed an Amended Complaint again seeking to levy a defamation claim against Senn as well as re-pleading his civil conspiracy cause of action which had already been dismissed with prejudice. The Senn Defendants' Motion to Dismiss regarding the Amended Complaint is still pending.

Attorney Meyers knew or should have known that such frivolous allegations caused not only for Senn to be conflicted out of the cases, but would also require a $5,000 per claim deductible on Senn's malpractice insurance as well as an expected resulting increase in her insurance premiums.[3] Meyers further turned Senn over to Office of Disciplinary Counsel,

[3] The deductible for Senn's malpractice insurance doubled due to these frivolous claims.

making the same frivolous claims, and that, too, will likely cost Senn another $5,000 deductible, which the carrier has not decided on yet. The ODC promptly threw the complaint out. In addition to the financial aspect of these frivolous claims and notable, these cases involving Senn were not filed until Meyers became aware that Senn was running for public office. Mr. Meyers also alerted the press to the filings which was reported (without mention of Senn) in the local media. (Exhibit A). He did this in order to poison the jury pool and cause Senn damage in the election.

Gregg Meyers also filed suit against the Sadlers for calling 911 on March 27, 2014, with claims that the Sadlers had a multi-year conspiracy with the police to get Jane Doe out of her house so that they could buy it. The 50-page Complaint, filed by Parker Meyer and Jane Doe through her Powers of Attorney, is filled with baseless and malicious allegations, and most egregious, includes only causes of action that counsel knew would not be covered any under insurance policy. The Sadlers testified at trial that they had to expend $10,000 in legal fees to defend that frivolous suit. And the end result was Parker Meyer forcing the Sadlers to sell their home and move. Additionally, during Sammy Huggins' deposition in the Sadlers' lawsuit, Mr. Huggins, who was a Plaintiff, indicated that he had not read the complaint and was not familiar with the allegations. He further testified that he did not believe several of the allegations in the complaint. He indicated that he trusted his lawyer's decision to file suit first in order to ascertain facts rather than the other way around.

In addition to the four lawsuits referenced above, Gregg Meyers filed a lawsuit against Medicare/Medicaid on behalf of Jane Doe and one against SC DHEC as well as a lawsuit on behalf of Parker Meyer against her health insurance company, and a lawsuit against the Sheriff's Office related to an alleged FOIA violation.

In addition to representing Jane Doe, Parker Meyer, Mark Meyer, and Sammy Huggins, Gregg Meyers also represented Austin Huggins, Brenda Huggins, and Neal Meyer:

> Q. Are you represented here today?
> A. Yes.
> Q. And who are you represented by?
> A. Gregg Meyers.

Austin Huggins Dep. 5:14-20 (Exhibit B).

> Q. Also, are you represented here today?
> A. Yes (indicating).
> Q. By Mr. Meyers?
> A. Yes.

Brenda Huggins Dep. 6:7-10 (Exhibit C).

> Q. Are you represented by an attorney here today?
> A. Yes, right there.
> Q. So Gregg Meyers is your attorney?
> A. That's correct.

Neal Meyer Dep. 31:6-10 (Exhibit D).

As a final note on the odd procedure in this case, Attorney Meyers actually fought an action that MUSC filed to petition the probate court for guardianship of Jane Doe. The doctors in that action claimed that Jane Doe's family was not acting in her best interest and that Doe had been abandoned in the hospital in 2015 for 793 days when she only needed to be in the hospital to adjust her behavioral disorders for a mere six days. The Probate action was never disclosed to defense counsel during discovery. In addition, and while MUSC had provided medical records for the 25 months Doe spent locked up in the Institute of Psychiatry to Attorney Meyers in June of 2017, discovery was never updated. The week prior to trial, MUSC provided the records to defense counsel and it was then learned that Jane Doe had been abandoned at MUSC at a severe cost to the taxpayers of $2.4 Million dollars. Worst yet, Attorney Meyers and the Powers of Attorney were made aware that MUSC claimed that Ms. Doe's assets were not being used for her benefit

but rather were being squandered by the family. Her income amounted to an average of $1700 a month in Social Security and Alimony, none of which was used to pay her medical bills, clothing costs or anything related to the care of Doe. The result of the probate proceeding was that all of Doe's funds moving forward had to be sent to a nursing home where Doe was finally placed, and therefore, no conservatorship was needed. Further, Mark Meyer was named guardian/power of attorney for Jane Doe, and Sammy Huggins was no longer the guardian or power of attorney. This, too, was not disclosed to the defense until the first day of trial, despite this impacting the actual parties to this litigation. To further complicate the issues, Mark Meyer did not show up for the date certain trial of this case and Mr. Meyers advised the court that he intended to proceed without a plaintiff in the courtroom. The trial judge would not allow this and required a guardian be appointed so that Mr. Meyers could pursue his lawsuit. Sammy Huggins was appointed as the GAL.

Legal Standard

The South Carolina Frivolous Civil Proceedings Sanctions Act allows a prevailing party to pursue sanctions against an attorney, party, or pro se litigant for a frivolous claim or defense where the court finds, by a preponderance of the evidence, that:

> (a) a reasonable attorney in the same circumstances would believe that under the facts, his claim or defense was clearly not warranted under existing law and that a good faith or reasonable argument did not exist for the extension, modification, or reversal of existing law;
>
> (b) a reasonable attorney in the same circumstances would believe that his procurement, initiation, continuation, or defense of the civil suit was intended merely to harass or injure the other party; or
>
> (c) a reasonable attorney in the same circumstances would believe that the case or defense was frivolous as not reasonably founded in fact or was interposed merely for

> delay, or was merely brought for a purpose other than securing proper discovery, joinder of proposed parties, or adjudication of the claim or defense upon which the proceedings are based.

S.C. Code Ann. § 15-36-10(C)(1). The sanctioning court is entitled to consider the following in awarding sanctions:

> (1) the number of parties;
> (2) the complexity of the claims and defenses;
> (3) the length of time available to the attorney, party, or pro se litigant to investigate and conduct discovery for alleged violations of the provisions of subsection (A)(4);
> (4) information disclosed or undisclosed to the attorney, party, or pro se litigant through discovery and adequate investigation;
> (5) previous violations of the provisions of this section;
> (6) the response, if any, of the attorney, party, or pro se litigant to the allegation that he violated the provisions of this section; and
> (7) other factors the court considers just, equitable, or appropriate under the circumstances.

S.C. Code Ann. § 15–36–10(E)(1)–(7).

Argument

I. A reasonable attorney would not have continued making the allegation that the neighbors and police conspired to have Parker Meyer arrested so that the neighbors could buy Jane Doe's house. A reasonable attorney also would not have maliciously sued the neighbors. Sads case - standing?

Plaintiff asserted the frivolous claim that her neighbors and the North Charleston police conspired to have Parker Meyer arrested. According to Parker Meyer, the neighbors called the police to her house for the purpose of causing her trouble. Depo. Daughter II, 152:14-153:9. These claims are outlined in a separate lawsuit filed by Jane Doe and Parker Meyer against the neighbors. *See Jane Doe 202, et al v. Sadler*, C/A No. 2015-CP-10-4212 (Exhibit E). The plaintiffs in that suit claim that the Sadlers were interested in Plaintiffs' home and starting in at least 2012, "aspired for the house to be marketed so they could consider purchasing it." *Doe v. Sadler, Am. Compl.* at ¶13. Plaintiffs then proceed to allege that "[b]ecause the [Sadlers] desired the 1960 home, the

[Sadlers] believed their permission should have been solicited before Jane Doe could be cared for by family members at the 1960 home." *Id.* at ¶18. The Sadler Lawsuit alleges that the above-cited history enraged the Sadlers so much that on March 27, 2014, they "formulated a plan" to make false accusations about Daughter Doe "for their improper, ulterior purposes of trying to interfere with Jane Doe's care so as to cause the 1960 home to be vacated so that it might be sold." *Id.* at ¶ 50(k) and (l). Plaintiff alleges that "they had an agenda to create a problem for their neighbors. It is the kind of people they are." *Id.* at ¶ 55. The plan, as alleged, was to call 911 to have police come to Jane Doe's home to investigate suspicious activity.

As a result of the above baseless allegations, the Plaintiffs in the Sadler lawsuit alleged that the Sadlers "conspired with each other and with the officer who first arrived on the scene to cause special and unique damages to the Plaintiffs...." *Id.* at ¶ 130. "The officer's act was to agree to that night remove the daughter from the 1960 home, to leave Jane Doe unassisted after the daughter had been removed, and to arrange for particularly nasty treatment for the daughter at the jail by the charges she made against the daughter..." *Id.* at ¶ 132.

This lawsuit was eventually settled with no money changing hands. The settlement agreement, rather, was that Parker Meyer and Jane Doe would dismiss the lawsuit in exchange for the Sadlers selling their house and moving. The terms of the agreement were that the Sadlers had to list their house for sale by April 15, 2016 and had "to be out of the house by October 15th." Depo. Daughter II, 7:4-8:2.

The entire lawsuit against the Sadlers was frivolous and malicious. The North Charleston police officer in question had never met Jane Doe or Parker Meyer and had never been to their house (they had never met the Sadlers either). Yet Plaintiff claimed in that case and in the case tried against Officer McGowan that she and the Sadlers had a grand conspiracy against the

family. This was both false and frivolous to the point that even one of the Plaintiff's family members testified that he thought the claim was far-fetched. However, as testified to by Sammy Huggins, he took his attorney's advice to sue the neighbors in order to discover facts and get questions answered. Not only is this a violation of Rule 11, SCRCP, but it is also a frivolous position to take as Mr. Huggins or Mr. Meyers could have gotten any information by simply asking the neighbors what happened or by using any of the other filed proceedings in order to subpoena or discover the same information.[4] The true purpose of the lawsuit against the Sadlers was to give Plaintiff another opportunity to depose the Sadlers and Officer McGowan. Even more egregious was correspondence from Plaintiff's counsel to the Sadlers' attorney where Plaintiff's counsel suggested that the Sadlers change their testimony in order to resolve the case. (See Exhibit F). None of this information was provided to the defense until a subpoena was issued to the Saddlers' lawyer for records concerning the terms of the settlement. This subpoena was necessitated by Mr. Meyers arguing with Sarah Sadler in front of the jury that his clients had never made a monetary demand to settle the case. Through these records, it was learned that Meyers tried in vain to have the Sadlers change their testimony to the detriment of the officers and NCPD. As a result of these frivolous claims, defense counsel was required to prepare for and attend additional depositions and spend additional time and resources to defend against these frivolous claims.

As further evidence of the malicious intent behind suing the Sadlers, Parker Meyer committed witness intimidation after the Sadlers testified at trial. The Sadlers were called as witnesses and testified at trial on October 10, 2017. That night, Parker Meyer, drove from Charleston to the Sadlers' neighborhood in McClellanville and circled a park where the Sadlers

[4] Further, the Sadler lawsuit was filed in July 2015, and Gregg Meyers had already spent nearly five hours questioning the Sadlers in the latter part of 2014.

were playing with their child. She further sat in her car and then slowly drove by the Sadlers who were parked on the side of the road. This was captured on video. There is no possible reason for Parker Meyer to have done this other than to attempt to intimidate or retaliate against the Sadlers. She, after all, was the reason that the Sadlers had to move from their house in North Charleston to McClellanville. To then circle their new neighborhood on the night the Sadlers testified in court, which was intended to ensure the Sadlers knew she was still watching them, is completely unacceptable and further evidences the malicious nature of the claims against not just the Sadlers, but all defendants.

Due to Plaintiff's frivolous claim that the Sadlers and the North Charleston Police Department conspired to have Parker Meyer arrested, Defendants were required to expend $3,638 in attorney's fees.

II. No reasonable attorney would have made the claim or continued the claim that Officer Thomas violated Jane Doe's civil rights.

In the Second Amended Complaint, Plaintiff alleged that Officer Kouris responded to a call on March 29, 2014, and left Jane Doe alone to fend for herself. Plaintiff then asserts that Officer Kouris' actions in leaving Jane Doe alone led to her need for hospitalization.

First, Officer Kouris did not respond to this call. Rather Officer Howard Thomas did. However, this is not the basis for Defendants' assertion that this claim is unreasonable. Rather, Plaintiff's claim that the officer leaving Jane Doe alone directly led to her hospitalization was known to be frivolous from the beginning. Plaintiff knew this claim was frivolous and without merit, and yet pursued it all the way through summary judgment.

The allegation that Officer Thomas leaving Jane Doe alone led to her hospitalization is false. First, Parker Meyer testified in her deposition that Officer Thomas did not leave her mother alone at all. The following testimony was provided by Parker Meyer:

Q: So how long was your mom left alone on that night? I'm sorry, after the police left.

A: Oh, no, she wasn't left alone at all.

Depo. Parker Meyer, 314:3-5 (February 19, 2016). Therefore, Plaintiff's claim that Officer Thomas left Jane Doe alone were known to be false, were false, and were frivolous.

Second, in addition to Jane Doe not actually being left alone at all on March 29, 2014, any claim that being left alone led to Jane Doe's hospitalization is more appropriately directed at Parker Meyer and Sammy Huggins. As the deposition testimony revealed in this case, Sammy Huggins and Parker Meyer left Jane Doe alone three different times in just over a 24-hour period. Sammy Huggins testified that around lunch time on March 28, 2014, he checked on Jane Doe and then left her for approximately 3 hours in order to bail Parker Meyer out of jail. Once Parker Meyer came home from jail on March 28th, she and Mr. Huggins left Jane Doe alone again in order to go see an attorney. The following day, Parker Meyer once again left her mother home alone for approximately 4 hours so that Parker could go to the hospital and then later go to her uncle's house to take photos of her injuries. It was during this last abandonment that Jane Doe called police about a suspicious vehicle.

The contention that the officer leaving Jane Doe alone directly led to her need for hospitalization was patently false on two levels. First, Jane Doe was never left alone after the police left on March 29th. Second, Jane Doe's family actually left her alone three times in the 24 hours preceding Jane Doe's hospitalization. These claims were known to be false from the beginning. However, Plaintiff and Plaintiff's counsel accused Officer Thomas of a civil rights violation and continued to make that claim through Summary Judgment.

Due to Plaintiff's frivolous claim that a police officer abandoned Jane Doe on March 29, 2014, and that such abandonment directly caused her hospitalization, Defendants were required to expend $148 in attorneys' fees directly related to this frivolous claim.

III. Plaintiff's Eleventh cause of action for Civil Conspiracy was based on an incorrect statement of facts and was argued, despite its lack of basis, all the way through trial.

Plaintiff's Eleventh cause of action is based primarily on a September 2, 2014, Emergency Motion for Protective Order/Stay Depositions and Motion to Compel the Actual Identities of the Doe Plaintiffs and Doe Vulnerable Adult and Motion to Gather Expedited Medical Records on Jane Doe (the "Motion") filed by counsel for Defendants. (Exhibit G) Plaintiff grossly misrepresented this Motion in her Second Amended Complaint and alleges that "[t]he goal of the 'emergency' motion included a threat to disrupt the Plaintiff's steady routine…so as to remove the Plaintiff from among the known individuals who provide for her health care and who maintain the consistency of her care." Second Am. Compl. ¶ 202. Plaintiff alleged that Defendants were trying "to undermine her health by undermining her health care." *Id.* at 205. Plaintiff went so far as to allege that "[a]mong the illegitimate objectives of the collective action by the joint assent of the Defendants is to seek to use irrelevant information as evidence in this case, solely to threaten and harass the Plaintiff's family." *Id.* at 207.

Plaintiff's gross mischaracterization of the underlying Motion amounts to either false allegations or a frivolous claim. In looking at the Motion, there is absolutely no support for Plaintiff's baseless allegations in her Second Amended Complaint. First, as is laid out plainly in the Motion, defense counsel was not retained until August 4, 2014. Plaintiff's counsel had noticed the deposition of the neighbors, the Sadlers, for September 3, 2014. These depositions were to take place prior to any discovery being conducted, prior to Defendants' responsive

pleadings being due, and even prior to Plaintiff's counsel providing the identity of the John and Jane Does referenced in the complaint.

The Motion was filed on September 2, 2014, and asked the court for two specific things: to stay the depositions of the Sadlers and to expedite the production of records regarding the Jane and John Does in the Complaint. There is nothing in the Motion that asks for Jane Doe to be removed from her home. There is nothing in the motion about trying to undermine the health care of Jane Doe. In fact, the motion sought medical records to ensure that Jane Doe was receiving health care. Finally, there is nothing in the Motion to remotely support Plaintiff's allegation that the Defendants were seeking "to use irrelevant information as evidence in this case, solely to threaten and harass the Plaintiff's family." The Motion was actually doing the opposite – Defendants were trying to figure out the identities of the Jane and John Does (relevant), were trying to obtain medical records in a personal injury case (relevant), and were trying to obtain more time to conduct discovery before taking depositions (relevant and reasonable).

Plaintiff's Eleventh Cause of Action was completely frivolous and contained false statements from the beginning. Yet, Plaintiff maintained her position that this Motion was pending, and Plaintiff's family used it as an excuse to leave Jane Doe at the MUSC Institute of Psychiatry ("IOP") for 793 days, despite repeated pleas from MUSC to move Jane Doe to a more appropriate facility. Plaintiff's counsel used this "pending motion" excuse all the way through trial despite the fact that there was written communication indicating the motion was moot (Exhibit H) and also despite the fact that Plaintiff's counsel said in email communication on September 22, 2015, that he was aware that Ms. Senn had withdrawn the motion. (*See* Exhibit F).

Due to Plaintiff's frivolous claim for civil conspiracy which was primarily based upon a Motion which was moot yet grossly mischaracterized by Plaintiff's counsel, Defendants were required to expend $120 in attorney's fees directly related to this frivolous claim.

IV. A reasonable attorney would not have made the claim that Jane Doe's extended hospitalization from March 2015 to June 2017 was caused by North Charleston.

The incident date that gave rise to this lawsuit was March 27, 2014. Jane Doe was in the hospital for approximately three weeks and was discharged home. According to all of the doctors' reports and medical records, Jane Doe continued to do well with regular home health visits and with Jane Doe being on medication. However, unbeknownst to the defendants, in March of 2015, Jane Doe had behavioral issues related to her dementia and had to once again be checked into MUSC. She went to MUSC on March 31, 2015, and after her acute problems were resolved in six days, MUSC advised the family that Jane Doe was ready to be discharged and either returned home or to another appropriate facility. The family refused to pick-up Jane Doe and instead kept her at the IOP, an acute care facility, for 793 days.

Plaintiff's counsel falsely and frivolously claimed that the reason Jane Doe could not return home was because North Charleston had taken the position that Jane Doe was not safe in her home via the 2014 motion discussed *supra* (that had been withdrawn as moot) and that North Charleston could remove her anytime it wanted to do so. Additionally, the family claimed that the Sadlers were a danger to Jane Doe returning home. Even in closing arguments, Gregg Meyers promoted this absurd argument to the jury that Jane Doe was in danger of being removed by NCPD all because NCPD had arrested Doe's daughter three years prior. The newly discovered probate records clearly revealed that all of this was untrue and that there were a variety of reasons wholly unrelated to the claims against the Defendants for why Jane Doe was

abandoned at the IOP by her family. Further, Plaintiff's counsel knew that during the year after the subject incident, Jane Doe resided at her home and was never removed or even remotely threatened with removal.

The primary reason Jane Doe was left at the IOP was due to Medicaid denying coverage. From reviewing the MUSC file and the probate file, the reason for the denial by Medicaid was due to Jane Doe's family transferring her interest in her house to her daughter and her son. While the daughter could claim an exemption due to her caregiver status, Jane Doe's son could not. Therefore, the son had to transfer his interest to Parker Meyer in 2017 in order for Medicaid to provide coverage. This had absolutely nothing to do with the claims against North Charleston.

Further, the testimony from the IOP social worker, Cheri DeMarchi, was that she tried for two and a half years to have the family take responsibility for Jane Doe. The response she received was an email from Gregg Meyers threatening to sue Ms. DeMarchi personally if she contacted the family again. (Exhibit I). The social worker also testified that MUSC offered to transfer Jane Doe to a more appropriate facility and that MUSC would pay for Jane Doe to go to that facility. The family, through their attorney, refused this offer. Further, the social worker testified that during the entire two and a half year stay at IOP, Parker Meyer did not return a single phone call made by the social worker and refused to bring her mother new clothing since her mother had gained 50 pounds while she was locked up in IOP at MUSC. And, it was revealed that the stay at IOP was not beneficial to Doe as they are not set up to provide Alzheimer's patients with the mental stimulus to keep them engaged. Rather, MUSC is an acute care facility and Doe was only acute for six days. Thus, the remainder of her time at MUSC was to her mental and emotional detriment as the medical records sadly revealed.

As a result of the family's unwillingness to take responsibility for Jane Doe, MUSC was forced to petition the probate court to appoint a non-family guardian for Jane Doe. This was necessitated because MUSC did not feel that the family had Jane Doe's best interest in mind. Unfortunately, this was confirmed by a February 24, 2017, email from Gregg Meyers stating "Because of the various litigation I am pursuing for the family, it is important to us that we retain HCPOA and POA for Rhonda. There will be too many decisions involved in those cases not to keep the family in charge of those." (See Exhibit J). This email was sent after Jane Doe had been at the IOP for almost two years, and the omission in this email is very telling. Mr. Meyers did not want the family to retain POA for Jane Doe's interest, but rather to further the interest of the various lawsuits filed by Mr. Meyers on behalf of multiple family members.

At trial, Plaintiff also used the Motion discussed in the previous section to argue that North Charleston was responsible for the 793 day hospitalization. As is set forth in the preceding section, counsel was aware that the motion was moot and withdrawn, and Plaintiff's claim that this Motion was pending was false.

Due to Plaintiff's frivolous claim that Jane Doe's hospitalization from 2015 to 2017 was directly caused by the City of North Charleston, Defendants were required to expend $3, 244 in attorney's fees and $631.98 in costs.

V. Plaintiff's counsel used this case to conduct completely irrelevant discovery that was not at all related to the claims in this case.

This case deals with a March 2014 warrantless entry claim. However, Plaintiff sought discovery regarding the firing of Michael Slager after the Walter Scott shooting and the new policy requiring use of body cameras. Both of these events happened after March of 2014 and have absolutely nothing to do with the claims in this case. Defense counsel moved for a protective order to avoid the unnecessary time and expense of conducting frivolous discovery,

but Plaintiff opposed this motion and the court allowed this discovery. However, simply because the court allowed discovery on these unrelated topics does not make them any less frivolous. Plaintiff has not and cannot provide a reason as to why these two areas of discovery were relevant, and as a result of Plaintiff's action, Defendants had to spend a large amount of additional and unnecessary time related to these frivolous matters. Specifically, Defendants were required to expend $1,893.25 in attorney's fees.

VI. Despite no medical proof and medical testimony to the contrary by Jane Doe's own doctors, Plaintiff's counsel continued to claim that a urinary tract infection was caused by Defendants.

Plaintiff claimed in this case that Jane Doe's urinary tract infection was caused by North Charleston leaving Jane Doe alone while her daughter was in jail. While this allegation may have had some merit at the beginning of this case, any merit was lost when Jane Doe's treating doctors were deposed in October 2015. After those depositions, Plaintiff's allegation that the UTI and ensuing hospitalization was proximately caused by Defendants became frivolous and unreasonable.

Plaintiff's counsel noticed and took the depositions of Jane Doe's primary care physician and her treating psychiatrist at MUSC. Both of these doctors testified that they could not say that Jane Doe being left alone caused the UTI. Both doctors said that the UTI was likely present in the weeks before this police incident. Both doctors said that they could not say that the Defendants' action proximately caused the need for hospitalization. Rather the testimony was that Jane Doe likely needed hospitalization even without the police incident. Finally, both doctors testified that they could not say that this incident caused any injury to Jane Doe or caused any overall decline in her level of dementia.

Despite this testimony, Plaintiff continued to claim that the Defendants were the cause of Jane Doe's UTI and 2014 hospitalization. As a result, Defendants had to hire a medical expert to refute these unreasonable claims and had to spend a large amount of time and resources to defend a claim that Jane Doe's own doctors didn't support. Specifically, Defendants were required to expend $3,206 in attorney's fees and $10,275.44 in costs.

VII. Plaintiff's municipal liability claim against North Charleston became frivolous when Plaintiff's own expert testified that there was no evidence to support a municipal liability claim.

Plaintiff brought a 1983 municipal liability claim against the City of North Charleston based on a failure to train. Plaintiff brought this claim despite not having any proof of any pattern or practice. Even if the allegation was not necessarily frivolous when it began, it became frivolous after Plaintiff's police expert gave his deposition. Plaintiffs' expert, Jared Newman, opined that he does not believe that North Charleston committed any civil rights violation as to "any clear custom, practice to violate civil rights." Depo. Jared Newman, 156:2-8 (Exhibit K). With regard to this incident, Mr. Newman did not "see a policy, custom and practice with the North Charleston Police Department to make them liable under a Monell-type situation that would attach a policy, custom or practice to actually see the department as a tortfeasor in a 1983 claim." *Id.* at 156:14-19 and 172:14-173:9.

Despite Plaintiff's own expert opining that there was no evidence to support a municipal liability claim, Plaintiff continued to pursue this claim all the way through trial (where Mr. Newman once again confirmed that there was no evidence of a constitutional or civil rights violation by the City of North Charleston). Because his first expert did not give the testimony needed to secure NCPD stay in suit, Attorney Meyers then hired a secondary police expert, Dr. Vincent Henry, who gave an opinion that North Charleston officers were not properly trained.

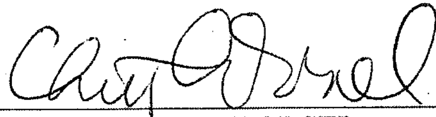
Dr. Henry testified at trial that he gave this opinion without even reviewing the training provided by North Charleston or the training provided at the South Carolina Criminal Justice Academy. Therefore, his opinion was essentially "The training was insufficient, but I don't know what the training was." Dr. Henry also testified that he was unaware of any other similar incidents to support a pattern or custom claim required for municipal liability.

As a result of this frivolous claim, Defendants were required to hire an additional expert and conduct a large amount of discovery on a claim that had no basis and was frivolous. This assertion is not an argument made by Defendants, but rather comes directly from Plaintiff's own police expert. Due to this continued frivolous claim, Defendants were required to expend $2,894.25 in attorney's fees and $13,331.95 in costs.

Conclusion

All of the above referenced claims made by Gregg Meyers were frivolous and in some instances, malicious. No reasonable attorney would have made or continued litigating the above referenced claims. As such, these claims were frivolous as defined by S.C. Code Ann. § 15-36-10 and are sanctionable. In order to defend against these frivolous claims, the Defendants were required to expend an inordinate amount of time and resources, which Defendants assert should be awarded as sanctions in this case. Defendants are respectfully requesting that this Court issue an Order granting Defendants fees totaling $15,583.50 and costs totaling $24,239.37. Defense counsel submits, as an officer of the court, that the requested amounts represent a very small percentage of the overall costs and fees associated with this case. Further, defense counsel confirms that the requested amounts reflect the additional costs and time spent defending against the frivolous claims referenced herein.

[signature on following page]



CHRISTOPHER T. DORSEL
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Attorney for Defendants

October 23, 2017
Charleston, South Carolina

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

IN THE COURT OF COMMON PLEAS
CIVIL ACTION NO.: 2014-CP-10-4591

Jane Doe 202, by John Doe MM and John Doe HS, each of whom holds power of attorney for Jane Doe,

Plaintiffs,

v.

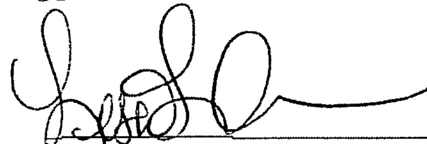
City of North Charleston; Leigh Anne McGowan, individually, Charles Francis Wholleb, individually, Anthony M. Doxey, individually; Howard Thomas, individually, and Michael Kouris, individually,

Defendants.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true copy of the forgoing *Defendants' Motion for Attorneys' Fees and Costs* was properly served on all counsel of record by causing a copy to be mailed at the address listed below this 23rd day of October, 2017, to the following:

Gregg Meyers, Esquire
Pierce, Herns, Sloan & Wilson, LLC
321 East Bay Street
Charleston, SC 29401
Email: greggmeyers@phswlaw.com



Lisa L. Connors
Paralegal for Christopher T. Dorsel, Esquire

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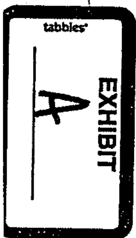
Woman to sue Charleston Co. jail after claims of being strangled, tased, and denied phone calls

By Matt Alba (http://counton2.com/author/matt-alba/)
Published: March 16, 2016, 11:31 pm | Updated: March 17, 2016, 10:34 am



NORTH CHARLESTON, SC – A North Charleston woman is suing the Charleston County Sheriff's Office after she says she was denied a phone call for more than 13 hours and was tased by officers while strapped in a chair.

On March 27th 2014, a North Charleston woman was arrested and charged with assault around 10:30 p.m. Neighbors called North Charleston Police saying the woman had been banging on the door to her mother's house.

When police arrived, the woman's attorney, Gregg Meyers, says authorities claimed to have seen a bloody purse and shoe near the house. Meyers says authorities cite these items as justification for going inside the house where they found the woman asleep in a bedroom.

Attorneys for the woman say the officers unlawfully entered the home without a warrant, and then after putting up a fight with an officer, she was arrested.

Meyers claims the woman was denied a phone call for 14 hours and was eventually tased after being uncooperative. Meyers told News 2, "We can't figure out if she was treated badly because she was charged with assault on a police officer that was dropped, or if everybody gets treated this badly...I thought it was completely outrageous."

Attorneys say at the detention center, one of the detention officers puts their hand around the woman's throat and assaults her by strangulation.

Follow

Meyers tells News 2 all of this may have been avoided if the officers followed the law and rules of [illegible]

Follow "WCBD News 2"

According to the civil rights lawsuit called Jane Doe 202a v. Cannon et al., which was filed Feb. 22 in U.S. District Court in Charleston, jail policy states an inmate should be allowed to make a phone call early in the intake process.

After hours in jail, the woman called her uncle and said, "I've been in jail since midnight last night, and now it's 12 hours later, and mom has been home alone this whole time."

Enter your email address

There is also another lawsuit from the mother's guardians who are suing the city of North Charleston, and five specific officers, because the mother, who suffers from dementia, was left alone when her daughter was arrested.

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"Anybody with an elderly family member needs to pay attention to this case," said Meyers.

Attorneys representing the Charleston County Sheriff's Office were not immediately available for comment on the case Wednesday evening.

In a deposition, one of the accused officers said an inmate doesn't get a phone call right away if they're being unruly.

Meyers said the mother was so shook up and confused from being left alone, she was hospitalized at the Medical University of South Carolina for three to four weeks after the incident.

WCBD News 2 (http://counton2.com/)
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STATE OF SOUTH CAROLINA COURT OF COMMON PLEAS

COUNTY OF CHARLESTON

Jane Doe 202, by John Doe MM and John Doe HS, each of whom holds power of attorney for Jane Doe,

Plaintiff(s),

CASE NO. 2014-CP-10-4591

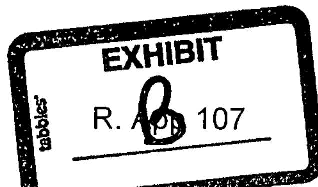
-vs-

City of North Charleston, Leigh Anne McGowan, individually, Charles Francis Wholleb, individually, Anthony M. Doxey, individually; Howard Thomas, individually, and Michael Kouris, individually,

Defendant(s).

THE DEPOSITION OF S. AUSTIN HUGGINS, taken on behalf of the Defendant on the 27th day of April, 2016, commencing at 12:44 p.m. at North Charleston City Hall, 2500 City Hall Lane, North Charleston, South Carolina.

REPORTED BY: Nicole D. White



1 **A. Yes.**

2 Q. All right. And then the other thing

3 is she can't take down if we talk at the same

4 time, so we've got to make sure that I let you

5 answer the questions fully and you let me ask the

6 questions fully and we won't be talking at the

7 same time, fair?

8 **A. Yes.**

9 Q. Okay. Also, if at any point I ask a

10 question and you don't understand it, please

11 direct any questions about my questions to me and

12 not to Mr. Meyers, okay?

13 **A. Yes.**

14 Q. Are you represented here today?

15 **A. Yes.**

16 Q. And who are you represented by?

17 **A. Gregg Meyers.**

18 Q. How long have you been represented by

19 him?

20 **A. About an hour.**

21 Q. Okay. Have you ever talked to him

22 before an hour ago?

23 **A. Talked to him before an hour ago?**

24 **Yes, I have spoken with him before.**

25 Q. How many times have you talked with

STATE OF SOUTH CAROLINA COURT OF COMMON PLEAS

COUNTY OF CHARLESTON

Jane Doe 202, by John Doe MM and John Doe HS, each of whom holds power of attorney for Jane Doe,

Plaintiff(s),

CASE NO. 2014-CP-10-4591

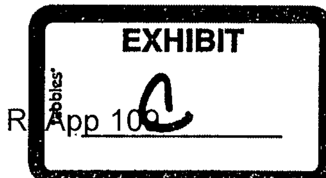
-vs-

City of North Charleston,
Leigh Anne McGowan, individually,
Charles Francis Wholleb, individually,
Anthony M. Doxey, individually; Howard Thomas, individually, and Michael Kouris, individually,

Defendant(s).

THE DEPOSITION OF BRENDA HUGGINS, taken on behalf of the Defendant on the 27th day of April, 2016, commencing at 10:51 a.m. at North Charleston City Hall, 2500 City Hall Lane, North Charleston, South Carolina.

REPORTED BY: Nicole D. White



1 at the same time; is that fair?

2 **A. Uh-huh. Yes.**

3 Q. Everyone does it. I told you I'd

4 remind you. This shouldn't take too long, but if

5 you need to take a break at any point, just let

6 me know.

7 Also, are you represented here today?

8 **A. Yes (indicating).**

9 Q. By Mr. Meyers?

10 **A. Yes.**

11 Q. Okay. And how long has he been your

12 attorney?

13 **A. I don't know, couple of years.**

14 Q. Okay. Well, what the rules say is

15 that while this deposition is going on, if you

16 don't understand my question, you're required to

17 ask me to explain it and not direct any questions

18 to your attorney; is that understood?

19 **A. Yes.**

20 Q. Okay. Are you on any medication today

21 that would affect your ability to give full,

22 accurate, honest testimony?

23 **A. No.**

24 Q. Is there any reason today why you

25 can't give honest, accurate testimony?

STATE OF SOUTH CAROLINA COURT OF COMMON PLEAS

COUNTY OF CHARLESTON

Jane Doe 202, by John Doe MM and John Doe HS, each of whom holds power of attorney for Jane Doe,

Plaintiff(s),

CASE NO. 2014-CP-10-4591

-vs-

City of North Charleston, Leigh Anne McGowan, individually, Charles Francis Wholleb, individually, Anthony M. Doxey, individually; Howard Thomas, individually, and Michael Kouris, individually,

Defendant(s).

THE DEPOSITION OF NEAL MEYER, taken on behalf of the Defendant on the 27th day of April, 2016, commencing at 9:04 a.m. at North Charleston City Hall, 2500 City Hall Lane, North Charleston, South Carolina.

REPORTED BY: Nicole D. White

EXHIBIT D

1 **A. I do.**

2 Q. Were you involved in that decision to

3 file suit?

4 **A. No.**

5 Q. I meant to ask you this at the

6 beginning. Are you represented by an attorney

7 here today?

8 **A. Yes, right here.**

9 Q. So Gregg Meyers is your attorney?

10 **A. That's correct.**

11 Q. How long has he been your attorney?

12 **A. 45 minutes.**

13 Q. Okay. All right. Prior to today,

14 have you ever spoken with Mr. Meyers?

15 **A. With Gregg?**

16 Q. Uh-huh.

17 **A. Yes.**

18 Q. And what have y'all discussed?

19 MR. MEYERS: All right, hang on.

20 Let's go consult about that question.

21 (Off-the-Record conversation.)

22 MR. MEYERS: All right. As near

23 as we can recall, the two of us together,

24 Mr. Meyer and I have had three

25 conversations. The first of them was after

In the State of South Carolina County of Charleston	)))	Court of Common Pleas C.A. No. 2015-CP-10-4212
Jane Doe 202 by her POA and Daughter Doe 202, Plaintiff, vs. Jacob Sadler and Sarah Sadler, Defendants.	)))))))))))	**Jury Trial Requested** Abuse of Process Malicious Prosecution Defamation Civil Conspiracy Injunctive Relief Restraining Order Assault Trespass Wrongful Intrusion into Privacy Intentional Infliction of Emotional Distress

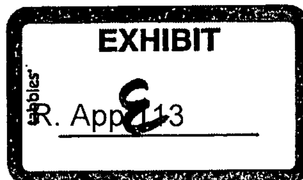
FILED
2015 AUG 19 PM 12: 18
JULIE J. ARMSTRONG
CLERK OF COURT

Amended Complaint

For their amended complaint the Plaintiffs each allege:

1. The events which gave rise to this Complaint occurred in Charleston County in March, 2014. At that time, plaintiff Jane Doe 202 (referred to in this complaint as Jane Doe), was a vulnerable adult woman cared for by her daughter, plaintiff Daughter Doe 202 (referred to in this Complaint as the daughter), in their residence in Charleston County. The Plaintiffs are each a citizen and resident of Charleston County. By March, 2014, when the events which gave rise to this complaint first occurred, the daughter had been caring for her mother for more than 16 months in that Charleston County residence.

2. Each plaintiff is designated by pseudonym, to protect from the public record the identity of Jane Doe, in compliance with an existing circuit court order that protects her privacy in light of her debilitating medical condition. The identity of the Plaintiffs will be disclosed to Defendants upon their written consent to protect Jane Doe's identity from the public record by redacting from the public record both the identity of Jane Doe and information from which her



identity can be derived, such as her daughter's name, addresses, and names of family members. Alternatively, if the Defendants object to the existing circuit court order, and provide to counsel a writing stating their objection to pseudonym use, then the Plaintiffs will submit a motion seeking an order for leave to proceed by pseudonym.

3. Jane Doe acts through her power of attorney because she suffers from an aggressive form of early onset Alzheimer's disease, is not herself competent to manage her own affairs, and for some time has not been competent to manage her own affairs.

4. Jacob and Sarah Sadler are citizens and residents of Charleston County.

5. The court has jurisdiction over the subject matter of this action and the parties to the action.

Nature of Wrongdoing

6. In 2006, the Defendants purchased a home in Charleston County. That home has 1056 square feet and was built in 1959. It is referred to in this complaint as the 1959 home.

7. Within sight of the Defendants' home lived a woman in her nineties, referred to in this complaint as the matriarch. The matriarch was the mother of Jane Doe. The home where the matriarch lived had been built in 1960 by she and her late husband (the matriarch's husband died in 2005). The matriarch had raised in that home Jane Doe and her two siblings, an older sister and a younger brother. That house is referred to in this complaint as the 1960 home.

8. For many years, and continuing to the present, the 1960 home has had no mortgage.

9. At 1840 square feet of finished space, the 1960 home is considerably larger than the 1056 square feet of finished space in Defendants' home. In addition, the 1960 home is

situated on a considerably larger lot, with much greater street frontage, and a much larger, and much quieter, fenced back yard as compared to Defendants' home, which has continual highway traffic noise in its backyard.

10. By December, 2011, the matriarch's medical needs compelled the family to move the matriarch from the 1960 home to a medical facility. For roughly three months, from December, 2011 until February, 2012, the 1960 home was vacant.

11. When the matriarch died in July, 2012, ownership of the 1960 home was held in equal shares by Jane Doe and her brother. Jane Doe's older sister had died some years before the matriarch passed away.

12. While it was vacant, the 1960 home was cared for by periodic visits by Jane Doe's brother, who lived in his own home in Hanahan, S.C., a short drive from the 1960 home.

13. The Defendants were interested in the empty 1960 home, and made a point of talking with Jane Doe's brother during his visits to care for the 1960 house. The Defendants aspired for the house to be marketed so they could consider purchasing it.

14. By 2012, Jane Doe had begun to experience neurological problems that were not fully understood but which began to diminish her capacities and her ability to fully function independently.

15. In February, 2012, because of her neurological problems, Jane Doe was moved by her family from the condominium she rented in Mount Pleasant to the 1960 home so her brother could more easily assist her. She was no longer able to live entirely independently. Apart from her serious neurological problems, her health was generally good.

16. Jane Doe lived alone in the 1960 home, with frequent visits by her brother, and Jane Doe's son, the brother of the daughter, to provide for Jane Doe and the home. Jane Doe's son lived with his own family in Virginia, and he would drive to Charleston County to support Jane Doe, particularly for her medical appointments. The daughter lived in a foreign country, and communicated with her family about the problems her mother had begun to have.

17. With the 1960 home again occupied, it would not be marketed for sale.

18. No one in the family of Jane Doe asked permission of the Defendants before making arrangements for Jane Doe to live in the 1960 home. Because the Defendants desired the 1960 home, the Defendants believed their permission should have been solicited before Jane Doe could be cared for by family members at the 1960 home. Defendants believe they should have been entitled to approve of who took care of Jane Doe, as any care for Jane Doe in the 1960 home delayed the time when the 1960 home would be put on the market for sale.

19. During 2012, Jane Doe continued to lose capabilities to neurological problems not fully understood, but Jane Doe insisted on trying to live as independently as she could.

20. During 2012, on advice of counsel, Jane Doe transferred her ownership portion of the 1960 home to Jane Doe's children in equal shares, subject to a life estate for herself. Doing so had significant financial advantages for Jane Doe.

21. Caring for Jane Doe at the 1960 home was the most economical arrangement for the limited resources available to Jane Doe, since no rent or mortgage was owed on the 1960 home.

22. No one in the family of Jane Doe asked permission of the Defendants before granting Jane Doe a life estate in the 1960 home. Because the Defendants desired the 1960 home,

the Defendants believed their permission should have been solicited before Jane Doe was given a life estate in the 1960 home, as that life estate created an incentive for Jane Doe to remain as long as possible in the 1960 home, transferred her ownership interest to her children, and could reasonably be expected to delay the time when the 1960 home would be put on the market for sale.

23. The daughter, who lived outside of South Carolina, began to organize her affairs so she could better assist her mother by returning to Charleston County. Neither the family of Jane Doe, nor the daughter, asked permission of the Defendants before making arrangements for Jane Doe to be cared for in the 1960 home.

24. The daughter returned to North Charleston in November, 2012 to live with her mother in the 2012 home and assess her mother's capabilities and needs.

25. Not long after moving back to North Charleston, the daughter on two occasions made an effort to be friendly to Defendants. The daughter took her neighbors a small gift, and during that occasion and on one other occasion she engaged the Defendants in conversation. Those occasions disclosed Defendants' predilection for gossip. The daughter chose not to further her contact with Defendants because of the Defendants' predilection for gossip, which the daughter did not share. The daughter withdrew to focus on caring for her mother.

26. Nor did the daughter at any time present any problem for the Defendants other than what the Defendants regarded as the inherent problem of the daughter occupying the 1960 home without the approval of Defendants.

27. No one in the family of Jane Doe asked permission of the Defendants before arranging for the daughter to care for her mother. Because the Defendants desired the 1960

home, the Defendants believed their permission should have been solicited before the daughter could care for her mother at the 1960 home. Defendants believe they should have been entitled to approve of who took care of Jane Doe, as any care for Jane Doe in the 1960 home delayed the time when the 1960 home could be put on the market for sale. In addition, care for Jane Doe provided by a family member was likely to be more attentive than care rendered by strangers to Jane Doe. For Defendants, the daughter posed the greatest risk that the 1960 home might not be sold at all or, if sold, would not be sold for some time.

28. Defendants have explained that they "could not believe" that the daughter was "put in charge of caring for her mom," as Sarah Sadler explained. Defendants have also explained that having the daughter care for her mother was not satisfactory to Defendants.

29. After she relocated to North Charleston, the daughter changed her career and found work that enabled her some flexibility to care for her mother, sometimes working from the 1960 home, and other times being able to check on her mother during the workday.

30. The daughter began to assess and provide in the 1960 home the care her mother needed, unaware that her presence, and the care the daughter provided to her mother, were each objected to by Defendants.

31. When the daughter began adapting the 1960 home to better suit Jane Doe's diminishing capabilities, and to make the 1960 home safer and more suitable to Jane Doe's condition, the Defendants were upset with the changes the daughter made, and Defendants were upset that no permission had been sought of Defendants for those changes.

32. Defendants went through the trash of the 1960 home, looking for information they could try to use against the daughter.

33. The Defendants began plotting a way to have the daughter removed so as to isolate Jane Doe from her daughter caregiver and, by that isolation, to cause Jane Doe to be removed from the 1960 home and placed in a residential care facility, causing the 1960 home to be vacated and creating financial pressure to force the sale of the 1960 home.

34. From November, 2012 to March, 2013, the daughter lived with her mother and as her mother's capacities became reduced, the daughter patiently negotiated with her mother to allow the daughter to perform more and more personal tasks for her mother. The daughter took her mother for various medical appointments and medical assessments. Those doctors were able to identify her mother's problem as an aggressive form of early onset Alzheimer's disease, for which there is no cure. The disease is progressive, and will be fatal to Jane Doe, although how long the disease will take to kill Jane Doe is unknown. Jane Doe's life expectancy is more than 15 years, according to S.C. Code § 19-1-150, although her Alzheimer's disease might shorten her life span.

35. Once Jane Doe was diagnosed with an incurable, and fatal, illness, for the daughter the arduous task of (a) the daughter's care of her mother was joined with (b) the personal tragedy of having to watch her mother slowly die, progressively losing capabilities until her death would result, and (c) the personal anxiety of having to wonder to what extent Alzheimer's disease was genetic, and might also affect the daughter or her brother.

36. Jane Doe slowly began to surrender her independence and allow her daughter to perform more and more personal tasks for her. The daughter did the cooking, housework, shopping, and drove her mother when they went out. Eventually Jane Doe allowed the daughter to wash her hair, which Jane Doe resisted for a long time. After more time, Jane Doe allowed

her daughter to take over Jane Doe's bathing and toileting.

37. Working when Jane Doe made her weekly visit to church with another relative, and in consultation with Jane Doe's medical providers and family members, the daughter began to modify the house to better accommodate her mother's limitations and to make the space safer for her mother to inhabit.

38. For example, working entirely by hand on Sunday mornings while Jane Doe was at church, the daughter slowly removed the very old carpeting in the 1960 home, which the daughter had noticed was beginning to impede the sureness of her mother's footing. The daughter cleared more secure pathways for her mother by doing so, making the home safer for her mother by exposing the original hardwood flooring, and decreasing the chances of her mother falling.

39. During the time her mother was hospitalized, the daughter also replaced a wooden handrail that her mother was no longer capable of properly using when her mother descended one particular set of stairs. The mother's confusion caused her to apply a side force to the handrail that the handrail could not support. That in turn caused the handrail to loosen, making it unsafe. To better protect her mother, the daughter replaced that loose handrail with a much more secure metal handrail of a type used in hospitals and nursing homes, to better allow her mother to move up and down that set of stairs.

40. The Defendants noticed the carpeting being removed when it was placed for trash removal, and between themselves objected to the daughter making the house safer for Jane Doe.

41. The daughter had not asked permission of the Defendants before modifying the 1960 home and its grounds to better accommodate her mother's limitations. Because the

Defendants desired the 1960 home, the Defendants believed their permission should have been solicited before the daughter made changes to the 1960 home. Defendants believe they were entitled to approve of what changes were made in the 1960 home, as they desired to obtain the home.

42. For a long time Jane Doe insisted on dressing herself, and bathing herself, even though she could no longer do so effectively. Jane Doe did not want to entirely surrender her independence to her daughter caregiver, and often insisted (and still insists, from time to time), despite all medical opinion, that she was (and is) "fine." Periodically Jane Doe would insist on resuming her own care in some degree, causing the daughter to have to re-negotiate Jane Doe's permission for the daughter to provide care, particularly very personal care.

43. Because the daughter by living in the 1960 home, and by caring for her mother in the 1960 home, posed an impediment to Defendants acquiring the 1960 home, the Defendants chose to not like the daughter, and even though there had been no conflict between them, Defendants waited for an opportunity when they could disrupt the daughter's ability to care for Jane Doe.

44. On March 27, 2014, Defendants found an opportunity to disrupt the daughter's care for Jane Doe.

45. A little before 10:00 p.m. that night, the daughter recalled that she had left some items in her car that she preferred to have in the house. The daughter went outside to retrieve equipment she had left in her car, and when she returned to the front door of the 1960 home she found the doorknob had locked behind her. The daughter had accidentally locked herself out of the house.

46. The daughter needed Jane Doe's help to get back into the house. The daughter knew: (a) that Jane Doe was asleep, (b) that her Alzheimer's disease had taken so much of Jane Doe's capabilities that Jane Doe was no longer able to herself open the locked front door from the inside of the house, and (c) that Jane Doe still had enough capacity that she could be talked through how to unlock one of the back doors, specifically the sliding glass door.

47. To get back into the house, the daughter had to wake Jane Doe; get her to the front door; direct her to the back door, where Jane Doe could see her daughter and follow the daughter's directions about how to unlock the back sliding glass door.

48. It took a total of about four minutes, starting from when the daughter had locked herself out, for the daughter to get Jane Doe's help and get the daughter back into the house. Without her mother's Alzheimer's limitations, the process would have taken about thirty seconds. Those four minutes caused by Jane Doe's illness were the opportunity the Defendants had long sought to disrupt the daughter's care of Jane Doe.

49. As set out below, the Defendants acted as quickly as they could in those four minutes to disrupt the daughter's care of Jane Doe and inflict damage on both Plaintiffs.

50. In the four minutes it took the daughter to get Jane Doe's help to get back inside their house, the following events took place.

a. The daughter freed both her hands of the items she had brought from the car,
b. For about a minute, the daughter pounded on her front door and called to her mother.
c. Jane Doe heard her daughter's calls from the front door. It did not take long for Jane Doe to hear her daughter's calls.

d. The Defendants were in bed watching television and heard the daughter's efforts to get Jane Doe's attention, although they did not immediately understand what the noise was.

e. Jane Doe began making her way out of her bed and down the two short sets of steps between her bedroom and the front door.

f. The Defendants realized it was the daughter making the noises they were hearing. When Defendants realized their neighbors needed assistance, they did not offer any assistance. Instead, the Defendants realized the daughter being locked out of her house and needing assistance was their opportunity to create trouble for the daughter, to endanger Jane Doe by causing trouble for the daughter, and to impede the care of Jane Doe.

g. Defendant Jacob Sadler got out of bed to observe the daughter and periodically interrupted his observations to return to his own bedroom to narrate to his wife, who remained in bed.

h. According to defendant Sarah Sadler, she lay in bed "stewing about what was going on over there," and how to get the police to intervene so they would disrupt the daughter's care for Jane Doe by causing trouble for the daughter.

i. The Defendants agreed to try to cause trouble for the Plaintiffs by falsely accusing the daughter of various crimes, including the felony offense of not properly caring for her mother, who the Defendants knew to be a vulnerable adult, suffering from dementia.

j. At no time was the daughter violating any law or ordinance in the minute or of

noise making so it took to get Jane Doe's attention.

k. Having decided with his wife to use this brief occasion to disrupt the daughter's care of Jane Doe, Defendants formulated a plan of what to report. Jacob Sadler began to observe the daughter from time to time through the small window of his own front door, breaking his observations to confer with his wife on their plan. The Defendants were aware that the daughter was locked out of her house and was calling to her mother for that reason.

l. Defendant Jacob Sadler did nothing to help his neighbors. Sarah Sadler did nothing to help her neighbors. Neither defendant had any desire to help their neighbors. Nor did they desire to leave their neighbors alone. That their neighbors needed help was their chance to strike against their neighbors, and make as much trouble for their neighbors as they could. The plan discussed and decided upon by the Defendants was to make false accusations so as to disrupt the daughter's care of Jane Doe, and to do so for their improper, ulterior purposes of trying to interfere with Jane Doe's care so as to cause the 1960 home to be vacated so that it might be sold.

m. As the daughter saw Jane Doe inside, descending the stairs closest to the front door of their residence, the daughter stopped pounding on her own front door because in the first minute of the four minute she was outside she had gotten her mother's attention.

n. The daughter directed her mother to the back sliding glass door, then went to meet her at that door.

o. The daughter left her front door to go to the back sliding glass door, collected the equipment she wanted from the car, and moved from her front door to the left of her residence (as viewed from the street) to make her way into the fenced back yard.

p. As Jacob Sadler watched the daughter's difficulties with being locked out, and planned how to manipulate those difficulties for the Defendants' ulterior purposes, he saw the daughter stand. Defendants decided to advance their ulterior purposes by falsely contending the daughter had committed the crime of exposing herself to urinate and defecate in public.

51. At the sliding glass door in the back yard the daughter was able to direct her mother how to unlock the sliding glass door. About four minutes from when she had gone outside and accidently locked herself out, the daughter was back in her house, with the help from Jane Doe.

52. Shortly after that, both Jane Doe and her daughter were back in bed.

53. The Defendants' 1959 home is not the closest neighboring residence to the 1960 home. Other homes are closer.

54. Of the various neighbors around the Plaintiffs' residence, only the Defendants, not any of the other neighbors, including those who live closer than Defendants, reacted to the daughter's efforts to get her mother's attention after having locked herself out.

55. The Defendants had a reaction because they had an agenda to create a problem for their neighbors. It is the kind of people they are.

56. At 10:06 p.m., well after the daughter had stopped making any noise (because she had already attracted her mother's attention and because by that time the daughter was back inside), defendant Jacob Sadler dialed not 911, which a person sometimes dials to get help, but the police, reflecting his desire to summon not help for the Plaintiffs but to summon trouble for the Plaintiffs.

57. That he dialed the police rather than 911 is indicated by the manner in which the Charleston County call taker answered the call. A call to 911 is answered with some variation of, "911, what's the address of the emergency?" A call to police that is referred to the Charleston County system elicits a response such as was given to Defendant Jacob Sadler: "Consolidated dispatch operator one five six."

58. As agreed to in their collaboration, Defendants sought not help for their neighbors but to create trouble for their neighbors in placing their call to police.

59. Defendant Jacob Sadler related to the consolidated dispatch operator a complaint that included four statements the Defendants each knew were entirely false. Defendants later expanded those four false statements with a fifth false statement. Those false statements include:

a. that the Defendants were observing a "family dispute" (the Defendants knew or should have known there was no dispute),

b. that the mother had "locked the daughter out of the house" (the Defendants by that time knew, or should have known, that the daughter had been caring for her mother for more than 16 months, and that Jane Doe's capabilities had been so reduced by her Alzheimer's disease that she could no longer operate the front door lock so as to lock anyone out even if she had wanted to),

c. that the supposed "family dispute" was "occurring right now," even though before the call even was made the daughter had gotten her mother's attention, had ceased making any noise to attract her attention, and was back in the house,

d. That the Defendants told the dispatcher the daughter "might be drunk. I think she's drunk." These four false statements were recorded and are undisputable. Later, the Defendants at the scene would also contend, also falsely,

e. That the daughter had exposed herself while urinating and defecating in her front yard, a fifth statement they knew or should have known was false.

60. All of the Defendants' false statements were designed to advance the ulterior purposes of the Defendants to disrupt the daughter's care for Jane Doe by getting the daughter out of the house and leaving Jane Doe without a caregiver, so as to cause Jane Doe to have to be moved from the 1960 home to a much more expensive housing facility, and to cause the 1960 to be vacated, then sold.

61. Defendants informed the consolidated dispatch operator that Jane Doe had dementia, but did so in order to contend, which they also knew was false, that the daughter was not properly caring for her mother. "I am not sure about the daughter," was the Defendants' statement to falsely infer that not only had the Defendants not "allowed" the daughter to care for Jane Doe, but also the Defendants falsely accused the daughter of the crime of abusing a vulnerable adult, the sixth false statement, which reflected the Defendants' collaboration to harm the Plaintiffs. Necessarily, Defendants were also falsely accusing those family members of Jane Doe who held her power of attorney of doing the same by providing inadequate care to Jane Doe

through the daughter.

62. As to those who hold power of attorney for Jane Doe, the statements are defamatory.

63. As to the daughter, the false statements are defamatory, and actionable *per se*.

64. The report against the daughter and Jane Doe was known to be false by Defendants when the report was made. Defendants' false police call was their effort to disrupt the daughter's care for Jane Doe to advance the Defendants' ulterior purposes. Defendants aspired to have the daughter arrested, so as to cause Jane Doe to be removed from the 1960 home to make it again vacant and cause it to be sold.

65. Defendants were aware (a) that Jane Doe had dementia, (b) that the daughter was Jane Doe's caregiver, (c) that the daughter had been Jane Doe's caregiver since November, 2012, and (d) that the daughter's care for Jane Doe is what enabled Jane Doe to reside in the 1960 home. That care for Jane Doe by her daughter is what the Defendants aspired to disrupt, so that neither Jane Doe nor the daughter would reside in the 1960 home.

66. Consolidated dispatch operator 156 informed defendant Jacob Sadler that dispatch would ask police to respond. Knowing that the content of the police call he and his wife made was false, defendant Jacob Sadler asked that no officer come to his house. "They aren't coming to my house, are they?" he asked the dispatcher. When he was told the dispatcher would let the officers know his preference not to be contacted, defendant Jacob Sadler responded, "Okay, good."

67. Defendant's plan was to set in motion events which could not be attributable to them.

68. Defendant Jacob Sadler made his false police call with full cooperation of, and knowledge of, his wife, in furtherance of their ulterior purpose to cause the daughter to be arrested, and to disrupt Jane Doe's care, without being known as the source of those disruptions.

69. The Defendants' plan was to pursue their ulterior purposes by falsely accusing the daughter of various crimes, including not caring for her mother, so as to get police to arrest the daughter, but Defendants wanted the daughter to be unaware of their hostility towards the daughter. Given their many false statements, the Defendants did not want to be identified as the persons placing the call.

70. The Defendants' false police call started at 10:06:40 p.m. and lasted three minutes and 27 seconds. That call ended at approximately 10:10 p.m.

71. When the dispatcher communicated the Defendants' false police call, three North Charleston police officers were dispatched in response.

72. Records reflect that the first officer arrived at the scene at 10:14 p.m., four minutes after the Defendants' false police call ended. The other two officers did not arrive on the scene until 10:30 p.m. The first officer was alone at the scene for sixteen minutes.

73. Records reflect that after eight of those sixteen minutes, the officer on the scene asked the dispatcher to call defendant Jacob Sadler and ask that he step out of his house to talk with that officer. Defendant Jacob Sadler agreed to do so, but each claims not to recall the conversation.

74. After that conversation, the conduct of the Defendants and the officer reflect the agreement reached at the scene during that conversation: the officer agreed to remove the daughter from the 1960 home that night, to isolate Jane Doe from her caregiver. Defendants

agreed to support that the daughter was abusing a vulnerable adult, a statement known by Defendants to be false.

75. After that conversation, Jacob Sadler returned to his home and continued to watch from time to time the police activity the Defendants had initiated.

76. Records reflect that by 10:33 p.m. police had entered the Plaintiffs' home. When police entered the home both the Plaintiffs were asleep in their beds.

77. In the house, police encountered Jane Doe who, according to police, told the officers that everything in the house was fine. That information should have terminated the police intrusion, but it did not. Based on the agreement reached with Defendants, the officer first on the scene had committed to remove the daughter that night, so that officer needed to isolate herself with the daughter so as to fabricate a confrontation with the daughter that the officer could claim was the daughter's fault.

78. That officer is experienced at fabricating a basis for groundless arrest, experienced at warrantless entry that lacks proper justification, and experienced at using her office to retaliate against innocent citizens her personal pique. After meeting with the defendant Jacob Sadler at the scene, the officer began the arrangements to enable the officer to do each as to the Plaintiffs.

79. By 10:41 p.m., and despite any proper basis for doing so, police had removed the daughter from the 1960 home, as the officer had agreed with Jacob Sadler she would do. The removal was pretextual, since no proper basis existed to remove the daughter, as Defendants falsely claimed.

80. All officers have claimed that Jane Doe appeared fine to them, even though they had been told by Defendants that under the daughter's care that Jane Doe was not fine.

81. To effectuate the pretextual removal, the officer who had agreed in advance with Defendants to remove the daughter from the 1960 home that night isolated herself with the daughter by prolonging her stay in the 1960 home and directing her fellow officers to leave her alone in the house with the Plaintiffs. As the first to arrive on the scene, that officer was in charge of the scene, so the other officers complied with the directive.

82. There are no criminal charges pending against the daughter from her removal that night from the 1960 home. The charges against her were *nol prossed.*

83. No charges were ever brought against Jane Doe.

84. It took more than 15 hours for the daughter to begin to get help for Jane Doe after the daughter was removed from the 1960 residence late on March 27, 2014. In that time, Defendants were aware that Jane Doe was alone, and unable to care for herself, but took no steps to assist Jane Doe. Defendants intended Jane Doe to be isolated from all caregivers so as to cause injury to Jane Doe and the daughter.

85. Once the daughter was able to return to her residence, late the next afternoon, she necessarily had to attend to both the injuries she sustained during her removal, and the legal implications caused by her pretextual removal. She did so both on March 28 and March 29. Jane Doe's brother assisted the daughter with Jane Doe's care while the daughter dealt with the new problems created for her by Defendants.

86. On March 29, Jane Doe's brother arrived at the 1960 home to cover the daughter's absence as caregiver to Jane Doe. He found Jane Doe so confused and agitated after

the events set in motion by the Defendants that he called for an ambulance and had Jane Doe evaluated. MUSC hospitalized Jane Doe for nearly three weeks.

87. Defendants at no time have apologized to the daughter for her removal, because, of course, it was Defendants' intention that the daughter be removed, and that the daughter and Jane Doe each be inconvenienced and injured in the exact manner in which each was inconvenienced and injured.

88. Defendants have at no time apologized for their false statements used to initiate process against the daughter, reflecting Defendants' intention that the Plaintiffs be inconvenienced and injured by those false statements in the exact manner in which each plaintiff was inconvenienced and injured.

89. Specifically, Defendants were aware that Jane Doe had dementia, and that she had a progressive form of dementia. Defendants were aware that Jane Doe was unable to care for herself, that the daughter was Jane Doe's primary caregiver and had been for more than 16 months. As they intended, the Defendants' false statements and agreement at the scene with the first responding officer had succeeded in getting the daughter being removed on a pretext, and caused Jane Doe to be isolated from the daughter. As Defendants intended, Jane Doe was put in a position of being unable to care for herself. As Defendants intended, the daughter was put in isolation from Jane Doe and was unable to communicate for anyone to assist Jane Doe.

90. Defendants also intended to inflict the ensuing emotional harm on the Plaintiffs; Jane Doe to feel isolated and confused, and the daughter to be distressed because her mother was unable to toilet herself, prepare food for herself, understand the events of the daughter's removal, and, because all of the doors had been locked by police with Jane Doe inside, unable by herself

even to escape the house should she need to in an emergency such as a fire.

91. By March 29, after she had been isolated from her caregiver and unable to toilet herself for over 18 hours by the agreement and action of the Defendants and the first responding officer, Jane Doe developed the only urinary tract infection she developed during the entire time the daughter cared for her mother. That urinary tract infection was detrimental to Jane Doe and exacerbated her confusion, as urinary tract infections are known to do.

92. Defendants and the first responding police officer intended that physical injury for Jane Doe, and for the daughter to sustain physical injury when she was removed from the 1960 home. Defendants and the first responding officer intended emotional injury to each plaintiff. All injuries were intended by the Defendants to promote Defendants' illicit objective to compel Jane Doe and the daughter to vacate the 1960 home.

93. Defendants did nothing for Jane Doe after initiating process against the daughter and isolating Jane Doe from her caregiver. Defendants intentionally injured Jane Doe and the daughter.

For a First Cause of Action: Abuse of Process

94. Allegations above are incorporated into this cause of action as if fully stated.

95. Defendants made a police call to knowingly and falsely report, among other things (a) that conflict existed between Jane Doe and the daughter, (b) that Jane Doe had locked the daughter out of her house, (c) that conflict between them was ongoing, and (d) that the daughter was "drunk." Defendants were aware they had no proper basis for their police call, planned for the Plaintiffs to be unaware they had made the call, made the call as part of their plan

for causing problems for the Plaintiffs, and made the call after the Plaintiffs had already solved the problem of the daughter accidentally locking herself out of the house.

96. Defendants had an ulterior purpose in making the false police call, and engaged in multiple willful acts in the use of the process they initiated that were not proper in the conduct of the proceeding. Defendants were motivated to make the call by a desire to cause problems for the daughter. They desired to isolate the mother, known to have dementia, and known to be unable to care for herself, to accomplish the ulterior purpose of inflicting harm on the Plaintiffs and to cause the 1960 home to be vacated. Not only did it suit the Defendants' malicious intention to cause problems for the Plaintiffs, they desired to isolate Jane Doe so her dementia would require she be moved from the 1960 home to a more expensive facility to cause the 1960 home to be vacated and later to be sold.

97. Defendants acted contrary to facts they knew or should have known to be true, in collaborating with a police officer who responded to their police call. Each took overt acts in furtherance of the corrupt agreement reached with that officer. The officer agreed to remove the daughter that night and to leave Jane Doe without support, as the Defendants desired. The Defendants agreed to maintain a false history as to the daughter's care of Jane Doe, to sustain the known falsehoods put into their police call.

98. The officers entered the Plaintiffs' home on a pretext of their own making, derived from their agreement with Defendants that the daughter would be removed that night from the 1960 home. Once inside the plaintiff's home, the officer saw there was no support for the Defendants' false claims about the Plaintiffs. The officers contend that when they encountered Jane Doe she not only assured them that everything was "fine," the daughter had

taken such care of her mother that the officers contend that Jane Doe also appeared to be fine, even though the officers knew that Jane Doe had dementia. The daughter was removed on a pretext despite the evidence at the scene that the Defendants' report was false.

99. The Defendants have also taken overt acts in furtherance of the agreement reached at the scene with Defendants. They have defamed the daughter by publicizing their false accusations to persons with whom there is no privilege to speak, and defamed Jane Doe by publicizing she had willfully locked her daughter out of the house.

100. Defendants willfully used process to accomplish their ulterior motives, and aware that the charges against the daughter were false.

101. The actions by Defendants were not proper in the regular conduct of the proceeding. Defendants acted with the ulterior purpose and bad intent in making the police call against the Plaintiffs when Defendants were aware that a complaint as to the Plaintiffs was neither necessary nor supported by the facts.

102. Defendants perverted the process for the improper result of satisfying their own displeasure at the Plaintiffs, and the Defendants' interest in causing the 1960 to be vacated and to compel its sale.

103. Harm to the Plaintiffs resulted from the "bad intent" of the ulterior purpose that motivated the Defendants. Defendants intended to harm the daughter, and harm to Jane Doe was either intended by Defendants or was an acceptable by-product of the Defendants' ulterior purpose to try to force the sale of the 1960 home.

104. Through cooperation with the officer who first responded to the scene, Defendants effectuated the removal of the daughter, which removed her as caregiver of Jane

Doe, as Defendants intended. Defendants then did nothing to assist Jane Doe, knowing she was alone, and knowing she had dementia, in the aspiration that Jane Doe would be removed from the 1960 home, the home would be vacated, and Jane Doe's family would be compelled to sell the 1960 home.

105. Injuries by Defendants towards the Plaintiffs were done without cause and wantonly, to obtain the collateral benefit of causing a problem for the daughter, isolating Jane Doe from her caregiver, and compelling the vacating and then sale of the 1960 home, none of which interests are properly involved in the use of process itself.

106. Defendants used the process against the Plaintiffs to coerce the daughter and extort Jane Doe and her family to satisfy the interest of Defendants in gratuitously burdening the daughter, isolating Jane Doe, and attempting to compel Jane Doe to be institutionalized in the care of strangers so as to cause the 1960 home to be sold.

107. Charges against the daughter were *nol prossed*. Defendants inflicted harm on the daughter, as they intended to do, and conspired with the officer who was first on the scene to inflict harm on the Plaintiffs for Defendants' improper and gratuitous purposes.

108. Defendants were motivated to use, participate in, and contribute to, the process against the Plaintiffs due to events occurring *outside* of the process, namely the daughter's care of her mother without the approval of Defendants, the daughter's alterations to the 1960 home without the approval of the Defendants, and the daughter's threatened longevity in the 1960 home, all of which Defendants believed impeding Defendants' improper objective to have the 1960 home vacated and then sold.

109. Defendants used the criminal process to satisfy the Defendants' personal interests and their dislike for the daughter, not any proper public purpose. Process was used against the Plaintiffs to cause them special damage. The daughter was physically assaulted, was improperly removed from her home, had her caregiving for her mother interrupted, and her caregiving for her mother was then burdened with additional problems created by the police, all as the Defendants intended. Jane Doe was burdened with being isolated from her caregiver, unable to care for herself, feed herself, bathe herself, or toilet herself, an isolation that harmed Jane Doe solely to further the illicit personal interests of the Defendants.

110. Defendants acted willfully and overtly as to the Plaintiffs, to use process against the Plaintiffs for an unauthorized, illegitimate, collateral objective to isolate Jane Doe from her caregiver, burden the daughter as caregiver, and to cause the 1960 home to be vacated and sold.

111. Actions of Defendants created for the daughter physical injuries which required medical care and treatment, mental injuries which required care and treatment, loss of her time, interference with her work hours, and the mental anguish of knowing her mother was alone and unable to care for herself, and being unable to let anyone know or get anyone to listen to her.

112. Defendants are responsible to the Plaintiffs for actual and punitive damages inflicted by their improper use of process against them.

For a Second Cause of Action: Malicious Prosecution

113. Allegations above are incorporated into this cause of action as if fully stated.

114. Defendants instituted criminal judicial proceedings against the plaintiff daughter based on information known by the Defendants to have been false.

115. Those proceedings were terminated in the daughter's favor.

116. Defendants exhibited malice in instituting those criminal proceedings by reporting first to the consolidated dispatch operator, and then to police, false information about the daughter and her mother.

117. There existed no probable cause for any process to be initiated against the daughter, nor could Defendants claim any proper basis to have properly claimed to know, for example, as they reported, that the daughter had been locked out by Jane Doe, that any family dispute was taking place, that the dispute was ongoing (when the daughter was, with cooperation of her mother, back in her house before the 10:06 p.m. call was made by Defendants), or that the daughter was abusing or neglecting Jane Doe, as Defendants contended.

118. As set forth in detail above, the daughter was injured and damaged as a result of the Defendants' malicious prosecution. Her home was improperly entered, she was improperly removed from her home, she was improperly charged as a pretext to remove her from her home, she missed work, her caregiving for her mother was impeded, false statements were made about her, defamatory statements were published about her by Defendants, and mental strain and upset was placed upon her because her mother was left to fend for herself, all as Defendants intended.

119. Defendants intentionally and maliciously initiated a prosecution of the daughter, and entered an improper agreement with police to have the daughter removed that night from the 1960 home on pretext.

120. Defendants are properly charged with actual and punitive damages as assessed by the finder of fact in favor of the plaintiff daughter.

For a Third Cause of Action: Defamation

121. Allegations above are incorporated into this cause of action as if fully stated.

122. Defendants each defamed each of the Plaintiffs.

123. As to the daughter, the Defendants published to persons with whom they had no privilege, and persons who had no role in the criminal process, information they knew to be false, and which falsely accused the daughter of multiple criminal acts. As alleged in detail above, the statements are defamatory *per se* and actionable *per se*.

124. Those statements caused damage to the daughter and the daughter is presumed to have damage from the defamatory statements.

125. As to Jane Doe, who the Defendants were aware was entirely dependent on her daughter's care, the Defendants falsely published to persons with whom they had no privilege, and persons who had no role in the criminal process, false information that Jane Doe had intentionally locked the daughter out of her home, was in a "family dispute" with her daughter, and was not being properly provided for by her daughter.

126. Jane Doe was falsely accused by Defendants of being a victim of a crime, the implications being that (a) Jane Doe and those who hold her power of attorney would be content to permit her to be the victim of a crime, (b) that her family and own child would commit a crime against her, and (c) that police intervention was required for Jane Doe. Defendants were aware their claims were false.

127. The Defendants' statements about Jane Doe are false, and were known to have been false when made. Jane Doe had special damages as a result of the false statements made by the Defendants about her, including having her caregiver removed, having her caregiver

burdened by additional concerns beyond the burdens associated with working and caring for Jane Doe, isolating Jane Doe from her caregiver, and causing Jane Doe to be without any assistance for more than 18 hours when she could not perform the most basic functions for herself.

128. Defendants took those actions against the Plaintiffs intentionally and are liable to the Plaintiffs for actual and punitive damages in amounts to be assessed by the finders of fact.

For a Fourth Cause of Action: Civil Conspiracy

129. Allegations above are incorporated into this cause of action as if fully stated.

130. In addition to the actions alleged above, Defendants conspired with each other and with the officer who first arrived on the scene to cause special and unique damage to the Plaintiffs over and above the damages alleged above and below, and distinct from the other damages alleged in this complaint. Defendant Jacob Sadler acted with knowledge and consent of defendant Sarah Sadler in engaging with that officer.

131. The Defendants and the officer had a joint assent of minds to accomplish the unlawful enterprise and each took one or more overt acts to further the agreement they made.

132. The officer's act was to agree to that night remove the daughter from the 1960 home, to leave Jane Doe unassisted after the daughter had been removed, and to arrange for particularly nasty treatment for the daughter at the jail by the charges she made against the daughter, including both the formal (and false) charge of assault on a police officer, and by her explanation (also false) that Jane Doe had caused her daughter's arrest because Jane Doe and her daughter were in conflict.

133. Even though the daughter was falsely charged with a crime, a charge that was later *nol·prossed*, even had that charge been legitimate it is conceded by the officer that it was not necessary to remove the daughter from the residence because of that charge. Nor was it necessary to leave Jane Doe isolated and alone at the 1960 home after the daughter was removed. Nor was it necessary for the officer to charge the daughter, falsely, with assaulting a police officer. Nor was it either truthful or necessary for that officer to contend that Jane Doe was in danger from her daughter, that Jane Doe had caused the daughter to be arrested, that conflict existed between Jane Doe and her daughter, or that Jane Doe needed a "better" caregiver than her daughter. Those unnecessary contentions were a reflection of the agreement reached with Defendants.

134. Nor was it necessary or truthful for that officer to communicate with the transport officer and the detention center to obtain for the daughter especially harsh treatment at the detention center, in the form of:

a. having a strip-search imposed as a condition for the daughter having access to each of water, telephone use, and consultation with counsel,

b. the arresting officer opposing bail for the daughter so as to maximize her time spent at the detention center, so that Jane Doe would be isolated and alone as long as possible, and

c. The arresting officer contending, falsely, that there was conflict between Jane Doe and her daughter, such that Jane Doe had caused her daughter's arrest.

135. Removing the daughter from the residence with those gratuitously harsh provisions for the daughter to get at the detention center and arranging no care for Jane Doe once the daughter had been removed was an overt act in furtherance of the conspiracy reached between that officer and each of the Defendants, the essence of which was to remove the daughter on March 27, 2014, and leave Jane Doe to fend for herself, to set in motion a chain of events which Defendants hoped would cause Jane Doe to be moved to another care facility, and vacate the 1960 home. Removing the daughter was gratuitous by the officer, and part of the agreement reached with Defendants, who wanted the daughter removed and Jane Doe to be isolated. Making the daughter's confinement at the detention center especially unpleasant and offensive was added by the officer as part of her agreement with Defendants to give the daughter as hard a time as possible once she was removed.

136. The officer agreed with the Defendants to remove the daughter, make no provision for Jane Doe's care, and make arrangements for the daughter's time at the detention center to be (a) as prolonged as possible at the detention center and (b) as offensive as possible at the detention center. The officer did so. The Defendants agreed to continue their false accusations against the Plaintiffs, and agreed to provide no assistance to Jane Doe after the Defendants knew the daughter had been removed. The Defendants did so.

137. The object of the civil conspiracy both between Defendants and with the first responding officer was to cause such special damage to the Plaintiffs so that Jane Doe would be institutionalized, and not cared for in the 1960 home by the daughter.

138. As to the daughter, the special damage she sustained from the Defendants as part of the conspiracy with the officer who first arrived on the scene was (1) being removed from her

home and her bed unnecessarily and without a proper reason, even if the charge against her had been legitimate, which it was not, (2) knowing that her mother, who was unable to care for herself, was being provided with no care the entire time she was unable to communicate with family members after her removal from her home, (3) having to spend more time in the jail than necessary, and (4) having that time be made as offensive as possible, as alleged above. Those damages are not claimed in any other cause of action stated in this complaint.

139. As to Jane Doe, the special damage was the isolation and personal discomfort for the time between when the police wrongfully entered the 1960 home, about 10:30 p.m., and removed her caregiver, as agreed by Defendants and the officer who first arrived on the scene, and when Jane Doe's brother was first informed that Jane Doe was isolated and alone, the following afternoon. For that time period, Jane Doe was alone and unable to provide for herself in any way, including her own toileting. When the brother arrived he could provide Jane Doe food, but was limited by decency from toileting or bathing or properly dressing Jane Doe. That injury as to Jane Doe continued until the daughter could return home to resume care for her mother, late the following day.

140. The time period of Jane Doe's isolation without food prepared for her was from approximately 10:30 p.m. on March 27, 2014, when the police intrusion began, until about 2 p.m. on March 28, when the daughter could first tell Jane Doe's brother that Jane Doe had been alone all night and all morning. Until about 5 p.m. on March 28, when Jane Doe's brother could first bring the daughter back home, Jane Doe was deprived of her daughter's more personal care that her brother could not provide. And by the time the daughter was released from the detention center she had her own injuries and her own legal charges to contend with, infringing on Jane

Doe's care.

141. Jane Doe was also deprived of her daughter's care by the utterly false contention by Defendants and police that Jane Doe was in danger from the daughter and was in conflict with the daughter. On March 29, when the daughter was attending to her own injuries from her arrest, the brother of Jane Doe found Jane Doe so disoriented and agitated that he called for an ambulance and had her evaluated at the Medical University of South Carolina. Jane Doe was admitted after that evaluation, and was hospitalized for some weeks. Initially, MUSC would not permit visits from the daughter due to the contention that originated with the Defendants and was repeated by police (despite there being no evidence of it) that the daughter was a danger to her mother. Once MUSC confirmed that Jane Doe had been well cared for by the daughter, she was again allowed access to her mother. Eventually, MUSC would release Jane Doe back to the care of her daughter. The isolation of Jane Doe from her daughter due to the false statements of the Defendants and others is part of the special damage attributable to Defendants and their conspiracy with the officer who first arrived on the scene.

142. Despite the opinions of medical experts overseeing Jane Doe's care, in September, 2014, Defendants again collaborated with city officials and agents to try a second time to compel the daughter to be removed as caregiver, Jane Doe to be removed from the 1960 home, and Jane Doe to be institutionalized. The conspiracy between Defendants and North Charleston agents and officials is ongoing.

143. Defendants should be enjoined from any contact with officials or agents of the City of North Charleston that relates in any way to the Plaintiffs.

144. Defendants, and their co-conspirator, intended these injuries to the Plaintiffs.

145. Plaintiffs are entitled to actual and punitive damages from the Defendants in amounts to be established by the finders of fact.

For a Fifth Cause of Action:
Injunctive Relief, Request for Restraining Order, Assault

146. Allegations above, other than those relating to the damages from the civil conspiracy cause of action, are incorporated into this cause of action as if fully stated.

147. Defendant Jacob Sadler has placed the plaintiff daughter in reasonable fear of bodily harm and a restraining order should issue to prohibit the Defendants from any contact with the Plaintiffs. He has done so with agreement of Sarah Sadler. Each should be enjoined from any contact with the Plaintiffs, and from making any intrusion on their property.

148. Defendants are hereby placed on trespass notice.

149. In addition to the actions alleged above in this complaint, Jacob Sadler has threatened the plaintiff in the presence of third persons.

150. On Saturday, May 16, 2015, about 9:30 a.m., the daughter was conversing in her yard with a business vendor, discussing furniture the daughter was interested in having the vendor evaluate. The vendor and the daughter had not previously done business, and had not previously met. May 16, 2015 was the first time they had ever met.

151. At the end of that meeting, the vendor and the daughter talked in her front yard for 15-20 minutes, about the neighborhood, and her gardening, each of which interested the vendor.

152. For part of their conversation, defendant Jacob Sadler was mowing his lawn. When he finished that, he began moving the various cars that he parks in his front yard. Those

actions were in view of the vendor and the daughter.

153. The vendor noticed Mr. Sadler repeatedly looking in the direction of the daughter, and doing so in an angry manner. Neither the vendor nor the daughter were paying any special attention to Mr. Sadler. Nor was either of them bothering Mr. Sadler. The daughter and the vendor wee engaged in their own conversation, having nothing to do with the Sadlers.

154. Consistent with the allegations of this complaint, Mr. Sadler was unable to mind his own business on May 16, 2015, and he intruded on the conversation between the daughter and vendor. As the vendor observed him, Mr. Sadler glared at the daughter and demanded of her, in a loud and angry voice, "Do you have a problem with me today?"

155. The vendor knew none of the Sadlers' 2014 efforts, set out above, to create problems for the Plaintiffs, or how the Defendants aspired to force the 1960 home to be vacated. The vendor was surprised at the anger, belligerence, and physical aggression Mr. Sadler displayed towards the daughter. The vendor responded to him that he did not, meaning have a problem with Mr. Sadler, but he would if Mr. Sadler desired a problem.

156. Once Mr. Sadler withdrew, the vendor advised the daughter that in his opinion, based on what he had just seen, her neighbor was obviously looking for a way to create a confrontation with her and a problem for her. Unknown to the vendor was how Jacob Sadler and Sarah Sadler had coordinated to cause special harm to the Plaintiffs, and the physical aggression of Jacob Sadler is a posture fully endorsed by Sarah Sadler. The vendor advised the daughter to take steps to protect herself from her neighbor, and has offered to testify about the threatening and inappropriate aggression he observed from Jacob Sadler.

157. Jacob Sadler has demonstrated an explosive and extreme anger in the past. He and Sarah Sadler have chosen to be antagonistic towards his neighbor, for their own desire of trying to cause their neighbor to vacate her house. Defendants each represent a physical danger to the daughter and a restraining order should issue against either of them having contact with the Plaintiffs or making any entry to the Plaintiffs' property.

158. On multiple occasions, but only one time in front of a third party witness, the daughter has been in reasonable fear of bodily harm by the conduct of the defendant. She remains in reasonable fear of bodily harm from her physical aggression of the defendant.

159. Acting through those who hold her power of attorney, Jane Doe presently has a suit pending against North Charleston and its officials for the conduct of the police from March, 2014. Among other things, that suit alleges certain retaliatory behavior by the city and its agents directed towards these Plaintiffs, and directed towards the daughter even though the daughter has no pending claim against the city. Knowing her neighbor's role in collaborating with city officials concerning the events of March 27, 2014, the City of North Charleston and its agencies and mechanisms will continue to retaliate against the daughter and her mother.

160. For example, when the daughter sought a restraining order from a magistrate in North Charleston, she and her local counsel for that purpose were directed to a particular magistrate office. Despite the rules of court, that magistrate's office prohibited any filings for a restraining order without consulting directly with the magistrate. When local counsel sought to consult directly with the magistrate, and presented a complaint and affidavit, the magistrate prohibited the filing on the theory that the witness affidavit was an *ex parte* communication with the court, a nonsensical response, but a rationale which serves well to indicate that at present, the

City of North Charleston remains an entity oriented towards retaliatory conduct against anyone who challenges the corrupt behaviors of the City, and will continue to retaliate against the daughter solely because Jane Doe has a claim against the city.

161. The City's retaliatory conduct has extended to the daughter in the form of police harassment, police surveillance directed at her, and random, unprovoked aggression of police officers directed at her, even though the daughter has made no claim against the City. Those claims are not part of this civil action.

162. The daughter will be able to get no relief to protect herself from her neighbors without action of this court. Because of its retaliation against them, no mechanism with any connection to the City of North Charleston can be expected to assist the daughter or Jane Doe.

163. As set out below, and incorporated into this cause of action, the Defendants have each made unauthorized entry to the daughter's home, have each gone through her trash, have collaborated to falsely accuse the daughter of crimes, and have taken advantage of Jane Doe's neurological deficits to gain admission to the plaintiff's residence, for the purpose of seeking evidence to use against the Plaintiffs.

164. Both temporary and permanent restraining orders should issue against the Defendants to enjoin the Defendants from:

a. having any contact with each of the daughter or any member of her extended family, including those family members who hold power of attorney for Jane Doe,

b. abusing, threatening to abuse, or molesting the daughter, the furniture vendor who witnessed Mr. Sadler's aggression, or any member of the family of the

daughter or the witness' family,

c. entering or attempting to enter the daughter or witness' place of residence, employment, or business,

d. making surveillance against the daughter or any member of her family,

e. recording, photographing, making any video record, or any other type of visual record of the daughter or any member of her family,

f. intruding in any way into the daughter's privacy,

g. continuing to make false statements about or accusations against the daughter, and

h. communicating false statements or accusations about the Plaintiffs in any manner with any North Charleston agent or official.

165. Defendants must be ordered to leave the Plaintiffs alone, to let her live their lives without the intrusions of the Defendants, and without their repeated efforts to institutionalize Jane Doe.

166. Defendants believe themselves entitled to dictate to the daughter how she conducts her life, whether she cares for her mother, and how the daughter treats her own property, and must be enjoined by the court from continuing to act on their astonishing arrogance directed towards the daughter and Jane Doe.

167. The daughter is entitled to actual and punitive damages from Defendants for their aggressive physical actions which have placed the daughter in reasonable fear of imminent bodily injury, and in fear of imminent removal of Jane Doe to be institutionalized.

For a Sixth Cause of Action: Trespass

168. Allegations above, other than those relating to the damages from the civil conspiracy cause of action, are incorporated into this cause of action as if fully stated.

169. It took some time after the events of March, 2014, for the daughter to understand that the Defendants originated the police call on March 27 and had reported the various falsehoods they had reported. Until the summer of 2014, the daughter was unaware of the Defendants' role in spreading falsehoods about Jane Doe and her daughter.

170. Until the fall of 2014, the plaintiff was unaware that the Defendants had used Jane Doe's substantial neurological problems to trespass into her house, invade her privacy, and gather information to try to use against her and substantiate their false police report.

171. Trespass is an intentional tort, and this cause of action alleges intentional conduct of the Defendants, as does this complaint.

172. Jane Doe holds a life estate in the 1960 home. Through that life estate she has the right to exclude all others from her property, including its owners, as would any life tenant. The daughter has an ownership interest in the house, subject to Jane Doe's life estate, and has agreement from Jane Doe and those who hold her power of attorney to reside in the property. The daughter has both actual possession and constructive possession of the 1960 home. Jane Doe benefits from her daughter's presence through the care she renders her mother.

173. The property interest held in the 1960 home by each of the Plaintiffs is objected to by the Defendants, who desire Jane Doe to be institutionalized and for the 1960 home to be vacated.

174. Jane Doe's consent that her daughter reside with Jane Doe both preceded Jane Doe's loss of competence from her neurological condition and is a consent which has continued and been reaffirmed by those who hold power of attorney for Jane Doe.

175. By 2013, Jane Doe had lost her capacity to manage her own affairs. Before she lost her competence she turned over to those who hold her power of attorney the management of her affairs.

176. Defendants were aware by 2013 that Jane Doe had substantial neurological difficulties, had lost her competence, and was unable to give informed consent on any topic. Indeed, Defendants maintain that Jane Doe should be institutionalized and removed from the 1960 home. Jane Doe can deal with others through only those who hold her power of attorney or through her caregiver daughter, who also has authority through those who hold Jane Doe's power of attorney.

177. Defendants undertook affirmative acts to manipulate Jane Doe to trespass into the 1960 home and, by Defendants' own account, used that manipulation to explore every room of the property. Defendants intentionally invaded the 1960 home, and fully intended their actions in invading the 1960 home. Their purpose was illicit: to gather information to use to attempt to eject the Plaintiffs through a false police report, so as to further their interest in causing the 1960 home to be vacated.

178. By their own account, Defendants manipulated Jane Doe's known neurological weakness to trespass into the home of the Plaintiffs and to do so before March 27, 2014. Based on the conditions the Defendants claimed existed during their trespass into the 1960 home, including reports of construction work not undertaken until Jane Doe was absent from the 1960

home for an extended hospitalization that occurred only after March 27, 2014, it is apparent that Defendants took advantage of Jane Doe to make multiple acts of intentional trespass into the 1960 home both before March 27, 2014, and after March 27, 2014.

179. In their false reports of March 27, 2014, Defendants failed to cause the 1960 home to be vacated. Having failed in that objective, Defendants trespassed after March 27, 2014 to try to find information to support after the fact the false allegations they made on March 27, 2014, to note their own objections to the changes being made to the 1960 home, and to make their own plans for the 1960 home.

180. Defendants made a second collaborative attempt with City of North Charleston agents and officials, in September 2014, to compel Jane Doe to be forcibly removed from the 1960 home and to be institutionalized.

181. Defendants took advantage of Jane Doe's known neurological limitations to trespass into the 1960 home to advance their own illicit agenda. Jane Doe was not capable of consent and was known by Defendants to not be capable of consent. The Defendants' trespass interfered with the interest each plaintiff held in the exclusive peaceable possession of their property, and was used by Defendants to gather information to use for the Defendants' false reports about the daughter to impair Jane Doe's care, to institutionalize Jane Doe, and to impair the rental value of the 1960 home.

182. Should Plaintiffs have needed to rent the 1960 home to benefit Jane Doe that rental value is eliminated by the property being subject to Defendants' unilateral and repeated acts of random trespass and persistence in trying to cause the 1960 home to be vacated. The 1960 home has rental value only if quiet enjoyment and exclusive possession can be conveyed

by those who hold an interest in the property. Neither quiet enjoyment nor exclusive possession can be conveyed if the Plaintiffs must rent the 1960 home subject to Defendants trespasses at times of Defendants' choosing. Defendants' repeated trespasses, by their random and repeated nature, render the property unfit for rental or for habitation for lack of peaceable possession and impair the value of the property.

183. Defendants should be enjoined from future contact with the 1960 property, and future trespass, and the finder of fact should award actual and punitive damages against the Defendants for the intentional trespasses into the 1960 home.

For a Seventh Cause of Action:
Wrongful Intrusion Into Privacy

184. Allegations above, other than those relating to the damages from the civil conspiracy cause of action, are incorporated into this cause of action as if fully stated.

185. Once inside the 1960 home, Defendants wrongfully intruded into the privacy of each of the Plaintiffs. The Defendants, as they put it, "went through the whole home," which constitutes an intrusion into the privacy of each of the Plaintiffs.

186. By intruding into the home, and manipulating the known mental deficiencies of Jane Doe to do it, Defendants intruded into private areas, where one normally expects will be free from exposure to prying neighbors, and did so on multiple occasions, each time for an illicit purpose.

187. The intrusions were substantial and unreasonable. First, because the Defendants manipulated Jane Doe's known neurological deficits to make their intrusions. Second, because Defendants did not disclose to the daughter caregiver that they had manipulated Jane Doe's

deficits to gain that access. Third, because the Defendants used the intrusion to gather as much information as they could to support their falsified and exaggerated reports about the Plaintiffs. And fourth, because the Defendants have repeatedly collaborated with the first officer to respond to the scene and other City of North Charleston agents and employees to attempt to compel Jane Doe to be removed from the 1960 home and institutionalized.

188. The idea of the Defendants going through the Plaintiffs' entire home is by itself disturbing to the plaintiff daughter and those who hold power of attorney for Jane Doe. That disturbance is not made less so knowing that the Defendants used their repeated improper access for the purpose of gathering information to disrupt the Plaintiffs and to isolate Jane Doe from her caregiver, and to compel Jane Doe to be institutionalized, all because the Defendants desire to compel the 1960 home to be vacated.

189. Defendants showed a blatant and shocking disregard of the rights of the Plaintiffs in making their intrusions.

190. Defendants acted intentionally, and for the purpose of injuring the Plaintiffs, in making their wrongful intrusions.

191. Defendants concealed their intrusions from the caregiving daughter, and attempted to use against that daughter the information they obtained during their intrusions.

192. Damage from those intrusions is presumed as a matter of law for each trespass, and Defendants' conduct also caused shame, humiliation, and emotional distress in the Plaintiffs. Plaintiffs are each entitled to actual and punitive damages assessed against the Defendants by the finders of fact.

For an Eighth Cause of Action:
Intentional Infliction of Emotional Distress

193. Allegations above, other than those relating to the damages from the civil conspiracy cause of action, are incorporated into this cause of action as if fully stated.

194. Defendants were aware that Jane Doe had diminished mental capacities from dementia, was unable to care for herself, and that her daughter had been caring for her since November, 2012.

195. Defendants preferred that the 1960 home be vacated and sold. Defendants preferred that until the 1960 was vacated and sold that no changes of which they did not approve be made to the 1960 home. Defendants did not approve of the daughter, or of Jane Doe having care from the daughter, as that care by the daughter for Jane Doe might delay the 1960 home from being sold, or prevent Jane Doe from being institutionalized.

196. Jane Doe's desire was to live as long as she could in her own home. Defendants objected to that desire and the means by which that desire could be effectuated by Jane Doe's family and by those who hold her power of attorney.

197. As put by defendant Sarah Sadler, referring to Jane Doe's daughter, "I just can't believe that she was put in charge of caring for her mom."

198. .Throughout 2013, Defendants gathered information towards finding a way to isolate Jane Doe from her daughter caregiver so as to hasten the 1960 home being sold. Defendants also waited for an opportunity to separate Jane Doe from her caregiver daughter, and to compel Jane Doe to be institutionalized.

199. About 10:00 p.m. on March 27, 2014, the daughter was briefly, and accidentally, locked out of her home. It took the daughter about a minute to get her mother's attention that she

was locked out. For that short period the daughter pounded on her own front door and called for her mother's help.

200. In that minute, the Defendants heard the noise, looked outside, realized the daughter was locked out, and decided not that they should help their neighbors but that they finally had an opportunity to isolate Jane Doe from her daughter's care and try to cause Jane Doe to be institutionalized and to compel the 1960 home to be vacated and sold.

201. The Defendants agreed that Jacob Sadler should call police. He did so. That the daughter had already gotten Jane Doe's attention, had stopped making any noise, and was back in her house, did not stop the Defendants from their plan to intentionally harm the Plaintiffs.

202. That the daughter, with Jane Doe's help, by 10:06 p.m. was already back in her house and both she and her mother were back in bed also did not stop the Defendants from their plan to intentionally harm the Plaintiffs.

203. At 10:06 p.m., after all was quiet at the 1960 home, Jacob Sadler called police and proceeded to report false information, as agreed with his wife they would do, as alleged in detail above: that there was a family dispute, which was false, that it was ongoing, which was false, that Jane Doe had locked her daughter out of the house, which was false, and that the daughter was "drunk," which was false. Each statement was false, and was known by Defendants to have been false.

204. By the time an officer arrived, Jacob Sadler decided to add two additional falsehoods: that the daughter had exposed herself while urinating and defecating in her front yard and that the daughter was not properly caring for Jane Doe, who was a vulnerable adult due to her dementia. As put by Sarah Sadler, Jane Doe "should be in a home," meaning

institutionalized and living elsewhere than the 1960 home.

205. After talking with the first officer to arrive at the scene, during which Jacob Sadler, as he and his wife had agreed, proposed that the officer remove the daughter that night, isolate Jane Doe from her caregiver, because the daughter was, as Sarah Sadler put it, "not an appropriate person to take care of her.mother, and has done a poor job of taking care of her mother." Defendants contend that the daughter was abusing a vulnerable adult, an assertion known by Defendants to be false and without any proper basis.

206. After that conversation, the officer removed the daughter from the 1960 home, as agreed, isolated Jane Doe from her caregiver, as agreed, but saw no evidence that the daughter was not properly caring for her mother. All officers maintained that Jane Doe seemed fine to them. One officer testified that Jane Doe told the officers, including the officer who first responded to the scene, that everything was "fine." Since the officers found no evidence to support the defamatory charge of the Defendants, that the daughter had abused her mother, the officer who first responded, to fulfill the agreement to remove the daughter that night, created a false charge of assault on a police officer, contended that the daughter was a danger to Jane Doe, and contended that Jane Doe needed a "better caregiver" than the daughter. Yet no charges were made about the daughter's care.

207. Once Defendants were aware that the daughter had been arrested, and that Jane Doe had been left without care, the Defendants made no provision for Jane Doe and gave her no assistance, reflecting both the agreement to do so with the officer who first responded to the scene and the Defendants intention to compel Jane Doe to be institutionalized. They intended that she be isolated from all care, and had accomplished that objective with the help of the first

officer who responded to the scene.

208. Defendants were aware that the daughter's removal from the 1960 home was pretextual, and that no proper basis existed to remove the daughter, as Defendants falsely claimed. Defendants were aware that their charges about the daughter were false, and lacked any proper basis, and reflected Defendants' admitted complete ignorance of Jane Doe's medical care.

209. Defendants intended that the daughter and Jane Doe each be inconvenienced and injured in the exact manner in which each was inconvenienced and injured, although Defendants desired even greater inconvenience in that they failed to accomplish Jane Doe's being institutionalized either through their efforts in March, 2014 or their second attempt in September, 2014.

210. Defendants desired that Jane Doe be unable to care for herself for as long as possible, be isolated from her caregiver for as long as possible, and have as many ensuing health complications as possible from that isolation. Defendants also desired that the daughter be isolated from her mother, undergo the mental distress of knowing her mother was alone and unable to care for herself, to have the daughter unable to communicate with anyone who would listen about her mother's dementia, for the daughter to have no understanding what had caused a police officer to invade her home, isolate herself with the daughter, then attack the daughter in her bed when she told the officer she did not require medical attention and demanded that police leave the 1960 home.

211. The Defendants are extreme and outrageous people, with no concern for others if those others intrude on the Defendants' own projection of their entitlement to the Plaintiffs' property or to control the Plaintiffs' lives. Since neither plaintiff had asked permission of the

Defendants (a) before moving to the 1960 home, (b) before the daughter was "put in charge of caring for her mom," or (c) before the daughter modified the 1960 home to better care for her mother, and because the Plaintiffs' doing those things interfered with Defendants' desire that the 1960 home be sold, Defendants acted so as to retaliate by intentionally inflicting as much emotional distress on the Plaintiffs as the Defendants could arrange to inflict. Their means for doing so was a series of false statements, as alleged in detail above, on two occasions: in March, 2014 and in September, 2014.

212. Defendants hoped they had created a plan, which would conceal their identities as the source of the various false statements used in March, 2014, then hoped to collaborate with the retaliation by the agents and officials of the City of North Charleston to institutionalize Jane Doe.

213. Defendants failed in each attempt, but did succeed in inflicting emotional injury, as they intended to do.

214. The conduct of the Defendants is atrocious, utterly intolerable in a civilized community, and is so extreme and outrageous as to exceed all possible bounds of decency. To promote their own material interests, Defendants used calculated false statements so as to create as much emotional distress as possible on Jane Doe and the daughter, hoping their doing so would remain undiscovered but have the desired effect of causing emotional harm to the Plaintiffs and institutionalizing Jane Doe. Planning to disrupt another family's struggles to cope with a loved one's incurable and terminal disease is an utterly intolerable objective that a civilized community cannot tolerate. Defendants not only planned that objective, they carried out that objective, through two separate efforts in 2014, and the Defendants in fact disrupted and

made more difficult the family's struggle to cope with Jane Doe's disease, as the Defendants explicitly intended to do.

215. The Defendants fully intended the emotional distress they inflicted on the Plaintiffs. Their objective was to cause injury to Jane Doe, compel her to be institutionalized, which would vacate the 1960 home and cause it to be available for purchase.

216. The Defendants were aware of Jane Doe's dementia, how it confused her and disabled her from managing her own affairs, knew of Jane Doe's dependence on her daughter caregiver, and knew the extent to which her daughter had rearranged her life to care for her mother. But no one had asked permission of the Defendants before the daughter "was put in charge of caring for her mom," so Defendants treated the Plaintiffs as being of utterly no consequence as human beings, and regarded the Plaintiffs only as impediments to the Defendants desire to have the 1960 home sold.

217. The actions of the Defendants caused the Plaintiffs to suffer emotional distress, which did not end when the daughter was able to return home. That distress continues to this day and will continue into the future.

218. The distress suffered by the Plaintiffs was so severe that no reasonable person could be expected to have endured it. Jane Doe quickly became confused without her daughter's steadying presence, as Defendants intended she would. She required hospitalization, but the Defendants failed in compelling the 1960 home to be vacated, as they planned. When Jane Doe was discharged, it was back to the care of her daughter. The Defendants had succeeded in accelerating the burdens on the daughter and Jane Doe's entire family for Jane Doe's care, and in making that care more difficult, with its additional emotional stress. All of this was intended by

Defendants, and reflects their callous and offensive disregard for the Plaintiffs.

219. The daughter was diagnosed by a mental health professional with cognizable injuries, physical and emotional, stemming from the actions of the Defendants and the North Charleston police.

220. Defendants cooperated with the North Charleston police to add to the daughter's burden of caring for her mother by aggravating the mother's condition, and increasing its severity. The daughter also eventually realized, once the role of the Defendants became known, that the 1960 home had as neighbors people of surpassing arrogance, and ignorance, and hostility, sufficient for the Defendants to believe that they were entitled to control, and toy with, the manner in which Jane Doe's family struggled with the burden to care for Jane Doe while Jane Doe suffered the ravages of dementia caused by early onset Alzheimer's disease.

221. As they intended, Jane Doe was isolated from the daughter and Jane Doe had been put, as Defendants intended, in a position of being unable to care for herself. As Defendants intended, the daughter was put in isolation from Jane Doe and was unable to communicate for any other family member to assist Jane Doe. Defendants intended to inflict that emotional harm on the Plaintiffs, Jane Doe to feel isolated and the daughter to be distressed at her mother's inability to toilet herself, prepare food for herself, understand the events of the daughter's removal, and, because all of the doors had been locked by police with Jane Doe inside, unable by herself even to escape the house should she need to in an emergency such as a fire.

222. Defendants intended to cause emotional distress to both Jane Doe and the daughter because Defendants desired to injure the Plaintiffs for their own pleasure and to cause

the 1960 home to be vacated.

223. Defendants did nothing for Jane Doe after isolating Jane Doe from her caregiver, despite Jane Doe's known problems. Defendants intentionally injured Jane Doe and the daughter.

224. Plaintiffs are entitled to actual and punitive damages from the Defendants, in amounts to be assessed by the finder of fact, for the emotional distress they intentionally inflicted.

Request for Jury Trial

225. Plaintiff requests a trial by jury for the allegations above.

Relief Requested

WHEREFORE, plaintiff requests damages for each of the causes of action set forth above, that all costs of this action be taxed against the Defendants, that all factual issues be decided by a jury, for special damages for the damages alleged uniquely to the conspiracy cause of action, and for such other and further relief as the Court and jury shall deem just and proper.

Respectfully submitted,

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STATE OF SOUTH CAROLINA	IN THE COURT OF COMMON PLEAS
COUNTY OF CHARLESTON	CASE NO. 2014-CP-10-4591

Jane Doe 202, through John Doe MM and John Doe HS, each of whom holds power of attorney for Jane Doe,

Plaintiffs,

vs.

City of North Charleston;
Leigh Anne McGowan, individually,
Charles Francis Wholleb, individually,
Anthony M. Doxey, individually;
Howard Thomas, individually, and
Michael Kouris, individually,

Defendants.

FILED
2015 AUG 19 PM 12: 19
JULIE J. ARMSTRONG
CLERK OF COURT
BY

Certificate of Service

I hereby certify that I have a served a copy of the enclosed

Amended Complaint

by causing a copy of the document to be placed in the United States mail, first class postage pre-paid, addressed to:

Jacob Sadler
Sarah Sadler
5346 Hartford Circle
North Charleston, SC 20405

Done August 17, 2015

Gregg Meyers
Jeff Anderson & Associates, P.A.
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REACHING ACROSS TIME FOR JUSTICE

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August 17, 2015

Julie Armstrong
Clerk of Court for Charleston County
100 Broad Street
Charleston SC 29401

Re: Jane Doe 202, by her POA and Daughter Doe 202 v. Jacob Sadler and Sarah Sadler

Dear Julie:

Enclosed for filing is an original and one copy of an Amended Complaint in the above-referenced matter. Also enclosed is an original Certificate of Service. Please file the original documents and return to me a file-stamped copy.

Best personal regards,

Gregg Meyers
Gregg@Andersonadvocates.com

GM:tld
Enclosure

cc: Jacob and Sarah Sadler, w/enclosure

OFFICE: 651.227.9990 / FAX: 651.297.6543 / WWW.ANDERSONADVOCATES.COM / 366 JACKSON STREET, SUITE 100 / ST. PAUL MN 55101

STATE OF SOUTH CAROLINA COUNTY OF CHARLESTON	)))	IN THE COURT OF COMMON PLEAS CASE NO. 2014-CP-10-4591
Jane Doe 202, through John Doe MM and John Doe HS, each of whom holds power of attorney for Jane Doe, Plaintiffs, vs. City of North Charleston; Leigh Anne McGowan, individually, Charles Francis Wholleb, individually, Anthony M. Doxey, individually; Howard Thomas, individually, and Michael Kouris, individually, Defendants.	)))))))))))))))))	FILED 2015 AUG 19 PM 12: 19 JULIE J. ARMSTRONG CLERK OF COURT BY

Certificate of Service

I hereby certify that I have a served a copy of the enclosed

Amended Complaint

by causing a copy of the document to be placed in the United States mail, first class postage pre-paid, addressed to:

Jacob Sadler
Sarah Sadler
5346 Hartford Circle
North Charleston, SC 20405

Done August 17, 2015

Gregg Meyers
Jeff Anderson & Associates, P.A.
366 Jackson Street Suite 100
Saint Paul, MN 55101
651-227-9990
gregg@andersonsadvocates.com

From:	Gregg Meyers <Gregg@andersonadvocates.com>
Sent:	Tuesday, September 22, 2015 7:01 PM
To:	Julia M. Flumian
Subject:	98 items, reduced version
Attachments:	2015-09-22 - Notes to Julia.docx

Gregg Meyers
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CONFIDENTIAL AND PRIVILEGED SETTLEMENT DISCUSSIONS UNDER SCRE 408.

I regard this letter as completely privileged by SCRE 408 as statements made in compromise negotiations, as will any documents I get from you in this process, at least up to a settlement agreement and possibly including any settlement agreement.

This writing may not be shared with your clients. It may not be shared with Sandy Senn or Chris Dorsel or anyone representing my opponents in other cases. It is confidential, for you only. You will have to discuss it with your clients, but I do not want any version of this document circulated, as the document is part of our settlement discussions.

Pursuant to our discussions about possible ways to resolve this action, I have laid out below a series of topics for clarification. I am sorry it is so long, but I have tried to be exhaustive among the sources of the Sadlers' testimony and their interactions with Sandy Senn and the police officers.

1. Has there been any communication by either of the Sadlers with any of officers McGowan, Doxey, Wohlleb, Howard Thomas, and Kouris, the defendants in the pending 2014 case for [redacted]?

2. Has there been any communication by either of the Sadlers with NCPD Deputy Chief Coyle Kinard?

3. How does Jake Sadler or Sarah Sadler, or the both of them, know Ashley Scott? From what context are they friends, as has been represented (by Sandy Senn and Jake) that they are?

4. What was the conversation Sarah Sadler had with McGowan on the day of Sarah's deposition? A writing reflecting that, in as much details as is available, would be helpful. If we can conclude this informally, then I would like an affidavit about it.

Let me work through the testimony each of the Sadlers gave, item by item.

5. P. 8. Sarah contends she's had no contact from Ms. Senn. Would she agree that she had contact with Ms. Senn indirectly, since there were emails from Senn to Jake prior to that answer being given, and Jake discussed things with Sarah. If she wants to distinguish no direct contact that is fine, but is the most accurate answer not that she had been in contact with Sandy Senn through her husband Jake?

6. P. 9. Sarah omits any reference to talking with Jake when she summarizes the family members with whom she spoke, yet later she agrees she talked with him. Would she agree that she had spoken to him, and he had spoken to Sandy Senn, about the events of 3/27, and had done so prior to her deposition on 9-3-14?

7. P.14 – she testified to their own home renovations to kitchen, laundry, bathroom, new roof, and that they replaced two windows for energy efficiency. She was newly pregnant at the time of the deposition, so I assume by this time there may be some other modifications they have by now made. Has there been anything else at this point by way of renovation to their house?

8. P.15 – does she still work for MAPS (Multi-disciplinary Assn. for Psychedelic Studies)? Does MAPS still engage in studying psychedelic drugs for medical treatment?

9. P.20 – does she still maintain that she would be "grateful" if someone called the police on her? Would that be true if the person who called police made up false information to give police, and told them something that was not true? Such as telling police falsely that that the Sadler dogs were being abused or neglected? Or that the Sadlers were abusing their child? Would she be "grateful" for a call like that? That is the parallel of the call they made.

10. P.28 – are there any other phone calls since her deposition on 9/3/14 that she or Jake have made about 5345?

11. Had Sandy Senn disclosed to Jake and Sarah that she had voluntarily withdrawn her "emergency" motion of 9/2/14 to try to remove the mother from the home? Sandy Senn's emails suggest she had no choice but in fact the motion was withdrawn voluntarily. It tells me more about Sandy's conduct than theirs to know that, which is why I ask.

12. P.32 – Sarah states she does not know what [redacted]'s capabilities are. Does she appreciate that [redacted] has a complex disease being managed by experts at MUSC and Sarah know far less than those experts do about [redacted]'s care and what she needs? Would they agree to defer to the family for providing [redacted]'s care? Many people think you can just drive an Alzheimer's patient to a nursing home and that's all there is to it — are they aware it doesn't work that way?

13. P.32-33 – Sarah relates the day [redacted] was looking for her second dog. There is no second dog. [redacted] would confuse the cat with being a second dog, or perhaps she couldn't that day recall the word "cat." Did either of the Sadlers inform Parker of that instance of [redacted] being confused about a "second dog?"

14. P.33 – Sarah relates an instance where [redacted] "headed down the street." Did either of them inform Parker of this instance of her mother wandering?

15. P.35 – Sarah says she saw a home health nurse "one time." At p.36 she admits she has "no idea what the arrangement is for ████'s care." In fact, there were many different people who came to the house for ████ that simply went unnoticed by the Sadlers. Will they concede there was ample room for that among their sporadic observations?

16. At p. 37-38 she agreed she never helped with ████'s care, or appointments, or getting her anywhere. Does she now contend anything different?

17. P.46 is where she testifies to Jake telling her that Parker is committing the crime of "peeing – or she's using the bathroom in the front yard." This needs to be clarified as to what they saw and didn't see. And when we get to Jake, he needs to get very precise about what he saw and what he presumes.

18. P.48 – Sarah testifies to a concern about where ████ was and described herself as "laying there stewing about what was going on over there." All the Sadlers see is their neighbor apparently locked out of her house, so I am trying to understand how and why they project any concern for ████ when they are looking only at Parker being apparently locked out, and hearing only Parker call to her mother. There was not in fact any conflict happening between Parker and ████.

19. P.50 – the transcript reflects Sarah testifying they didn't want to be "noisy" neighbors, which I assume she intended to be "nosy." I know they want to think of themselves as wanting only "someone to go over there and make sure everything was okay." (Also p. 50). The problem is that they got out of that role and into an advocacy role when they continued to argue, in September, 2014, that ████ should be removed and placed in a "home."

a. Will they agree the disturbance was over by the time they made the call? None of it is in the background of the audio recording of the call to police.

b. Jake reports a "family dispute." There was no dispute. Will she agree that their report was not as accurate as it could have been? That "dispute" and who-locked-who out overstates what they saw?

20. P.51 – Sarah stated she was "worried" about "what on earth could be happening over there." Will they agree they did not consider the simple possibility that Parker was accidentally locked out?

21. P.51 and 52 – Sarah agrees there was no "screaming" after the police were called. She testified (p 51) that Jake "didn't want to be involved," and Jake talked about how he went to some lengths to try to keep the public records from disclosing that he had made the call. If they were only trying to help, as opposed to trying to get Parker into trouble, why do they have any reason to try to hide their involvement? Was there an effort by Sandy Senn before their depositions to get their help to build a record last

September so as to justify immediately removing ███ from the home, as Sandy moved the court the day before the depositions?

22. P.54 – Sarah here expresses her conclusions that terrible things must be happening because the inside of the house ("their whole living situation") doesn't look the way her presumptions and prejudices would expect it to. She says "this is the last straw for me." What were the other straws? She also testified that "someone needed to see inside of their house and see what was going on across the street." Police photos from Feb 2014 show no large changes made in the house, except carpeting removed. No large changes were made until ███ was hospitalized. Changes were made for ███, to accommodate ███'s diminished capabilities, to make the house safer for ███ (she had no falls after Parker arrived). Some changes were things ███ had always herself wanted to make. Wll they agree that ███'s family has to work within the resources ███ has, which are very few.

23. Please have the Sadlers list for you the "power tools" they claim to have seen in the house and be concerned about. After they do, I will send you the email I just today sent myself which lists the "power tools" Parker owns. The email is to my gmail address, attygm@gmail.com, is titled Power Tools, and that email is dated September 16.

24. Was Sandy Senn ahead of the depositions promoting the pejorative view the Sadlers have towards Parker? At p. 56 and at p. 60 Sarah testified that the call was made out of concern for ███. But once that arguably benign objective was satisfied, meaning once the police arrived and the police found no problems inside the house, and neither abuse nor neglect of ███, I am confused as to why that didn't satisfy them. They continued to maintain into September, 2014, six months later, that Adult Protective Services should remove ███ (e.g., Sarah at p. 84). What is that about, and is it about Sandy Senn promoting that idea to them ahead of their deposition?

25. P.54 – "she obviously was intoxicated." Meaning Parker. Jake is not certain of this even when he is talking to the police dispatch on 3/27/14. He speculates Parker "might be" intoxicated. He isn't certain. Would Sarah defer to Jake's recorded description during the call to police? Jake eventually attributes his presumption to his interpretation of Parker urinating or defecating in her front yard. But will Sarah agree she relies entirely on Jake and has no personal knowledge for this testimony?

26. P. 55 – Sarah here lists the things that gave her concern about ███. Add them up and see how they equal a description of a person with Alzheimer's. Remember, we start with ███ living entirely on her own, able to wander at will. Parker arrived, and negotiated preventing her mother from doing that. Sarah lists ███ wandering (p. 54-55), and (later) for ███ not being seen, for not wandering. On p. 55 she blames Parker for ███ being "very dirty," and "having some major issues," and ███ not dressing as "very put together," and "Sam Huggins was no longer coming over every day," which add up to Sarah being "very concerned about what was going on over there." Welcome, Sarah Sadler, to aggressive early onset Alzheimer's. People with Alzheimer's stop bathing. Nor do they want to be bathed by others. This is all standard

Alzheimer's information. Would Sarah agree that she is not as well educated about Alzheimer's as are [redacted]'s doctors, and [redacted]'s family?

27. P. 55. Sarah testified that what happened on March 27 was "someone beating on the front door intoxicated in the night, screaming and using the restroom." I assume some major clarifications are in order to be very accurate about what was and was not seen.

28. P. 56-57. Sarah admits she doesn't know of [redacted]'s medical care, and agrees it is Parker who takes [redacted] to her appointments, but then says, "I don't know of multiple reoccurring appointments that Parker is taking her to," suggesting that perhaps that is not in fact the case. In fact, Parker has taken [redacted] to regular appointments at MUSC. [redacted]'s doctors will say [redacted] is fortunate to have Parker caring for her. Will the Sadlers concede that if [redacted]'s doctors are satisfied with Parker's care that the Sadlers should be, too? And that it is not their business?

29. P. 57 – Sarah agrees Parker was removed by police but claims Parker was able to return "in the morning." (On p. 83 she concedes Parker's return "maybe it was a little later in the day.") Will they defer to records which show she was incarcerated until after 3 p.m.? Do they appreciate that their supposedly benign purpose of getting help for [redacted] left [redacted] entirely alone, confused about why her daughter had been forcibly removed in the night, where her daughter was, unfed till about 2 p.m., (when Sam Huggins arrived), and unbathed and untoileted till about 5 p.m. when Sam could get Parker home?

30. P. 58 – Sarah says Jake later called the city to find out "what had happened." Will she defer to Jake's testimony that he tried to make sure his name wasn't associated with the call?

31. P. 60 – Sarah testified that she wanted someone to get inside the house "to make sure [redacted] was okay," and she had a secondary concern that Parker was locked out. Those are legitimate purposes that I have no quarrel with, if the rest of the pejoratives can be shed.

32. P. 61. She relates Jake's account of the "scuffle" inside the house in a way that is fine.

33. P. 61. She refers to the "big lock" on the front door. This isn't a lock at all, it is a relator's key safe, so the home health workers and others who visit can get the key to the front door and let themselves in. [redacted] is not being locked away, but given more access to people through Parker's efforts.

34. P. 63-64-65. Sarah related that before March 27, [redacted] "very easily" lost her train of thought, and "her appearance has changed a lot," and agreed her "capabilities have diminished," and was 'obviously not bathing." From this Sarah concludes [redacted] is "***someone having a severe form of Alzheimer's who's not being***

cared for." On p. 65 she says that if [redacted] was being cared for "she would be clean" and she "would be clothed properly," meaning not in pajamas. Will she defer to [redacted]'s doctors on the quality of Parker's care?

35. P. 67. Sarah testified that "the condition of the house and the condition of" [redacted] meant also that the home health nurse wasn't caring for [redacted]. Will she defer to [redacted]s doctors about Parker's care of her mother?

36. P. 67. Sarah testified about the "cleanliness" of the house deteriorating, meaning the carpeting that had been pulled up. She argues that the house had a "dramatic change" in its cleanliness, and says it was "such a dramatic change, that it was shocking." It is true that many changes were made to the house, but the large ones were made to benefit [redacted] and most were made only after [redacted] was hospitalized. The carpeting was removed not, as Sarah presumes, "because the dog urinated in – used the bathroom throughout the house," but for [redacted]'s benefit. It was better for her footing. It made the house ***easier to clean*** when [redacted] would spill a coke or forget and leave an ice cream container out to melt, for example.

37. P. 71 – Sarah testified that she'd had no contact with Parker and hadn't seen [redacted] since March 27. Given that, will Sarah agree that she has no basis to continuing to insist that [redacted] needed to be removed and Parker was committing felony neglect?

38. P. 73. Sarah testified that Parker was gone at night, "after dark, often." Even if this was pertinent, or Sarah's business, it is completely untrue. Jake explains that when Parker pulls her car into her driveway, the end of the drive curves around a tree that blocks the Sadler's view of her car (page 95 and 96 of Jake's deposition). Will she agree that it is impossible to know if Parker is home or not? Parker and [redacted] tended to retire about 8 p.m., so the house was usually dark very early. At other times [redacted] and Parker were both out together visiting family. Sarah has to agree that she knows nothing of Parker's habits, that her habits are none of her business, and that she has no idea how frequently Parker is or isn't home.

I would like the Sadlers to email you a photograph taken of Parker's house from inside their home, looking through the small window of their front door. That is the window Jake used to observe Parker's conduct on March 27.

39. P. 73. Sarah entirely speculates that Parker "maybe had a boyfriend, and there was a car. Again, I don't know," but then agrees that that when she "may have had a boyfriend" was in March, 2014. The truth is that everyone who came to the house was a person engaged in some fashion by Parker, for either Parker's business or [redacted]'s care. Will Sarah please be more precise about what she sees versus what she projects?

40. P. 74. "We have seen a car there overnight, which led us to think she may have a boyfriend." Incorrect conclusion from visits by friends and family. Friends and family are, after all, allowed to visit.

41. P. 74 – Sarah describes as "her biggest concern" that "there's someone across the street that needs care or maybe shouldn't even be over there alone. They should be in a home." Will she defer to the doctors about the level of care [redacted] needs, and the care Parker is providing?

42. P. 75. Sarah again refers to the "real estate lock" on the front door, apparently not understanding that it is a key safe, not a lock. She also says "I don't see people using that door anymore." This is incorrect, as that front door is now the only routine way in and out and the other doors require overcoming the fence (and locks) to reach them.

43. P. 77-78. Sarah testifies that "[redacted] was very fearful and said repeatedly, Please don't tell Parker that I can't – I've lost the dog. Please don't tell Parker about this. She will be so mad at me. She was very frightened that we were going to tell Parker what had happened." I can't dispute that testimony if it is true, although no one else reports any conflict between Parker and her mother. But will Sarah appreciate that first, there is no second dog, and second, that it is very common for an Alzheimer's patient to be confused and paranoid, especially about the person who gives them care? Or at least defer to [redacted]'s doctors about her conduct and her care? This testimony was used by Sandy to bolster the officer's claim that [redacted] was 'fearful" not of the three strangers who broke into the house at 10:30 p.m. but of the daughter who had cared for her for 16 months, so the Sadlers in this aspect are also contributing to the attack on [redacted] and her family.

44. P. 78. "[redacted] was concerned that Parker was frustrated with her for things she had said. Parker was mad at her. I've heard [redacted] say that a number of times, that Parker was mad at her." I'd ask for Sarah to defer to doctors about whether such statements can be a manifestation of her Alzheimer's and that [redacted]'s doctors are in the best position to evaluate [redacted] and the care she gets from Parker. Sarah should know that none of the home health nurses report anything remotely similar over the months they visited regularly.

45. P. 79. Sarah testified that when Parker's computer was stolen "it was down the street with someone that they knew." This is entirely false. The computer was stolen, and it was stolen by people in the neighborhood, who had apparently been observing the house. That Parker or [redacted] or the Huggins family knew the thieves is entirely a creation of the Sadlers. Jake also projects this, in his deposition. It is false. Will they admit they don't know that? The attribute it to Parker and [redacted] so will they admit they might have this detail confused?

46. P. 80-81. Referring to the February, 2014 burglary, Sarah testifies, falsely, that it was not unusual for Parker to be gone at 11:30 p.m., when it is not even common for Parker to be awake at 11:30 p.m. Will she agree both that Parker's comings and goings are not her business, that she kept no track of those comings and goings, that

she defers to ███'s doctors on ███'s capabilities and the care she needs, and the care she gets from Parker, and cut the pejoratives?

47. P. 82. Sandy picks up, with no disagreement from Sarah, "the incident where Parker was urinating in the yard." This needs to be rejected as outside their knowledge in any form in which it arises. I understand that it is most accurate to say that they didn't in fact see that.

48. P. 83. Sarah testifies again that she has "seen her car not be there at night. And gone to bed, and in the morning not seeing her car." From this Sarah presumes that ███ has been left alone overnight. Parker has NEVER left her mother home alone at night. Will Sarah agree that she kept no systematic track, that it was none of her business, that if Parker's car was gone at night she doesn't know that Parker and ███ weren't both gone together somewhere?

49. P. 84. "I feel like somebody should be living that's 100 percent for her [meaning ███] and does not have a job or any other obligation." "Or she [███] should be in a home." Because it isn't "safe" to leave ███ and "social services should be called at this point," which she explains by saying, "Considering the state of the house and her, yes I do." This is the odd doubling down on their supposed "concern" for ███. Will they defer to ███'s doctors and the various people assisting Parker with ███'s care? I'd also ask them to consider the financial realities of long-term Alzheimer's care. Will Sarah concede she has no information on the resources involved in doing that, and those questions are best left to ███'s family and her doctors?

50. P. 85. Sarah gratuitously criticizes Parker's "care for the yard," which Sarah describes as "night and day" from what it used to be, and states it as "another reason why I feel like the house has gone downhill dramatically." On p. 91 she attributes it to Parker telling them she ended the lawn services "because it "wasn't worth the money." The yard services were ended because the noise of the equipment scared ███. Will Sarah defer to ███'s doctors on whether ███ needed a certain type of yard care?

51. P.92. Sarah says overtly that Parker is "not an appropriate person" to care for her mother, has done a "poor job" of caring for her mother, and that her motivation on March 27 was that she "wanted the police to go there to see her [███] and see the inside of that house," "and see Parker intoxicated and question Parker." This seems pretty malicious. There is no history to support it. Will she concede this is not their business, that the doctors are in the best position to evaluate ███'s care and Parker's care for her, and that it goes beyond any simple concern for ███ to aspire to have Parker "questioned" and to get her in trouble. This is outside of the "good Samaritan" role that Sandy Senn tries to convince them they are performing.

Deposition of Jake

52. P. 32. Starting on p. 31 Jake describes entering 5345 Hartford Circle in response to [redacted] looking for her "missing" dog, and being "fearful of her daughter, Parker, finding out that the dog was missing." Since there is no second dog, and there has never been a second dog, will Jake agree that it is entirely possible that the entire conversation reflects [redacted]'s confusion, as to both number of dogs and supposed fear of Parker finding out that [redacted] has "lost" the non-existent dog? At p. 86 is explains that "[redacted]'s seeming fear when I talked to her about the puppy being missing," as explaining why he presumed [redacted] had locked Parker out of the house. But it's all the imagining of a woman with Alzheimer's. Will Jake agree there is no chance in reality that [redacted] could have conflict with her daughter over a missing second dog, or fear from her reaction of a missing second dog, when in fact there is no second dog to go missing? [redacted]'s medical records reflect distortions in her perceptions.

53. P. 33. Jake relates why he "had reason to believe" there were two dogs, which was that "Parker had indicated that she may acquire another dog." This was never a plan of Parker's. There was never a second dog. Might Jake concede that most likely he confused Parker's acquiring the small dog of which he is aware, which Parker acquired for her mother (as good for her mother's condition), with his thinking the acquisition comment was about a second dog?

54. P. 34. Jake here testifies about the "deconstruction" that he observed in the house, and he lists on p. 34 and 35 seeing "quite a bit of carpet had been ripped up," an electric sander, cabinets that had been sanded, cabinets that were painted, sporadic painting, "tools sitting around," a "stair rail had been ripped off," meaning "pulled off." On p. 54 her refers to "so much construction or deconstruction going on."

The problem with this testimony is that there have never been a set of "power tools" in the house, and, other than carpeting being removed, the alterations happened in the house only after [redacted] was hospitalized on March 29, so these alterations can't form the basis of any concern for [redacted] on March 27.

Is there a person Jake is relying on for the condition of the interior of the house, or was he in fact went into the house after March 27, which is what appears to have been the case.

55. P. 39-40. Jake describes [redacted] as being "disheveled, not looking herself, not well-kept, not well-groomed, not speaking clearly, speaking of things that necessarily didn't make sense" when she spoke to him. Does he agree those are consistent with a person with Alzheimers, and will he defer to [redacted]'s doctors to discuss those conditions without presuming it equals poor care?

56. P. 41. Jake testified that he does not know that Parker moved to 5345 to care for her mother. Does he contend she moved for any other reason? (She didn't, but I would like to know if he contends otherwise).

57. P. 46. He testified to Parker urinating and "pulling her dress up." He needs to clarify what he did and didn't see, as there is no chance he actually saw Parker urinating or defecating. She was wearing a pencil skirt, so had to pull her skirt down each time she stooped. Would he agree that what he saw was her pulling her skirt down and that he was presuming the rest?

58. P. 46. He testified the lights of the car were on, which he says meant "The headlights and the interior lights," but then he later agrees he doesn't know which lights were on. No other witness has described the headlights as being on. Would he agree that he may have been confused about the headlights being on? Or does he have a particular recollection about the headlights being on for some time and then being off?

59. P. 47. Jake testified that he called "the police," as opposed to calling 911. I had presumed he called 911. A police witness explained to me that you can tell from the way the call was answered that the call was to police, who then linked him to the county dispatch operator.

60. P. 51. Jake is not sure but he thinks he related to officer McGowan at the scene about Parker urinating in her yard. There is no mention of it in the dispatch audio, but if he related it to the officer then Jake will certainly be called as a witness by the defendants, as they are so intent on attacking Parker. If it is possible for Jake to be definitive that he didn't relate that detail, that would be good to know. If he can't be precise, or he can and knows he did, it would be helpful to know that. But that detail, being absent from the dispatch tapes, will get him called to trial, I am pretty sure, by the defense.

61. P. 70. Jake testified he "had reason to believe that it may not be the best living situation for an elderly person who was suffering from dementia," referring to [redacted] and her home. Will Jake agree to defer to [redacted]'s family and doctors and the other professionals assisting [redacted]'s care about what she needs, versus his opinions about the house mattering in any way to that question?

62. P. 74. Jake refers to "based on the behavior I had seen in the urinating or defecating in the yard...." On p. 75 he says it was one of the other, "urinating or defecating." On p. 76 he says he saw "Pulling up her dress, seeing her underwear down around her ankles, pulling them up. Or pulling up something and pulling down a dress." Then later, he backs off a bit, "she may have just pulled down. But either way, her dress was up above her waist, and she [sic] pulling it down." "[S]he was in a squatting position when I initially saw her. You know, feet in front of her, squatting down, and then, when I – shortly after I observed her, she got up, and pulled her skirt down. She had the skirt maybe, up above her knees. Around knee-length." Then he agrees he saw no underclothes, and says "really recall the down motion, of the dress coming down." On p. 84 he says this behavior is why he concluded that Parker was intoxicated.

This will have to be clarified to be very precise as to what he saw and didn't see. Parker was wearing a pencil skirt, and any time she stooped, to put down her items and to pick

up her items, she had to push her skirt down. That may be consistent with what he saw, but his elaborate detail moves around quite a lot and it needs to be clarified.

63. P. 77. Jake testifies Parker is "not best suited" to care for her mother, because of "the frequency of her being at the home, and how often she was away from home – her car was not at the home, at least," which he says is "in contrast to her brother." He means (he explains) Sam Huggins, who came by, at most, for a short daily visit before Parker moved in. [redacted], of course, was more capable when Sam was dropping by, and at no point did Sam live with [redacted], so Sam was never there but a fraction of the time Parker was there on any given day. Yet Jake testifies on p. 78 that Sam is at the home more frequently than Parker, when Parker lives there and is there every single day whereas Sam came by occasionally. Would he agree to defer to the family, [redacted]'s doctors, and the various people caring for [redacted] on what [redacted] needed and what Parker was providing?

64. P.78. Jakes testifies about Parker, "had a unique lifestyle," "lived overseas," had married a gentleman as an art project. Never had met him. Just wanted to live over there. Had been asked to leave the country. Wouldn't be permitted a Visa because she didn't attribute economically as the country would have her do." This is all incorrect. Then he describes her as not "stable," and not "around as often." Will he defer to Parker to explain the actual history?

65. P.78-79. Jake complains that [redacted] was "not ever visible, never leaving the house, very rarely at least, was cause for some concern for me." Although [redacted]'s world was shrinking, as it must given her disease. Will he defer to Parker to explain how she arranged her work life to be able to check on her mother during the day (p. 79), for example? He also agrees that from time to time he'd see a car in the drive that might have been a home health nurse. (p. 79). In fact, there were months of multiple, weekly home health visits.

66. P. 80. [redacted] had given him her phone number but he had misplaced it. So he had no means of calling her. If one Googles "Sam Huggins North Charleston," you get on the first page of results his address (in Hanahan) and his phone number. Will jake concede that had the means of calling Sam Huggins, or of helping his neighbor (as he agreed (on p. 17) one ought to, but that instead, he called the police? He admits he never just walked across the street to see how [redacted] was doing. P. 83.

67. P. 80. Jake attributes to Parker, through Parker's cousin, Austin, that Parker is the "black sheep of the family," and (p. 82) that Parker is a "wild card" and that "her relationship with the family seemed to be somewhat strained." In fact, Parker and her entire family are close, and she is close with Austin. Sam Huggins is in charge of [redacted]'s health care, as her HCPOA, and Sam thinks Parker has done a fantastic job of helping [redacted]. Will Jake defer to Sam Huggins on the quality of care Parker gives [redacted]?

68. P. 84. In the course of testifying about why he didn't just walk outside to help Parker, he gives a list of things, including that his wife was pregnant, But of course, in March, 2014 she wasn't pregnant. She was newly pregnant in September, 2014.

69. P. 85. He thinks he "probably" (p. 86) related to McGowan on the scene that [redacted] must have locked Parker out because "perhaps she was trying to stay protected from her daughter." He concedes no history of conflict across the street, no prior arguments. Will he agree he simply didn't consider the possibility that the door lock (the hardware for which was old, and failing) had caused Parker to be accidentally locked out and it was no more complicated than that?

70. P. 87. Jake testified that the family "were hesitant to turn the home over to Parker." He also (same page) gives his criticisms of the "haphazard" way the changes were being made in the house. Sam Huggins will not agree with this testimony. Will he defer to Sam Huggins on each of these subjects?

71. P. 88. Jake's most outrageous comments about Parker are on this page. He thinks she can "get herself dressed and go to work," but he then infers she has brought criminals to the neighborhood and says it is "more than a coincidence" that her house was twice burglarized "right after she had moved in." This is the same idea Sandy Senn was promoting in her emails— was she promoting that idea to them before the deposition? What were the Sadler contacts with Sandy Senn before the post-deposition emails? What evidence does Jake have that Parker has caused any "element" to come to the neighborhood? If it was suggested to him by someone else that he should make such comments I would like to know. Parker moved to the neighborhood on November 1, 2012. The break-ins were 9/28/13 and 2/8/14, hardly "right after she moved in." Other police reports connect to the house before Parker ever lived there. Crime happens in this neighborhood. It is still happening in this neighborhood, as indicated recently by the Post & Courier. Will Jake agree that this testimony is entirely speculative?

72. P. 89. Jake testifies Parker "would not be best suited for caring for someone else." Will he defer to the family on how [redacted] is cared for and by whom? He essentially defers to Sam on p. 91-92, until he takes it back later on p. 92.

73. P. 90. Jake accuses Parker of a "degree of instability," and says she was "yelling, with [her] lights on, urinating and defecating in the front yard." Will he confine himself to what he actually saw, retract all of the defamatory insinuations and connotations, and agree that what he saw is consistent with Parker being accidentally locked out?

74. P. 91. Jake here proposes that "Parker may have had a couple of love interests that she brought over." Will Jake agree he is entirely speculating? Will he agree this topic is none of his business? Does he have any basis to challenge that everyone who came to the house was employed in some fashion by Parker's company or for her mother?

75. P. 92. Jake testified not just that the didn't see Sam Huggins, but that the family visits "were all stopped," as if he knows. Sam Huggins does not agree. Jake says on p. 93 he has no idea how involved Sam Huggins is in working with Parker to care for [redacted]. Since Sam is HCPOA he has to be involved. Will Jake defer to Sam Huggins for issues about [redacted]'s care?

76. P. 94. On cross, jake agrees that he believed that Parker was not "stable or safe" for [redacted]. Will he agree he actually knows nothing about this, it is utterly none of his business, that he has no basis for presuming Parker has not given [redacted] excellent care, that his testimony is completely speculative, and that he defers to Sam Huggins on the family's efforts to care for [redacted], and to [redacted]'s doctors for [redacted]'s care and the quality of Parker's care?

77. P. 95. Jake presumes he knows, so testifies as if he knows, that Parker's car is "gone at night" "much more frequent than now," meaning more frequently before 3/27/14 than after 3/27/14. On 96 he testified that where Parker parks her car makes it impossible to know if she is home or not, because it can't be seen from his home, yet he presumes she is not at home, and presumes she is doing something wrong. Records bear out that Parker was routinely home early each day, and retired early each day. Will Jake agree that he is speculating? Was he asked or invited to do so by Sandy Senn? Sandy disclosed to the court that she got the case August 4, 2014. I am interested in her contacts with Jake on and after August 4.

78. P. 96. Jake testifies, on one hand, that he doesn't know if [redacted] is safe or not, then lists the reasons why he concludes she is not, all of the reasons speculation. "I don't think she is in a good spot if Parker is taking care of her." Each of the Sadlers testifies that [redacted] is "unsafe" in Parker's care, but will they defer to Sam Huggins, the nurses, the adult daycare, the doctors involved in [redacted]'s care?

79. P. 110. Jake flushes out his testimony about Parker not being at home, and although he concludes Parker is not home, he qualifies that (a) he's often not home, and (b) when he is home, and has noticed Parker is not, he does not know if [redacted] is home. In other words, that [redacted] and Parker could be gone together, which has definitely happened as they have gone together to family events and doctor appointments and to just go out together. Will Jake agree that all of his observations can fit within both Parker and [redacted] being gone together, and he doesn't have enough information to be able to conclude either (a) that Parker was at any time leaving [redacted] alone at night or on weekends, (b) that [redacted]s capabilities to be left alone is necessarily a problem, and (c) that he defers to [redacted]'s doctors and family for the care she needs and the care Parker has given?

80. P. 112. Jake accuses Parker of "taking care of the dog, but not the mom." Jake will have to concede that he has no basis on which to have made this accusation, and that he defers to the family and [redacted]s doctors about the care [redacted] needs and the care Parker has given.

81. P. 112 – 113. Jake opines that [redacted] is not safe with Parker because "what little Parker seems to be home and Parkers sentiment towards her mother," and Parker's "not best suited to be cared for by Parker." He claims only two conversations with Parker but claims intimate disclosures that Parker "didn't have the best childhood." In fact, Parker and her mother were always close, which is pretty well documented. Will Jake defer to the family and [redacted]s doctors about the care [redacted] needs and the care Parker has given?

82. P. 114 – 115. No doctor has told me so far that an Alzheimer's patient needs a certain type of yard care. Jake testified it was "fair to contrast it [the yard care] with what went on before" in assessing if [redacted] is safe with Parker. On 115 he attributed to Sam Huggins, that "Sam had indicated some concern over Parker getting rid of the yard people." This is entirely false. Sam Huggins doesn't support it. Jake himself on p. 115 describes it as an assumption on his part. Jake complains about "a vine had grown up the side of the house," but that was an intentional planting done for good reasons. Will Jake defer to Sam about the care [redacted] needs, the care Parker has given [redacted], and the manner in which Parker has made changes to the house, inside and out?

83. P. 116. Jakes testified that he *assumed* that the relationship between Parker and her mother wasn't "healthy." He claims Parker "indicated some frustrations with her mother and the situation," which Jake assumes is pejorative. Surely Jake agrees that a person might be frustrated that her mother is dying from an incurable disease that slowly strips her of her capabilities? Jake testified that [redacted] was more isolated, when in fact she was LESS isolated but Jake isn't paying attention sufficient to know that. Jake has had almost no contact with Parker. Will he concede he has no basis on which to accuse Parker of not caring for her mother, or of having conflict with her mother, or of even assessing if their relationship is "healthy" or "unhealthy." In fact, Parker and her mother have long been close. Will Jake defer to the family and [redacted]'s doctors about the care [redacted] needs and the care Parker has given?

84. P. 117. "Systematically people were not present who were normally present," and "people were missing who normally were around." Jake is trying to make the case, I assume because Sandy has in advance asked him to, that [redacted] is isolated and implicitly in danger. The reality is that [redacted] had MORE contact with outside people after Parker got her mother diagnosed and made changes for her mother. Will Jake defer to the family and [redacted]'s doctors about the care [redacted] needs and the care Parker has given?

85. P. 118. Jake explains another of his "assumptions," that Parker moved to Amsterdam as an art project, "To see how not knowing someone and just being married to them would work." Entirely false, and none of Jake's business, but will he agree he had no business making pejorative assumptions, that none of this is any of his business, that none of it is pertinent to Parker's care for [redacted], and that he defers to Parker to explain her marriage and defers to [redacted]'s doctors and Sam Huggins to explain [redacted]'s care?

86. P. 119. Jake ends all this with reiterating that he doesn't know, but joins the attacks on Parker, as I assume Sandy Senn asked him to do ahead of time, to say, "I didn't see anything that would indicate any professional level of gardening ability there." The gardening has nothing to do with [redacted]'s care, but Sandy wants to discuss it. Parker's 2008 master gardener certification is not a professional certification. Nor is it claimed to be. It is an education level. Why this is the basis of an attack is hard to understand. Will Jake defer to [redacted]'s doctors about whether [redacted] needs a certain yard care for her Alzheimer's?

87. P. 122. Jake testified (in September, 2014) that he thinks someone needs to check on [redacted] as if police breaking in and finding nothing (in March, 2014) wasn't good enough for Jake. Will Jake defer to the family and [redacted]'s doctors about the care [redacted] needs and the care Parker has given?

88. P. 122. Jake testified that in addition to being concerned for [redacted]'s safety, he is "concerned for his safety" because he has given a deposition. "My wife's safety and my safety," is how he put it. At p. 123 he testified, "I don't have a clear picture of her mental state. Parker's." He presumes she has 'frustration over this issue," and (p. 124) "I'm concerned about my safety in my home and my wife's safety." We will have to disagree about this. There was no history of conflict until the Sadlers created conflict. Neither Sam Huggins, nor [redacted] nor Parker have taken any action against the Sadlers.

Sandy Senn's court filings say she got the defense of [redacted]'s 2014 case on August 4. I would like to understand when the Sadlers first talked with Ashley Scott, and what they were asked by Sandy Senn to testify about, and when they were asked. The emails after the deposition indicated communications before the deposition.

Senn Emails

89. Sandy Senn's 9-2-14 email to me at 5:25 pm was copied to Jake Sadler, among others. She must have permission from the Sadler lawyer to have communicated directly with their client.

A. The email attached an "emergency motion," Sandy had prepared which sought the court's help to (i) block the deposition of the Sadlers, (ii) get [redacted] immediately removed by the court from her home because "If the allegations as raised in the plaintiff's complaint are true, Jane Doe is not in a safe environment with her daughter as caregiver." Among her allegations was that "the alleged caregiver apparently leaves the vulnerable adult to fend for herself."

Sandy Senn of course needed a factual basis to make that allegation. That basis could have come only from the Sadlers, because no other person claims to have a basis for an opinion about that, whereas the Sadlers, on their own or because

Sandy Senn maneuvered them into it, were quite willing to attack Parker and feign a basis for it, even though they had no valid basis for doing so.

This means that Sandy either had contact with the Sadlers before September 2, or the Sadlers gave information to her prior to September 2 through indirect contact, possibly through their counsel, Ashley Scott.

I would like to know what the contact with Sandy Senn was prior to September 2 and what that information was that was exchanged.

If there was no contact, which seems unlikely, then I will need a signed writing which states that.

And if Sandy made any disclosure to the Sadlers, of any of the various information protected by court order, I would like to know that.

B. Sandy asserts in this email that Ashley Scott is Jake's "friend and lawyer." This is the reason I want to understand the context of that friendship, as requested above. Jake agrees with that on p. 4.

90. Sandy Senn's 9-2-14 email to me at 7:38 p.m. was also copied to Jake Sadler and his lawyers. It complains about the depositions going forward.

A. Were the Sadlers ever told that on August 14 I had asked Sandy Senn (by email) if the 9/3/14 date for the Sadler depositions was agreeable, and then got no response from her?

B. Did Ashley Scott ever inform the Sadlers that I offered to let her give me an affidavit about their communications with the police at the scene and that she failed to pursue that option?

91. Sandy Senn's 9-2-14 email at 8:28 p.m. was sent to Jake and his lawyers. It informs Jake that Chris Murphy will call Jake before the depositions. The email from Chris Murphy to Sandy Senn at 8:31 p.m. indicates that it will be Ashley who makes the call, not Chris Murphy. Is it correct to understand that Sandy Senn asked Chris Murphy and Ashley Scott to communicate fact information to Jake Sadler? I am not asking what his counsel told Jake, but what Sandy Senn told Jake's counsel to tell Jake.

92. Generally, in the communications prior to the deposition date, 9/3/14, what subject requests were made by Sandy Senn for the Sadlers to address in their testimony?

93. Sandy Senn's 9-3-14 email at 8:09 p.m. to Chris Murphy and Ashley Scott and Jake Sadler reports on the depositions having gone "smoothly," and informs counsel that Sandy will communicate directly with the Sadlers in the future. Had Sandy Senn arranged for Ashley Scott to represent the Sadlers, as this makes it appear?

94. Sandy Senn's 9-3-14 email at 8:18 p.m. to Jake Sadler alone, the "Thank you" email, is presumably thanking him for testifying. Had there been contact about what the testimony should be that she is thanking him for giving?

She tells them they "did the right thing by calling the police," and "it was the only moral choice." Had this been the subject of communications before the deposition? As set out above, we have a very different view of Sandy's contentions.

Sandy Senn then informs Jake, that Parker's lawyer is "planning to sue the jail." This is an interesting observation since that is only an option under consideration, and no decision even to this day has been made. What do the Sadlers understand was the purpose in Sandy Senn discussing this topic with them? Was it to create opportunity for Sandy to further disparage Parker so as to influence the Sadlers against her?

Sandy Senn goes out of her way to inform Jake that Parker was NOT "tased while in a restraint chair," while at the jail when in fact it is undisputed that Parker WAS tased while strapped in a restraint chair. Records show it. What do the Sadlers understand was the purpose of this factual misrepresentation by Sandy Senn, and what did they think when Sandy Senn made this misrepresentation to them? I assume the Sadlers had no reason to know that Sandy Senn was misrepresenting these facts. It had to have affected how the Sadlers regarded Parker. Did Sandy Senn ever inform the Sadlers that she was wrong to deny Parker's tasing?

Sandy Senn also makes commentary about Parker's conduct at the detention center. Did Sandy Senn at any point inform the Sadlers that Parker was denied the right to make a phone call, and denied the right to counsel, and that she argued with them because they would not give her those basic rights?

Sandy Senn claims she has been "worried about" [redacted] "all day," implying she has a factual basis for that worry. To what extent had that come from the Sadlers? It appears to have, since she is reflecting that concern back to the Sadlers. Or is Sandy trying to give the Sadlers a reason to support the concerns the Sadlers project in their depositions, thinking that is the more correct view of these events?

Sandy Senn also speculates that the "family cleaned her up for the lawyer's visit." What did the Sadler's understand this to refer to? It appears that it necessarily refers to me. Was any basis ever given by Sandy Senn for that statement?

The last paragraph asks the Sadlers to "trim those bushes." Had Sandy Senn enlisted the Sadlers in passing on to her observations about 5345 and the people in it?

95. Jake's email to Sandy Senn of 9-4-14 at 2:26 p.m. concludes, "Hopefully the 'powers that be' understand the hypocrisy that seems to exist within the argument put forth by the plaintiff(s), and this silliness is put to rest." I would like an explanation of what hypocrisy Jake is referring to in the argument of the plaintiffs, and what "silliness" Jake is referring to. It appears to reflect communication he has had with Sandy Senn in which she promotes to Jake how he should consider [redacted]'s allegations.

Jake also asks Sandy Senn to let them know what happens with [redacted]. Has Sandy Senn done that? She agreed to do so in her response email on 9-4-14 at 2:32 p.m. Do the Sadlers now see this as Sandy Senn manipulating them into believing that Sandy has any concern whatever for [redacted], when she is instead enlisting the Sadlers in testifying so as to attack Parker?

96. Sandy Senn's email to Jake on September 12, 2014 at 1:55 p.m. sends him the statutes on vulnerable adults. She describes them as "the law on the duty to report suspected abuse of a vulnerable adult." She relates that her hands are tied because I represented to her that [redacted] is not, in fact, isolated, as the Sadlers have testified that she is. Did the Sadlers take this email to be Sandy Senn's invitation for the Sadlers to report suspected abuse of [redacted]?

97. Sandy Senn's July 30, 2015 email to Jake Sadler and Chris Dorsel assures Jake they will "bring it up with the judge," the "it" being the suit I filed against the Sadlers. They did raise it with the judge, in chambers. It got no reaction. Did anyone report back to the Sadlers the outcome of Chris Dorsel raising the suit with the court?

Sandy invited a phone call from Jake to discuss the complaint, which Sandy refers to disparagingly. Was there such a conversation? If so, what was the content of that conversation?

Jake's email to Sandy Senn of July 30, 2015, at 7:42 a.m. was omitted from that production. I would like to see it, too, as it is within the discovery requested.

98. Sandy Senn's last email, of August 5, 2015, concludes, "I can't believe a lawyer signed it," referring to my signing the complaint. What did the Sadlers understand that to mean, and how did they take it?

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

Jane Doe 202, by John Doe MM and John Doe HS, each of whom holds power of attorney for Jane Doe,

Plaintiffs,

v.

City of North Charleston; Leigh Anne McGowan, individually, Charles Francis Wholleb, individually, Anthony M. Doxey, individually; Howard Thomas, individually, and Michael Kouris, individually,

Defendants.

IN THE COURT OF COMMON PLEAS

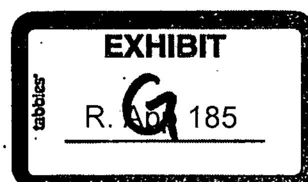
CASE NO.: 2014-CP-10-4591

FILED 2014 SEP -2 PM 4:25 JULIE J. ARMSTRONG CLERK OF COURT BY

EMERGENCY MOTION FOR PROTECTIVE ORDER/STAY DEPOSITIONS AND MOTION TO COMPEL THE ACTUAL IDENTITIES OF THE DOE PLAINTIFFS AND DOE VULNERABLE ADULT AND MOTION TO GATHER EXPEDITED MEDICAL RECORDS ON JANE DOE

Come now the defendants, above named, and hereby move for protective order staying on depositions noticed on August 7, 2014, for September 3, 2014 and September 19, 2014 in the above referenced matter. The basis for this motion is as follows:

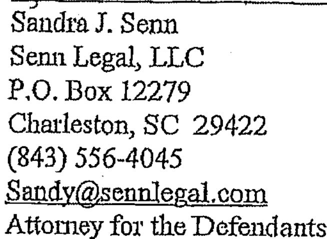
1. The defendants were served with this suit on July 30, 2014;
2. The undersigned counsel was assigned on August 4, 2014;
3. The undersigned counsel has been working diligently to contact each of her clients and gather all necessary documentation to be able to file a responsive pleading;
4. The responsive pleading is due in this matter by September 28, 2014;
5. As of the date of this filing, the responsive pleading has not been filed;
6. Subpoenas were served on witnesses Sarah Sandler and Jake Sandler for September 3, 2014, without consultation with the undersigned for scheduling purposes;
7. As counsel is still gathering documents and preparing the responsive pleadings, no discovery has been served on the plaintiffs; and
8. Counsel has not received sufficient information about Sarah and Jake Sandler to be able to prepare for these depositions. In fact, because this case was filed by two "Doe" plaintiffs about a "Doe" vulnerable adult, counsel does not even have the capability to gather records on the plaintiffs. Therefore, the defendants pray that the Doe's true identity be revealed to include all identifying information before depositions are conducted.



9. If the allegations as raised in the plaintiffs' complaint are true, Jane Doe is not in a safe environment with her daughter as the caregiver. This is clear from jail videos just recently obtained by counsel for the defendants. In those videos, the alleged caregiver cannot take care of herself much less a vulnerable adult. And, the alleged caregiver apparently leaves the vulnerable adult to fend for herself. Therefore, the defendants move for an order expediting the production of health and mental health records as well as any probate records about Jane Doe, to include the MUSC records reflected in the complaint. The defendants feel this action is needed in order to assure that Doe is safe. The defendants are more than willing to agree to a protective order of Does' idenities and to have a non-affiliated agency check on her welfare.

For all of the foregoing reasons, counsel for the defendants is hereby requesting that the court issue an order staying these depositions for sixty days giving the defendants enough time to gather the necessary documents, file a responsive pleading and conduct discovery. Defendants further pray that an order be issued to expedite production of records regarding the Does. A Rule 11 consult has not been successful.

Respectfully moved,



Sandra J. Senn
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Attorney for the Defendants

September 2, 2014
Charleston, South Carolina

CERTIFICATE OF SERVICE

I hereby certify that I have served a copy of the above and foregoing by electronic delivery and by mail to counsel of record in said proceeding to his office address with sufficient postage affixed hereto, this 2 day of September, 2014.

Melissa B. Kinard

Read from bottom to top

Sandy

From: Sandy
Sent: Friday, September 12, 2014 1:26 PM
To: Gregg Meyers
Subject: Re: sorry/wrong address

Please stop arguing your case to me. Is the lady in harm's way? That's what I want your assurances on.

Thank you for acknowledging that I am not overdue on discovery on this very new case. Pushing me won't get it done faster and I'll soon ask for a scheduling order if you keep trying to move this case along prematurely.

My concern for the lady is not a joke. It is not a strategy. That is offensive. I looked at your very abusive, drunken client on tape and if she acts like that regularly, I have a good reason to be concerned. Society should be concerned. That's why I want those releases back asap because I want to eyeball the records myself. I know you are an officer of the court and I'm giving you the benefit of the doubt because of it, but you haven't seen the records yet yourself and the records we do have show only sporadic care at MUSC. I'm sure there are others, but I want to see them. The picture you are painting of Ms. [redacted]s care lies in stark contrast to that reported by the neighbors and if Ms. [redacted] was so vulnerable back then, Parker Myer was in no condition to care for her. I still don't understand why Parker wasn't home with her two days later. She left her mom alone. Why?

Let me know which week works well for you for depositions.

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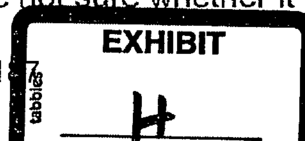

immediately notify us by return email and destroy any copies--electronic, paper, or otherwise--which you have of this communication. Please note that nothing in this email should be construed as giving tax advice. Should you need tax advice, please contact a tax attorney.

On Sep 12, 2014, at 11:08 AM, Gregg Meyers wrote:

Sandy:

So as to be clear. I am not saying, and have not said, that mom isn't a vulnerable adult. She is a vulnerable adult. She has a very aggressive case of early onset Alzheimer's disease. Her disease is irreversible and terminal. She easily satisfies the definition of vulnerable adult, and has for some time, and easily satisfied that definition on March 27, when your clients removed her caregiver despite being told that mom had dementia, and on March 29, when another of your clients also left her alone despite their statutory duties to protect a vulnerable adult. But the idea that mom is isolated from everyone but the daughter is a false idea, as she goes to church each week, sees a psyche nurse each week, sees her doctors, and sees other caregivers each week.

As I said last week, she is definitely in a crisis, but she is not in an emergency. Your motion presumes some emergency condition is going on, and none is. Mom has a routine and mom's only hope is to keep in the routine and allow her world to keep shrinking as her capabilities shrink. Adding stress mom is a bad thing to do in her condition.

You can try to retaliate for this claim having been made by piling on the daughter all you want, but the medical records are going to show that the daughter is providing very good care of her mother.

I presumed from the beginning that your motion was really about trying to get me to say mom is fine. Mom is not fine. Mom has an aggressive illness that is reducing her capabilities and that illness will eventually kill her. But she is being well cared for within the confines of her terminal illness, and she has many eyes on her, contrary to the premise of your motion.

I will get back to you on the dates. Discovery is not due only after you have answered the complaint. Discovery is due 45 days after service of the summons and complaint and discovery, so is due September 15. So that is coming up rather than as yet being overdue. You have more time than that to answer the complaint, as I agreed as a courtesy to extend your time to answer to September 30.

Gregg

From: Sandy [mailto:sandy@sennlegal.com]
Sent: Friday, September 12, 2014 8:56 AM
To: Gregg Meyers
Cc: Missi
Subject: RE: sorry/wrong address

Based on your assertions as an officer of the court that the mom is not vulnerable and has been seen regularly by health care providers, then that motion is moot. I do still need full identities of Does which I assume will be forthcoming on those forms?

To my knowledge, I am not overdue on discovery as I haven't even answered the complaint as of yet. I have exchanged informally the documents I have (although I did get an anger management completion

certificate which I don't believe I have shared yet). I'll get that over and formal discovery over to you soon.

After seeing that video, Mr. Huggins still thinks Ms. Myer is a good person to be caring for his sister?

Regarding deposition, my suggestion is that we book an entire week to depose my officers, the plaintiffs and Ms. Myer as well as the medical providers. However, I'm not in a position to take those depositions until the medical records are in hand. As soon as I get the releases, I'll immediately request those documents.

How does the week of November 3rd work for you? That should give us time to get all medical records in hand and complete written discovery. I also have four days open the last week of October.

<image001.gif>

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From: Gregg Meyers [mailto:Gregg@andersonadvocates.com]
Sent: Friday, September 12, 2014 9:32 AM
To: Sandy
Subject: RE: sorry/wrong address

Sandy:

Thanks for your email about the release forms.

As I understand it, the forms have been signed and are coming back to me. I was able to fill them out with the info asked for, the DOB and SSN. When I called to ask, MUSC told me to leave blank the Medical Record Number line, as they say that is for them to fill in. (Good news, since the form says to the contrary). As soon as I get them I will forward them to you.

I asked last week for you to give me your position on your outstanding motion so I can formulate my response for only the issues that are active. Given what you now know from my representations of how often mom is being seen by others, are you withdrawing the emergency demand for protective services?

Your motion also asked the court to compel the identities of people which you now have. Do you regard that as moot? Are there any other aspects you regard as also moot?

I had also asked, and got no response to, my asking you to tell me where you are on the discovery that is overdue to me.

Finally, I need new dates for deposing your clients in light of my accommodating your request that I not depose them on the 19th and my agreement not to do so. I am just asking for some feedback. The September 3 depositions became a problem only because I got no response from you when I wrote you about them on August 14, so I am trying to make sure I get a response when I ask you to clarify your position. Talk to me.

Gregg

From: Sandy [mailto:sandy@sennlegal.com]
Sent: Thursday, September 11, 2014 8:19 AM
To: Gregg Meyers
Cc: Missi
Subject: sorry/wrong address

Gregg;

It looks like I sent a follow up request for the signed releases to your old email address. What is the status of the releases? I can't get the psyche records with just the Hippa and subpoena. Did your clients sign?

<image001.gif>

Sandra J. Senn, Esquire
Senn Legal, LLC
P.O. Box 12279
Charleston, SC 29422
Tel: (843) 556-4045
Fax: (843) 556-4046
Sandy@sennlegal.com

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Demarchi, Cheri

From:	Rublee, Steve
Sent:	Monday, January 25, 2016 2:36 PM
To:	Belton, Sandra; Demarchi, Cheri; Broadway, Jessica
Subject:	RE: [redacted]

He is not without control (or other) issues, it appears.

From: Belton, Sandra
Sent: Monday, January 25, 2016 2:35 PM
To: Demarchi, Cheri; Rublee, Steve; Broadway, Jessica
Subject: RE: [redacted]

This attorney is amazing I can't tell if he really cares about the patient or if he just wants to manipulate the system. Wow unbelievable all his stipulations.

From: Demarchi, Cheri
Sent: Monday, January 25, 2016 2:22 PM
To: Belton, Sandra; Rublee, Steve; Broadway, Jessica
Subject: FW: [redacted]

On Friday January 22, 2016 I spoke with the pt's brother and POA, Sammie Huggins about [redacted] going to Prince George under the MUSC contract. He seemed open to the idea but wanted to discuss it with her two children. We had a pleasant conversation. I shared with him the reason I had not been calling to update him about his sister was Mr. Greg Meyers had requested that all communication go through him. I had been waiting on clarification from our legal department regarding this but the opportunity for her to go to a lower level of care that was appropriate for her needs had come up and I felt I should discuss it with her POA. He stated that he understood and would be in contact with her children and would get back to me the first of the week.

Today I received the email from Mr. Meyers. To the best of my knowledge Mr. Greg Meyers has been hired by the family, I have no paper work that he is either the patient's attorney, her POA or her guardian.

After you read it please advise me on how to proceed in communicating with this family and her potential placement at Prince George.

Cheri Demarchi LISW-CP
Social Worker
Senior Care Unit
Institute of Psychiatry
Medical University of South Carolina
67 President Street
Charleston SC, 29425
843-792-9031
Fax 843-792-8971

From: Gregg Meyers [mailto:Gregg@andersonadvocates.com]
Sent: Monday, January 25, 2016 12:59 PM
To: Demarchi, Cheri
Cc: Broadway, Jessica; Sammy Huggins; Mark Meyer; parker@parkermeyer.com
Subject: [redacted]

CAUTION: External

Ms. Demarchi:

Three things.

First, I have been notified that you on behalf of MUSC have AGAIN, now for the third time, ignored my direction to communicate with me, not with Mr. Huggins or Mark Meyer, about all matters related to [redacted].

The next violation of that principle by anyone at MUSC will result in a lawuit against you personally and MUSC. I want this to be plainly understood. Neither you nor anyone else at MUSC is at liberty to disregard legal counsel, and simply ignore the import of a person who is represented. [redacted] is represented, by me. I am employed by Mr. Huggins and Mr. Meyer, who each hold (independently) her power of attorney and (in sequence, her Health Care Power of Attorney). They are within the scope of my representation of [redacted]. Meaning, that on matters related to [redacted] you communicate with me and I communicate with them. They have the freedom to contract on her behalf, and that latitude to contract is protected by law.

Your behavior to ignore that inconvenient fact will please cease immediately. You, and MUSC, are on notice.

Second. To my amazement, you have also chosen to ignore my offer to protect MUSC's financial interest as to [redacted]. I have requested all of the MUSC billings as to [redacted] so I can protect MUSC's interests if and when other parts of the state of South Carolina come to the table to resolve my lawsuit against them for their mistreatment of [redacted], an event which is expected soon.

If MUSC chooses to ignore my offer of protection I will consider [redacted] relieved of the obligation to protect MUSC's interest, and I will let you explain in your job performance review at MUSC why you chose not to send me all bills associated with [redacted] so I could make sure MUSC gets paid.

Third. The most recent breach of the obligation to communicate with me concerns a proposal to move [redacted] to a nursing facility. We are not agreeing to that proposal without substantial information about it, which has to come to me.

As you should know, Medicaid is presently communicating with me about aligning support for [redacted], in lieu of the appeal I have brought over her denial. Meaning they want to resolve the appeal by providing for [redacted].

We are opposed to placing [redacted] in any facility where she can be summarily removed without her funding being settled. We require assurances, in writing, from both MUSC and the proposed vendor nursing home, that if [redacted] is placed in a vendor facility before that Medicaid funding is concluded, that she cannot be removed, or will be returned to MUSC, if the facility insists on removing her over any matter, financial or otherwise. Let us refer to that as the stability factor.

Assuming the placement meets the stability factor, we also want assurances that any alternative facility is equipped to handle [redacted]s dementia with an appropriate level of care. We want that assurance in writing, also from MUSC and from the vendor facility.

That concludes my list of three things. Kindly stop ignoring my presence. I know it may be bothersome to have to deal with a lawyer rather than use your well-practiced techniques to push around family members, but you are now obligated to try your pushing around through me, not on them directly. I don't personally appreciate your efforts to

push the family around, but I have accepted it is part of your job to do so. Please accept that it is part of my job to prevent you from doing so.

Unless, of course, you are looking for an opportunity to be personally sued for violating her civil rights, and to get MUSC sued for violating her rights, which will be my next step if you or anyone else at MUSC does it again. I don't enjoy pointing out the consequences of someone's behavior, but you keep doing it and I am offering a way to avoid you and your employer being sued. Please note that in my decades of practicing law I have never, ever, threatened suit if I was not prepared to bring suit. Please understand that I am through giving you warnings.

Gregg Meyers
Attorney | Jeff Anderson & Associates PA | Gregg@AndersonAdvocates.com
office 651.227.9990 | *fax* 651.297.6543 | 366 Jackson Street, Suite 100 - St. Paul, MN 55101

****
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****

From: Gregg Meyers [mailto:greggmeyers@phswlaw.com]
Sent: Friday, February 24, 2017 10:01 AM
To: Barrett, Andrea
Cc: svanderson@charlestonlaw.edu
Subject: [redacted]

CAUTION: External

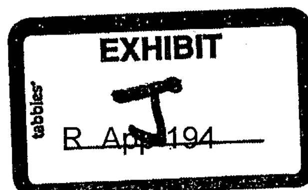
Andrea:

I have tried t copy this to Charlie, but the CC is the best email I have for him. If you have a better one, please feel free to share it.

The essence of the agreement with SCDHHS is this:

I have to extinguish the son's interest in the property, and do that in the next 30 days. As I indicated, I have that underway through Dennis Christensen's office. Dennis drew the initial documents, so I have asked them to revise them. The son is agreeable to transferring his interest

In 30 days the son's interest in the house will be removed by some means, most likely transfer to the daughter, his sister.



In exchange, SCDHHS and Medicaid agree:

1. The 2012 grant of a life estate to [redacted] in the property at 5345 Hartford Circle, North Charleston is approved and has no effect on her Medicaid eligibility. Before the transfer [redacted] owned the house with her brother. Each owned ½ interest. Her brother subordinated his interest to grant her the 2012 life estate.

2. The 2012 transfer of all of [redacted]'s remainder interest in the house to her daughter is approved and has no effect on her Medicaid eligibility. The transfer to her son was disputed by Medicaid, but this agreement resolves that dispute. Within 30 days the son will remove his interest in the house, and the remainder interest of [redacted]'s property interest will be owned solely by the daughter. No penalty will be assessed based on the 2012 transfer.

3. There is no dispute that the daughter provided more than two years of care to [redacted] in the home at 5345 Hartford Circle. By agreement, the property is recognized as being exempt from Medicaid's look-back provision.

4. The two month penalty noticed on 12/21/2016 is by agreement removed. [redacted] will have no penalty, and no penalty period, if and when she enters a nursing home.

5. [redacted]'s eligibility for Medicaid by agreement will have an effective date of May 1, 2015. No penalty period will apply to those benefits.

6. [redacted] continues to qualify for General Hospital Medicaid, effective May 2015.

7. [redacted] by agreement will qualify for HCBWS or NH Medicaid benefits if she enters a nursing home. By agreement, no penalty period will apply to those benefits, and she will be deemed eligible for vendor payments.

8. [redacted] will qualify for HCBWS benefits beginning in December 2017.

Because of the various litigation I am pursuing for the family, it is important to us that we retain HCPOA and POA for [redacted]. There will be too many decisions involved in those cases not to keep the family in charge of those. But we are not opposed to a transfer to a nursing home, so my aspiration is that we can coordinate that by agreement rather than by surrendering that control. I mentioned that to Charlie this morning, and he seemed okay with that.

If I can get the name and location of the Georgetown nursing home then I can get the family to review it. I had the impression the son was familiar with it, and was okay with it, but I would like him to give me that okay.

Gregg Meyers
Of Counsel
PIERCE, HERNS, SLOAN & WILSON, LLC
321 East Bay Street
Charleston, SC 29401
(843) 722-7733
(843) 725-7750 (Direct)
(843) 324-1589 (Cell)
greggmeyers@phswlaw.com

STATE OF SOUTH CAROLINA   IN THE COURT OF COMMON PLEAS

COUNTY OF CHARLESTON   NINTH JUDICIAL CIRCUIT

JANE DOE 202, by John Doe MM and John Doe HS, each of whom holds power of attorney for JANE DOE,

Plaintiff,

-vs-

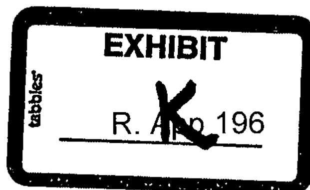
Case No.:
2014-CP-10-4591

CITY OF NORTH CHARLESTON, LEIGH ANNE MCGOWAN, Individually; CHARLES FRANCIS WHOLLEB, Individually; ANTHONY M. DOXEY, Individually; HOWARD THOMAS, Individually; and MICHAEL KOURIS, Individually,

Defendants.

THE DEPOSITION OF JARED NEWMAN, Esq., taken on behalf of the Defendant, on February 22, 2016, commencing at 1:10 p.m., at the Law Offices of Jared Newman, 1508 Paris Avenue, Port Royal, South Carolina, 29935.

Reported by: Douglas K. Liperote
Spectrum Reporting Services



1 **negligence question, we don't even have to ask that.**

2 Q. Okay. Well what about on a civil rights

3 question?

4 MR. MYERS: Objection to the form of the

5 question.

6 **A. I mean, some of their policies are sketchy**

7 **and all that, but I don't see any clear custom,**

8 **practice to violate civil rights. I think the people**

9 **in North Charleston, the citizens of North Charleston**

10 **could argue that after that ridiculous shooting. But**

11 **no, I can't say that -- you know, I told you I've**

12 **reviewed their policies, the ones I have reviewed and**

13 **the ones you've showed me, and they're consistent,**

14 **they're standard, they're reasonable. So I don't see a**

15 **policy, custom and practice with the North Charleston**

16 **Police Department to make them liable under a**

17 **Monell-type situation that would attach a policy,**

18 **custom or practice to actually see the department as a**

19 **tortfeasor in a 1983 action. I see plenty of evidence**

20 **for the individual officers to be sued in their**

21 **individual capacity. I think they were sued correctly.**

22 **And when I say correctly, by the correct party with the**

23 **correct tort ascribed to it.**

24 Q. And we're about to get to that. This section

25 B of your report, Civil Rights Violations. In

1 **told to transport, she's 1095, she's under arrest, take**
2 **her to the Al Cannon Detention Center, and that was his**
3 **only information, then I don't have any problem with**
4 **what he did because he has no knowledge. If, however,**
5 **I read Ms. Meyer's deposition and she informs him about**
6 **the mother and he takes no action to notify other**
7 **officers or any other action, then he's just as guilty**
8 **on the gross negligence part on the vulnerable adult,**
9 **because he's now getting information from the daughter**
10 **that the mother needs to be taken care of. If he**
11 **didn't act on that, that's grossly negligent. Either**
12 **side of that is a conditional opinion. I've got**
13 **to see more evidence on that.**
14 Q. All right. As of now, your opinion is that
15 the City of North Charleston and the North Charleston
16 Police Department is liable on the state law claims,
17 but that there is no constitutional claim against them,
18 is that correct?
19 MR. MYERS: Object to the form of
20 the question.
21 **A. Against the City of North Charleston based on**
22 **the Monell theory of policy, procedure, practice and**
23 **custom?**
24 Q. Correct.
25 **A. I don't see enough that you could string**

1 those together. There are a number of isolated
2 incidences that I'm aware, you know, like the shooting
3 case, but I don't -- I don't have enough and have not
4 been shown any empirical data. Typically, those cases
5 are made by doing statistical data to show a policy,
6 custom, practice, or procedure. I'm looking at an
7 isolated case, and I can't say that they had a policy
8 to break in people's houses to violate people's civil
9 rights, meaning Parker
10 MR. DORSEL: Let me mark this as an
11 exhibit.
12 A. That doesn't mean they weren't grossly
13 negligent.
14 (Whereupon, Exhibit 14 was
15 marked for identification.)
16 BY MR. DORSEL:
17 Q. Let me show you what is marked as Exhibit 14.
18 You said that you relied on Parker Meyer's -- the
19 daughter's medical records?
20 A. I don't necessarily know if I relied on them,
21 I have reviewed them. I have seen Exhibit 14. I have
22 seen this document, yes.
23 Q. Why would you have reviewed this? What would
24 it -- why would it have impacted your opinion?
25 A. I don't know. Just a due diligence to get a

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

Jane Doe 202, et al
Plaintiff,

vs.

City of North Charleston, et al
Defendant.

IN THE COURT OF COMMON PLEAS
NINTH JUDICIAL CIRCUIT

CASE NO.: 2014-CP-10-4591

MOTION AND ORDER INFORMATION FORM AND COVERSHEET

Plaintiff's Attorney:	Defendant's Attorney:
Gregg Meyers, Bar No. 9908 Address: 321 East Bay Street Charleston, SC 29401 Phone: 843-725-7715Fax 843-722-7732 E-mail: greggmeyers@phswlaw.comOther: _	Christopher T. Dorsel, Bar No. : 72504 Address: P.O. BOX 12279 CHARLESTON, SC 29422 Phone: 843-556-4045 Fax 843-556-4046 E-mail: Chris@sennlegal.comOther: _____

☒ **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: Petition for Fees
Estimated Time Needed: 20 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.

_______________________   10/23/2017
Signature of Attorney for ☐ Plaintiff /☒ Defendant   Date submitted

SECTION III: Motion Fee

☒ PAID – AMOUNT: $__________
☐ EXEMPT: (check reason)
☐ Rule to Show Cause in Child or Spousal Support
☐ 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, SCRCP)
☐ 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.	JUDGE CODE _____
☐ Other:	Date: _____

CLERK'S VERIFICATION

Collected by:_____ Date Filed: _____
☐ MOTION FEE COLLECTED: $ _____
☐ CONTESTED – AMOUNT DUE: $ _____

SCCA 233 (11/2003)

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

IN THE COURT OF COMMON PLEAS
CIVIL ACTION NO.: 2014-CP-10-4591

Jane Doe 202, by John Doe MM and John Doe HS, each of whom holds power of attorney for Jane Doe,

Plaintiffs,

v.

City of North Charleston; Leigh Anne McGowan, individually, Charles Francis Wholleb, individually, and Anthony M. Doxey, individually;

Defendants.

DEFENDANTS' PETITION FOR ATTORNEYS' FEES AND COSTS PURSUANT TO 42 U.S.C. § 1988

Come now Defendants, by and through their undersigned counsel, and petition this Court pursuant to 42 U.S.C. § 1988 to award reasonable attorney fees and expenses. The Second Amended Complaint states that this action "is brought pursuant to 42 U.S.C. §§ 1983 and 1988." (2d Am. Compl. ¶ 1). Thus, the prevailing party may be entitled to attorneys' fees. 42 U.S.C. § 1988. At the trial of this case, the jury rendered a verdict in favor of all Defendants, and therefore, Defendants are the prevailing party in this matter.

Legal Standard

42 U.S.C. § 1988 allows defendants sued pursuant to § 1983 to recover attorney's fees. This statute provides in pertinent part: "[i]n any action or proceeding to enforce a provision of sections ... 1983 ... of this title, the court, in its discretion may allow the prevailing party, other than the United States, a reasonable attorney's fee as part of the costs." The standard to decide whether a defendant is entitled to an award of attorney's fees is whether the defendant makes a showing that plaintiff's claims were "frivolous, unreasonable, or groundless, or that the plaintiff continued to litigate after it clearly became so." *Lotz Realty Co., Inc., v. U.S. Dept. of Housing*

and Urban Dev., 717 F.2d 929, 931 (4th Cir. 1983) (quoting *Christiansburg Garment Co. v. EEOC*, 434 U.S. 412, 422 (1978)).

In deciding whether a plaintiff's actions were "frivolous, unreasonable, or without foundation," the plaintiff's subjective intent is irrelevant. *Id.* at 932. A plaintiff need not have acted in bad faith in order to be liable for fees, however, if he did, "there will be an even stronger basis for charging him with the attorney's fees incurred by the defense." *Hutchinson v. Staton*, 994 F.2d 1076, 1080 (4th Cir. 1993) (quoting *Christiansburg*, 434 U.S. at 422).

The fact that Plaintiff's claims survived Defendants' motions for summary judgment does not mean that the claims cannot be found frivolous. *Hutchinson*, 994 F.2d at 1081. "Although in some instances a frivolous case will be quickly revealed as such, it may sometimes be necessary for defendants to 'blow away the smoke screens the plaintiffs ha[ve] thrown up' before the defendants may prevail." *Introcaso v. Cunningham*, 857 F.2d 965, 967 (4th Cir.1988) (quoting *Hicks v. Southern Maryland Health Systems Agency*, 805 F.2d 1165, 1168 (4th Cir.1986)).

Further, a defendant may still be awarded fees when a plaintiff has brought claims that can be considered non-frivolous. *Fox v. Vice*, 563 U.S. 826, 832–39, 131 S. Ct. 2205, 2213–17, (2011). In cases where the court determines that a plaintiff has brought a mix of frivolous and non-frivolous claims, the court may award fees for the time spent in defending the frivolous claims. The United States Supreme Court explained that § 1988 allows civil rights plaintiffs to recover fees in vindicating constitutional violations. *Id.* For similar reasons, the Supreme Court explained that § 1988 allows defendants to recover fees as well:

> Analogous principles indicate that a defendant may deserve fees even if not all the plaintiff's claims were frivolous. In this context, § 1988 serves to relieve a defendant of expenses attributable to frivolous charges. The plaintiff acted wrongly in leveling such allegations, and the court may shift to him the reasonable costs that those claims imposed on his adversary. That remains true when

> the plaintiff's suit also includes non-frivolous claims. The defendant, of course, is not entitled to any fees arising from these non-frivolous charges. But the presence of reasonable allegations in a suit does not immunize the plaintiff against paying for the fees that his frivolous claims imposed.

Fox, 563 U.S. at 834. While the Supreme Court stated that there was not a precise test for determining what fees are attributable to frivolous claims, the Court held that a trial court should look to either the increase in costs due to the frivolous claims or the costs that would not have been incurred but-for the frivolous claims *Id.* at 837-838. Stated another way, the Court held that a defendant is not entitled to fees that would have been incurred even without the frivolous claims. *Id.* at 838.

With regard to how trial courts should determine what fees to award, the Supreme Court has made it clear that an award of fees does not have to be to a mathematical certainty. "[T]rial courts need not, and indeed should not, become green-eyeshade accountants. The essential goal in shifting fees (to either party) is to do rough justice, not to achieve auditing perfection. So trial courts may take into account their overall sense of a suit, and may use estimates in calculating and allocating an attorney's time." *Id.* at 838.

Brief Statement of Facts of Lawsuit

This lawsuit arises out of an incident that occurred on the night of March 27, 2014. On that night, Jane Doe's daughter, Parker Meyer, had attended a bridal shower and, after she returned home, locked herself out of the house she shared with her mother who had been diagnosed with dementia. As a result, at approximately 10pm, Parker Meyer began banging on the doors of her house and yelling for her mother. Upon hearing this and seeing this occur, Jane Doe's neighbors, Jake and Sarah Sadler (the "Neighbors") called the police to report a disturbance.

Officer McGowan was the first responding officer. She noted that no one was in the yard and no one was answering the door when she knocked. Further, she noted that the dome light of the vehicle was on, a pair of high heel shoes were outside the driver's side door, and a purse with blood on it was in the backyard. After back-up officers, Officers Doxey and Wohlleb, arrived, an exigent entrance was made. The officers were met by Jane Doe who was able to speak with them, understand their questions, and direct the officers upstairs to where her daughter was asleep on top of her covers, with all of her clothing on, and with a large red wine stain down the front of her shirt.

After Parker Meyer woke up, the officers talked with her and asked if she was in need of medical assistance. The officers also advised Ms. Meyer that her car was unlocked and her belongings were outside. After Ms. Meyer attempted to walk and was unsteady on her feet, the officers offered to gather her belongings for her. After the two male officers left, the lone female officer, McGowan, was in the bedroom alone with Ms. Meyer and with Jane Doe just outside in the hallway. At some point, Ms. Meyer became agitated and was speaking in a demeaning fashion to her mother. Ms. Meyer then proceeded to come toward her mother with her arms flailing, but due to Officer McGowan being caught in the middle, Ms. Meyer struck McGowan and poked her in the eye. Ms. Meyer was then arrested for Assault on Police. Officer Michael Kouris was the North Charleston officer who transported Ms. Meyer to the detention center.[1]

The following day around lunch time, Jane Doe's brother, Sammy Huggins, checked on Jane Doe and found that she was doing well enough to leave Jane Doe alone again to bail Ms. Meyer out of jail. Once Ms. Meyer got home, she and Mr. Huggins left Jane Doe alone again so that Ms. Meyer could go meet with a criminal defense attorney. Then, the following day, March

[1] Officer Kouris was initially named as a defendant, but all claims against him were dismissed by way of Summary Judgment.

29, 2014, Ms. Meyer left her mother alone yet again to go to a hospital from approximately 3pm to 7:30pm, leaving her mother alone despite being aware that Jane Doe experienced increased confusion at this very time of day.

While being left alone on March 29th, Jane Doe wandered outside and had a neighbor call police to report a suspicious vehicle in her driveway. Officer Howard Thomas responded and determined that the vehicle was actually Jane Doe's daughter's vehicle.[2] Once the family did come home, EMS was called and Jane Doe was transported to MUSC. While at MUSC, Jane Doe was treated for a UTI and was put on medication. During her hospital stay, her condition improved. Additionally, after she was released from the hospital, Jane Doe began receiving regular medical care and according to her doctors, was doing very well for the rest of 2014. However, in March of 2015, Jane Doe had some behavioral problems and was once again taken to MUSC. This time, Jane Doe's family left her there for 793 days until she was transferred to a nursing home on June 1, 2017.

Jane Doe through her joint Powers of Attorney, her brother Sammy Huggins and her son Mark Meyer, filed a 46-page Second Amended Complaint on September 19, 2014 (the "Complaint"). In her Complaint, Plaintiff alleged eleven different causes of action. After Summary Judgment, Plaintiff was left with only three causes of action.

Other Relevant Facts

Jane Doe was diagnosed with dementia in 2011 or early 2012. She had lost her job and was in three automobile accidents in a short length of time. Jane Doe's brother, Sammy Huggins, took over all of Jane Doe's finances in 2011. Jane Doe had two children, Mark Meyer and Parker Meyer. In 2012, Mark Meyer was living in Virginia and Parker Meyer had been

[2] Officer Thomas was also initially named as a Defendant, but was dismissed by way of a consent stipulation of dismissal.

living in Amsterdam for the preceding 3 years. Parker Meyer came home from Europe on November 1, 2012, to take care of her mother. Despite Jane Doe's dementia and inability to handle her own finances, Jane Doe signed over her half-interest in her family home to her two children, leaving her with a life estate, but no assets. This occurred on November 12, 2012, less than two weeks after her daughter returned from Europe. The testimony from the power of attorney was that he could not make sense of Doe's finances and that by the time she signed over the house, she personally had no way to comprehend her own assets.

The incident that gives rise to this lawsuit occurred on March 27, 2014. In the eight months prior to the incident, Parker Meyer had not taken her mother to a doctor and her mother was not on any medication for her dementia. Additionally, during that time frame, there were two confirmed burglaries and one report of a possible intruder. Further, during that time, Jane Doe began wandering from the house while Ms. Meyer left her alone. One time she was walking the neighborhood without a shirt on and one time she was carrying a disemboweled rat.

During the pendency of this lawsuit, Plaintiff's counsel, Gregg Meyers, filed or defended at least seven different lawsuits on behalf of various family members. He filed two federal lawsuits on behalf of Parker Meyer arising out of her March 27, 2014, arrest. *See* Doe v. Cannon, *et al.*, C/A No. 2:16-cv-00530-RMG-MGB; Doe v. McGowan, *et al.*, C/A No. 2:16-cv-00777-RMG-MGB. In both of those lawsuits, Gregg Meyers named Senn Legal, LLC and Sandra Senn as party defendants. The allegations against the Senn defendants in those cases were frivolous and were only included to conflict Senn Legal out of representing its long-time clients. This in turn required the Defendants in those cases to hire new counsel rather than the attorneys who had been working on the case for a year. In the lawsuit against the Sheriff's Office, which involved Ms. Meyer's time at the detention center, Ms. Meyer and her attorney

alleged that the Senn defendants "knew or should have known that spoliation had been used selectively to destroy the video record so as to distort it. It is not yet known if the Senn Defendants are part of the spoliation process." Doe v. Cannon, *supra* (Compl. ¶ 139). It is presumed that because Meyers claims that only one hour of jail video was saved versus the entire twelve-plus hours Ms. Meyer was in jail, that the Senn defendants or the Sheriff's Office may have had something to do with intentionally or unintentionally deleting the remaining footage. Mr. Meyers filed these two cases when he knew or should have known that Senn would not have been made aware of Parker Meyer's arrest until suit was imminent and after any recordings would have been purged as a matter of routine. Upon the Senn Defendants' Motion to Dismiss, the district judge dismissed all causes of action against the Senn Defendants in the North Charleston case. *See* Doe v. McGowan, *supra*, at ECF No. 39. In the County case, the Court dismissed the § 1983 and conspiracy claims with prejudice, and dismissed the defamation claim without prejudice giving Plaintiff ten days to move to amend the Complaint. The Court admonished Plaintiff to "consider whether the absolute privilege for statements related to judicial proceedings would render any proposed amendment futile." *See* Doe v. Cannon, *supra*, at ECF No. 76. Nonetheless, Mr. Meyers filed an Amended Complaint again seeking to levy a defamation claim against Senn as well as re-pleading his civil conspiracy cause of action which had already been dismissed with prejudice. The Senn Defendants' Motion to Dismiss regarding the Amended Complaint is still pending.

Attorney Meyers knew or should have known that such frivolous allegations caused not only for Senn to be conflicted out of the cases, but would also require a $5,000 per claim deductible on Senn's malpractice insurance as well as an expected resulting increase in her

insurance premiums.[3] Meyers further turned Senn over to Office of Disciplinary Counsel, making the same frivolous claims, and that, too, will likely cost Senn another $5,000 deductible, which the carrier has not decided on yet. The ODC promptly threw the complaint out. In addition to the financial aspect of these frivolous claims and notable, these cases involving Senn were not filed until Meyers became aware that Senn was running for public office. Mr. Meyers also alerted the press to the filings which was reported (without mention of Senn) in the local media. (Exhibit A). He did this in order to poison the jury pool and cause Senn damage in the election.

Gregg Meyers also filed suit against the Sadlers for calling 911 on March 27, 2014, with claims that the Sadlers had a multi-year conspiracy with the police to get Jane Doe out of her house so that they could buy it. The 50-page Complaint, filed by Parker Meyer and Jane Doe through her Powers of Attorney, is filled with baseless and malicious allegations, and most egregious, includes only causes of action that counsel knew would not be covered any under insurance policy. The Sadlers testified at trial that they had to expend $10,000 in legal fees to defend that frivolous suit. And the end result was Parker Meyer forcing the Sadlers to sell their home and move. Additionally, during Sammy Huggins' deposition in the Sadlers' lawsuit, Mr. Huggins, who was a Plaintiff, indicated that he had not read the complaint and was not familiar with the allegations. He further testified that he did not believe several of the allegations in the complaint. He indicated that he trusted his lawyer's decision to file suit first in order to ascertain facts rather than the other way around.

In addition to the four lawsuits referenced above, Gregg Meyers filed a lawsuit against Medicare/Medicaid on behalf of Jane Doe and one against SC DHEC as well as a lawsuit on behalf

---

[3] The deductible for Senn's malpractice insurance doubled due to these frivolous claims.

of Parker Meyer against her health insurance company, and a lawsuit against the Sheriff's Office related to an alleged FOIA violation.

In addition to representing Jane Doe, Parker Meyer, Mark Meyer, and Sammy Huggins, Gregg Meyers also represented Austin Huggins, Brenda Huggins, and Neal Meyer:

> Q. Are you represented here today?
> A. Yes.
> Q. And who are you represented by?
> A. Gregg Meyers.

Austin Huggins Dep. 5:14-20 (Exhibit B).

> Q. Also, are you represented here today?
> A. Yes (indicating).
> Q. By Mr. Meyers?
> A. Yes.

Brenda Huggins Dep. 6:7-10 (Exhibit C).

> Q. Are you represented by an attorney here today?
> A. Yes, right there.
> Q. So Gregg Meyers is your attorney?
> A. That's correct.

Neal Meyer Dep. 31:6-10 (Exhibit D).

As a final note on the odd procedure in this case, Attorney Meyers actually fought an action that MUSC filed to petition the probate court for guardianship of Jane Doe. The doctors in that action claimed that Jane Doe's family was not acting in her best interest and that Doe had been abandoned in the hospital in 2015 for 793 days when she only needed to be in the hospital to adjust her behavioral disorders for a mere six days. The Probate action was never disclosed to defense counsel during discovery. In addition, and while MUSC had provided medical records for the 25 months Doe spent locked up in the Institute of Psychiatry to Attorney Meyers in June of 2017, discovery was never updated. The week prior to trial, MUSC provided the records to defense counsel and it was then learned that Jane Doe had been abandoned at MUSC at a severe cost to

the taxpayers of $2.4 Million dollars. Worst yet, Attorney Meyers and the Powers of Attorney were made aware that MUSC claimed that Ms. Doe's assets were not being used for her benefit but rather were being squandered by the family. Her income amounted to an average of $1700 a month in Social Security and Alimony, none of which was used to pay her medical bills, clothing costs or anything related to the care of Doe. The result of the probate proceeding was that all of Doe's funds moving forward had to be sent to a nursing home where Doe was finally placed, and therefore, no conservatorship was needed. Further, Mark Meyer was named guardian/power of attorney for Jane Doe, and Sammy Huggins was no longer the guardian or power of attorney. This, too, was not disclosed to the defense until the first day of trial, despite this impacting the actual parties to this litigation. To further complicate the issues, Mark Meyer did not show up for the date certain trial of this case and Mr. Meyers advised the court that he intended to proceed without a plaintiff in the courtroom. The trial judge would not allow this and required a guardian be appointed so that Mr. Meyers could pursue his lawsuit. Sammy Huggins was appointed as the GAL.

Argument

I. Plaintiff's claim that the neighbors and police conspired to have Parker Meyer arrested were frivolous and caused Defendants to incur additional costs.

Plaintiff asserted the frivolous claim that her neighbors and the North Charleston police conspired to have Parker Meyer arrested. According to Parker Meyer, the neighbors called the police to her house for the purpose of causing her trouble. Depo. Daughter II, 152:14-153:9. These claims are outlined in a separate lawsuit filed by Jane Doe and Parker Meyer against the neighbors. *See Jane Doe 202, et al v. Sadler*, C/A No. 2015-CP-10-4212 (Exhibit E). The plaintiffs in that suit claim that the Sadlers were interested in Plaintiffs' home and starting in at least 2012, "aspired for the house to be marketed so they could consider purchasing it." *Doe v. Sadler, Am. Compl.* at

¶13. Plaintiffs then proceed to allege that "[b]ecause the [Sadlers] desired the 1960 home, the [Sadlers] believed their permission should have been solicited before Jane Doe could be cared for by family members at the 1960 home." *Id.* at ¶18. The Sadler Lawsuit alleges that the above-cited history enraged the Sadlers so much that on March 27, 2014, they "formulated a plan" to make false accusations about Daughter Doe "for their improper, ulterior purposes of trying to interfere with Jane Doe's care so as to cause the 1960 home to be vacated so that it might be sold." *Id.* at ¶ 50(k) and (l). Plaintiff alleges that "they had an agenda to create a problem for their neighbors. It is the kind of people they are." *Id.* at ¶ 55. The plan, as alleged, was to call 911 to have police come to Jane Doe's home to investigate suspicious activity.

As a result of the above baseless allegations, the Plaintiffs in the Sadler lawsuit alleged that the Sadlers "conspired with each other and with the officer who first arrived on the scene to cause special and unique damages to the Plaintiffs...." *Id.* at ¶ 130. "The officer's act was to agree to that night remove the daughter from the 1960 home, to leave Jane Doe unassisted after the daughter had been removed, and to arrange for particularly nasty treatment for the daughter at the jail by the charges she made against the daughter..." *Id.* at ¶ 132.

This lawsuit was eventually settled with no money changing hands. The settlement agreement, rather, was that Parker Meyer and Jane Doe would dismiss the lawsuit in exchange for the Sadlers selling their house and moving. The terms of the agreement were that the Sadlers had to list their house for sale by April 15, 2016 and had "to be out of the house by October 15th." Depo. Daughter II, 7:4-8:2.

The entire lawsuit against the Sadlers was frivolous and malicious. The North Charleston police officer in question had never met Jane Doe or Parker Meyer and had never been to their house (they had never met the Sadlers either). Yet Plaintiff claimed in that case and in the case

tried against Officer McGowan that she and the Sadlers had a grand conspiracy against the family. This was both false and frivolous to the point that even one of the Plaintiff's family members testified that he thought the claim was far-fetched. However, as testified to by Sammy Huggins, he took his attorney's advice to sue the neighbors in order to discover facts and get questions answered. Not only is this a violation of Rule 11, SCRCP, but it is also a frivolous position to take as Mr. Huggins or Mr. Meyers could have gotten any information by simply asking the neighbors what happened or by using any of the other filed proceedings in order to subpoena or discover the same information.[4] The true purpose of the lawsuit against the Sadlers was to give Plaintiff another opportunity to depose the Sadlers and Officer McGowan. Even more egregious was correspondence from Plaintiff's counsel to the Sadlers' attorney where Plaintiff's counsel suggested that the Sadlers change their testimony in order to resolve the case. (See Exhibit F). None of this information was provided to the defense until a subpoena was issued to the Saddlers' lawyer for records concerning the terms of the settlement. This subpoena was necessitated by Mr. Meyers arguing with Sarah Sadler in front of the jury that his clients had never made a monetary demand to settle the case. Through these records, it was learned that Meyers tried in vain to have the Sadlers change their testimony to the detriment of the officers and NCPD. As a result of these frivolous claims, defense counsel was required to prepare for and attend additional depositions and spend additional time and resources to defend against these frivolous claims.

As further evidence of the malicious intent behind suing the Sadlers, Parker Meyer committed witness intimidation after the Sadlers testified at trial. The Sadlers were called as witnesses and testified at trial on October 10, 2017. That night, Parker Meyer, drove from

[4] Further, the Sadler lawsuit was filed in July 2015, and Gregg Meyers had already spent nearly five hours questioning the Sadlers in the latter part of 2014.

Charleston to the Sadlers' neighborhood in McClellanville and circled a park where the Sadlers were playing with their child. She further sat in her car and then slowly drove by the Sadlers who were parked on the side of the road. This was captured on video. There is no possible reason for Parker Meyer to have done this other than to attempt to intimidate or retaliate against the Sadlers. She, after all, was the reason that the Sadlers had to move from their house in North Charleston to McClellanville. To then circle their new neighborhood on the night the Sadlers testified in court, which was intended to ensure the Sadlers knew she was still watching them, is completely unacceptable and further evidences the malicious nature of the claims against not just the Sadlers, but all defendants.

Due to Plaintiff's frivolous claim that the Sadlers and the North Charleston Police Department conspired to have Parker Meyer arrested, Defendants were required to expend $3,638 in attorney's fees.

II. Plaintiff's claim against Officer Thomas was frivolous and was based on a premise that Plaintiff knew to be false.

In the Second Amended Complaint, Plaintiff alleged that Officer Kouris responded to a call on March 29, 2014, and left Jane Doe alone to fend for herself. Plaintiff then asserts that Officer Kouris' actions in leaving Jane Doe alone led to her need for hospitalization.

First, Officer Kouris did not respond to this call. Rather Officer Howard Thomas did. However, this is not the basis for Defendants' assertion that this claim is unreasonable. Rather, Plaintiff's claim that the officer leaving Jane Doe alone directly led to her hospitalization was known to be frivolous from the beginning. Plaintiff knew this claim was frivolous and without merit, and yet pursued it all the way through summary judgment.

The allegation that Officer Thomas leaving Jane Doe alone led to her hospitalization is false. First, Parker Meyer testified in her deposition that Officer Thomas did not leave her mother alone at all. The following testimony was provided by Parker Meyer:

> Q: So how long was your mom left alone on that night? I'm sorry, after the police left.
>
> A: Oh, no, she wasn't left alone at all.

Depo. Parker Meyer, 314:3-5 (February 19, 2016). Therefore, Plaintiff's claim that Officer Thomas left Jane Doe alone were known to be false, were false, and were frivolous.

Second, in addition to Jane Doe not actually being left alone at all on March 29, 2014, any claim that being left alone led to Jane Doe's hospitalization is more appropriately directed at Parker Meyer and Sammy Huggins. As the deposition testimony revealed in this case, Sammy Huggins and Parker Meyer left Jane Doe alone three different times in just over a 24-hour period. Sammy Huggins testified that around lunch time on March 28, 2014, he checked on Jane Doe and then left her for approximately 3 hours in order to bail Parker Meyer out of jail. Once Parker Meyer came home from jail on March 28th, she and Mr. Huggins left Jane Doe alone again in order to go see an attorney. The following day, Parker Meyer once again left her mother home alone for approximately 4 hours so that Parker could go to the hospital and then later go to her uncle's house to take photos of her injuries. It was during this last abandonment that Jane Doe called police about a suspicious vehicle.

The contention that the officer leaving Jane Doe alone directly led to her need for hospitalization was patently false on two levels. First, Jane Doe was never left alone after the police left on March 29th. Second, Jane Doe's family actually left her alone three times in the 24 hours preceding Jane Doe's hospitalization. These claims were known to be false from the

beginning. However, Plaintiff and Plaintiff's counsel accused Officer Thomas of a civil rights violation and continued to make that claim through Summary Judgment.

Due to Plaintiff's frivolous claim that a police officer abandoned Jane Doe on March 29, 2014, and that such abandonment directly caused her hospitalization, Defendants were required to expend $148 in attorneys' fees directly related to this frivolous claim.

III. Plaintiff's Eleventh cause of action for Civil Conspiracy was based on an incorrect statement of facts and was argued, despite its lack of basis, all the way through trial.

Plaintiff's Eleventh cause of action is based primarily on a September 2, 2014, Emergency Motion for Protective Order/Stay Depositions and Motion to Compel the Actual Identities of the Doe Plaintiffs and Doe Vulnerable Adult and Motion to Gather Expedited Medical Records on Jane Doe (the "Motion") filed by counsel for Defendants. (Exhibit G) Plaintiff grossly misrepresented this Motion in her Second Amended Complaint and alleges that "[t]he goal of the 'emergency' motion included a threat to disrupt the Plaintiff's steady routine...so as to remove the Plaintiff from among the known individuals who provide for her health care and who maintain the consistency of her care." Second Am. Compl. ¶ 202. Plaintiff alleged that Defendants were trying "to undermine her health by undermining her health care." *Id.* at 205. Plaintiff went so far as to allege that "[a]mong the illegitimate objectives of the collective action by the joint assent of the Defendants is to seek to use irrelevant information as evidence in this case, solely to threaten and harass the Plaintiff's family." *Id.* at 207.

Plaintiff's gross mischaracterization of the underlying Motion amounts to either false allegations or a frivolous claim. In looking at the Motion, there is absolutely no support for Plaintiff's baseless allegations in her Second Amended Complaint. First, as is laid out plainly in the Motion, defense counsel was not retained until August 4, 2014. Plaintiff's counsel had noticed the deposition of the neighbors, the Sadlers, for September 3, 2014. These depositions

were to take place prior to any discovery being conducted, prior to Defendants' responsive pleadings being due, and even prior to Plaintiff's counsel providing the identity of the John and Jane Does referenced in the complaint.

The Motion was filed on September 2, 2014, and asked the court for two specific things: to stay the depositions of the Sadlers and to expedite the production of records regarding the Jane and John Does in the Complaint. There is nothing in the Motion that asks for Jane Doe to be removed from her home. There is nothing in the motion about trying to undermine the health care of Jane Doe. In fact, the motion sought medical records to ensure that Jane Doe was receiving health care. Finally, there is nothing in the Motion to remotely support Plaintiff's allegation that the Defendants were seeking "to use irrelevant information as evidence in this case, solely to threaten and harass the Plaintiff's family." The Motion was actually doing the opposite – Defendants were trying to figure out the identities of the Jane and John Does (relevant), were trying to obtain medical records in a personal injury case (relevant), and were trying to obtain more time to conduct discovery before taking depositions (relevant and reasonable).

Plaintiff's Eleventh Cause of Action was completely frivolous and contained false statements from the beginning. Yet, Plaintiff maintained her position that this Motion was pending, and Plaintiff's family used it as an excuse to leave Jane Doe at the MUSC Institute of Psychiatry ("IOP") for 793 days, despite repeated pleas from MUSC to move Jane Doe to a more appropriate facility. Plaintiff's counsel used this "pending motion" excuse all the way through trial despite the fact that there was written communication indicating the motion was moot (Exhibit H) and also despite the fact that Plaintiff's counsel said in email communication on

September 22, 2015, that he was aware that Ms. Senn had withdrawn the motion. (*See* Exhibit F).

Due to Plaintiff's frivolous claim for civil conspiracy which was primarily based upon a Motion which was moot yet grossly mischaracterized by Plaintiff's counsel, Defendants were required to expend $120 in attorney's fees directly related to this frivolous claim.

IV. Plaintiff's claim that Jane Doe's extended hospitalization from March 2015 to June 2017 was caused by North Charleston was frivolous.

The incident date that gave rise to this lawsuit was March 27, 2014. Jane Doe was in the hospital for approximately three weeks and was discharged home. According to all of the doctors' reports and medical records, Jane Doe continued to do well with regular home health visits and with Jane Doe being on medication. However, unbeknownst to the defendants, in March of 2015, Jane Doe had behavioral issues related to her dementia and had to once again be checked into MUSC. She went to MUSC on March 31, 2015, and after her acute problems were resolved in six days, MUSC advised the family that Jane Doe was ready to be discharged and either returned home or to another appropriate facility. The family refused to pick-up Jane Doe and instead kept her at the IOP, an acute care facility, for 793 days.

Plaintiff's counsel falsely and frivolously claimed that the reason Jane Doe could not return home was because North Charleston had taken the position that Jane Doe was not safe in her home via the 2014 motion discussed *supra* (that had been withdrawn as moot) and that North Charleston could remove her anytime it wanted to do so. Additionally, the family claimed that the Sadlers were a danger to Jane Doe returning home. Even in closing arguments, Gregg Meyers promoted this absurd argument to the jury that Jane Doe was in danger of being removed by NCPD all because NCPD had arrested Doe's daughter three years prior. The newly discovered probate records clearly revealed that all of this was untrue and that there were a

variety of reasons wholly unrelated to the claims against the Defendants for why Jane Doe was abandoned at the IOP by her family. Further, Plaintiff's counsel knew that during the year after the subject incident, Jane Doe resided at her home and was never removed or even remotely threatened with removal.

The primary reason Jane Doe was left at the IOP was due to Medicaid denying coverage. From reviewing the MUSC file and the probate file, the reason for the denial by Medicaid was due to Jane Doe's family transferring her interest in her house to her daughter and her son. While the daughter could claim an exemption due to her caregiver status, Jane Doe's son could not. Therefore, the son had to transfer his interest to Parker Meyer in 2017 in order for Medicaid to provide coverage. This had absolutely nothing to do with the claims against North Charleston.

Further, the testimony from the IOP social worker, Cheri DeMarchi, was that she tried for two and a half years to have the family take responsibility for Jane Doe. The response she received was an email from Gregg Meyers threatening to sue Ms. DeMarchi personally if she contacted the family again. (Exhibit I). The social worker also testified that MUSC offered to transfer Jane Doe to a more appropriate facility and that MUSC would pay for Jane Doe to go to that facility. The family, through their attorney, refused this offer. Further, the social worker testified that during the entire two and a half year stay at IOP, Parker Meyer did not return a single phone call made by the social worker and refused to bring her mother new clothing since her mother had gained 50 pounds while she was locked up in IOP at MUSC. And, it was revealed that the stay at IOP was not beneficial to Doe as they are not set up to provide Alzheimer's patients with the mental stimulus to keep them engaged. Rather, MUSC is an acute care facility and Doe was only acute for six days. Thus, the remainder of her time at MUSC was to her mental and emotional detriment as the medical records sadly revealed.

As a result of the family's unwillingness to take responsibility for Jane Doe, MUSC was forced to petition the probate court to appoint a non-family guardian for Jane Doe. This was necessitated because MUSC did not feel that the family had Jane Doe's best interest in mind. Unfortunately, this was confirmed by a February 24, 2017, email from Gregg Meyers stating "Because of the various litigation I am pursuing for the family, it is important to us that we retain HCPOA and POA for Rhonda. There will be too many decisions involved in those cases not to keep the family in charge of those." (See Exhibit J). This email was sent after Jane Doe had been at the IOP for almost two years, and the omission in this email is very telling. Mr. Meyers did not want the family to retain POA for Jane Doe's interest, but rather to further the interest of the various lawsuits filed by Mr. Meyers on behalf of multiple family members.

At trial, Plaintiff also used the Motion discussed in the previous section to argue that North Charleston was responsible for the 793 day hospitalization. As is set forth in the preceding section, counsel was aware that the motion was moot and withdrawn, and Plaintiff's claim that this Motion was pending was false.

Due to Plaintiff's frivolous claim that Jane Doe's hospitalization from 2015 to 2017 was directly caused by the City of North Charleston, Defendants were required to expend $3, 244 in attorney's fees and $631.98 in costs.

V. Plaintiff's counsel used this case to conduct completely irrelevant discovery that was not at all related to the claims in this case.

This case deals with a March 2014 warrantless entry claim. However, Plaintiff sought discovery regarding the firing of Michael Slager after the Walter Scott shooting and the new policy requiring use of body cameras. Both of these events happened after March of 2014 and have absolutely nothing to do with the claims in this case. Defense counsel moved for a protective order to avoid the unnecessary time and expense of conducting frivolous discovery,

but Plaintiff opposed this motion and the court allowed this discovery. However, simply because the court allowed discovery on these unrelated topics does not make them any less frivolous. Plaintiff has not and cannot provide a reason as to why these two areas of discovery were relevant, and as a result of Plaintiff's action, Defendants had to spend a large amount of additional and unnecessary time related to these frivolous matters. Specifically, Defendants were required to expend $1,893.25 in attorney's fees.

VI. Despite no medical proof and medical testimony to the contrary by Jane Doe's own doctors, Plaintiff continued to claim that a urinary tract infection was caused by Defendants.

Plaintiff claimed in this case that Jane Doe's urinary tract infection was caused by North Charleston leaving Jane Doe alone while her daughter was in jail. While this allegation may have had some merit at the beginning of this case, any merit was lost when Jane Doe's treating doctors were deposed in October 2015. After those depositions, Plaintiff's allegation that the UTI and ensuing hospitalization was proximately caused by Defendants became frivolous and unreasonable.

Plaintiff's counsel noticed and took the depositions of Jane Doe's primary care physician and her treating psychiatrist at MUSC. Both of these doctors testified that they could not say that Jane Doe being left alone caused the UTI. Both doctors said that the UTI was likely present in the weeks before this police incident. Both doctors said that they could not say that the Defendants' action proximately caused the need for hospitalization. Rather the testimony was that Jane Doe likely needed hospitalization even without the police incident. Finally, both doctors testified that they could not say that this incident caused any injury to Jane Doe or caused any overall decline in her level of dementia.

Despite this testimony, Plaintiff continued to claim that the Defendants were the cause of Jane Doe's UTI and 2014 hospitalization. As a result, Defendants had to hire a medical expert to refute these unreasonable claims and had to spend a large amount of time and resources to defend a claim that Jane Doe's own doctors didn't support. Specifically, Defendants were required to expend $3,206 in attorney's fees and $10,275.44 in costs.

VII. Plaintiff's municipal liability claim against North Charleston became frivolous when Plaintiff's own expert testified that there was no evidence to support a municipal liability claim.

Plaintiff brought a 1983 municipal liability claim against the City of North Charleston based on a failure to train. Plaintiff brought this claim despite not having any proof of any pattern or practice. Even if the allegation was not necessarily frivolous when it began, it became frivolous after Plaintiff's police expert gave his deposition. Plaintiffs' expert, Jared Newman, opined that he does not believe that North Charleston committed any civil rights violation as to "any clear custom, practice to violate civil rights." Depo. Jared Newman, 156:2-8 (Exhibit K). With regard to this incident, Mr. Newman did not "see a policy, custom and practice with the North Charleston Police Department to make them liable under a Monell-type situation that would attach a policy, custom or practice to actually see the department as a tortfeasor in a 1983 claim." *Id.* at 156:14-19 and 172:14-173:9.

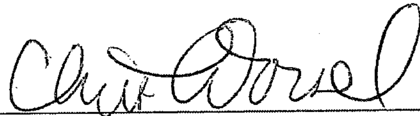
Despite Plaintiff's own expert opining that there was no evidence to support a municipal liability claim, Plaintiff continued to pursue this claim all the way through trial (where Mr. Newman once again confirmed that there was no evidence of a constitutional or civil rights violation by the City of North Charleston). Because his first expert did not give the testimony needed to secure NCPD stay in suit, Attorney Meyers then hired a secondary police expert, Dr. Vincent Henry, who gave an opinion that North Charleston officers were not properly trained.

Dr. Henry testified at trial that he gave this opinion without even reviewing the training provided by North Charleston or the training provided at the South Carolina Criminal Justice Academy. Therefore, his opinion was essentially "The training was insufficient, but I don't know what the training was." Dr. Henry also testified that he was unaware of any other similar incidents to support a pattern or custom claim required for municipal liability.

As a result of this frivolous claim, Defendants were required to hire an additional expert and conduct a large amount of discovery on a claim that had no basis and was frivolous. This assertion is not an argument made by Defendants, but rather comes directly from Plaintiff's own police expert. Due to this continued frivolous claim, Defendants were required to expend $2,894.25 in attorney's fees and $13,331.95 in costs.

Conclusion

All of the above referenced claims made by Gregg Meyers were frivolous and in some instances, malicious. No reasonable attorney would have made or continued litigating the above referenced claims. As such, these claims were frivolous pursuant to 42 U.S.C. § 1988. In order to defend against these frivolous claims, the Defendants were required to expend an inordinate amount of time and resources, which Defendants assert should be awarded as to them pursuant to 42 U.S.C. § 1988. Defendants are respectfully requesting that this Court issue an Order granting Defendants fees totaling $15,583.50 and costs totaling $24,239.37, for a total award of $39,822.87. Defense counsel submits, as an officer of the court, that the requested amounts represent a very small percentage of the overall costs and fees associated with this case. Further, defense counsel confirms that the requested amounts reflect either time and costs that would not have been incurred but-for the frivolous claims referenced herein or an increase in time and costs incurred to defend against these frivolous claims. *[signature on following page]*



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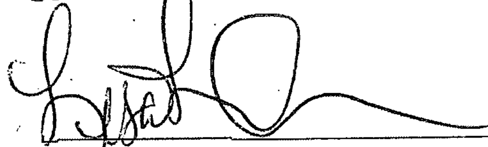
Attorney for Defendants

October 23, 2017
Charleston, South Carolina

STATE OF SOUTH CAROLINA COUNTY OF CHARLESTON	IN THE COURT OF COMMON PLEAS CIVIL ACTION NO.: 2014-CP-10-4591
Jane Doe 202, by John Doe MM and John Doe HS, each of whom holds power of attorney for Jane Doe, Plaintiffs, v. City of North Charleston; Leigh Anne McGowan, individually, Charles Francis Wholleb, individually, Anthony M. Doxey, individually; Howard Thomas, individually, and Michael Kouris, individually, Defendants.	**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true copy of the forgoing *Defendants' Petition for Attorneys' Fees and Costs* and *Defendants' Motion for Attorneys' Fees* was properly served on all counsel of record by causing a copy to be mailed at the address listed below this 23rd day of October, 2017, to the following:

Gregg Meyers, Esquire
Pierce, Herns, Sloan & Wilson, LLC
321 East Bay Street
Charleston, SC 29401
Email: greggmeyers@phswlaw.com



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Woman to sue Charleston Co. jail after claims of being strangled, tased, and denied phone calls

By Matt Alba (http://counton2.com/author/matt-alba/)
Published: March 16, 2016, 11:31 pm | Updated: March 17, 2016, 10:34 am

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EXHIBIT
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NORTH CHARLESTON, SC – A North Charleston woman is suing the Charleston County Sheriff's Office after she says she was denied a phone call for more than 13 hours and was tased by officers while strapped in a chair.

On March 27th 2014, a North Charleston woman was arrested and charged with assault around 10:30 p.m. Neighbors called North Charleston Police saying the woman had been banging on the door to her mother's house.

When police arrived, the woman's attorney, Gregg Meyers, says authorities claimed to have seen a bloody purse and shoe near the house. Meyers says authorities cite these items as justification for going inside the house where they found the woman asleep in a bedroom.

Attorneys for the woman say the officers unlawfully entered the home without a warrant, and then after putting up a fight with an officer, she was arrested.

Meyers claims the woman was denied a phone call for 14 hours and was eventually tased after being uncooperative. Meyers told News 2, "We can't figure out if she was treated badly because she was charged with assault on a police officer that was dropped, or if everybody gets treated this badly...I thought it was completely outrageous."

Attorneys say at the detention center, one of the detention officers puts their hand around the woman's throat and assaults her by strangulation.

Follow

Meyers tells News 2 all of this may have been avoided if the officers followed the law and rules of the jail.

Follow "WCBD News 2"

According to the civil rights lawsuit called Jane Doe 202a v. Cannon et al., which was filed Feb. 22 in U.S. District Court in Charleston, jail policy states an inmate should be allowed to make a phone call early in the intake process.

After hours in jail, the woman called her uncle and said, "I've been in jail since midnight last night, and now it's 12 hours later, and mom has been home alone this whole time."

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There is also another lawsuit from the mother's guardians who are suing the city of North Charleston, and five specific officers, because the mother, who suffers from dementia, was left alone when her daughter was arrested.

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"Anybody with an elderly family member needs to pay attention to this case," said Meyers.

Attorneys representing the Charleston County Sheriff's Office were not immediately available for comment on the case Wednesday evening.

In a deposition, one of the accused officers said an inmate doesn't get a phone call right away if they're being unruly.

Meyers said the mother was so shook up and confused from being left alone, she was hospitalized at the Medical University of South Carolina for three to four weeks after the incident.

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STATE OF SOUTH CAROLINA COURT OF COMMON PLEAS

COUNTY OF CHARLESTON

Jane Doe 202, by John Doe MM and John Doe HS, each of whom holds power of attorney for Jane Doe,
Plaintiff(s),

CASE NO. 2014-CP-10-4591

-vs-

City of North Charleston, Leigh Anne McGowan, individually, Charles Francis Wholleb, individually, Anthony M. Doxey, individually; Howard Thomas, individually, and Michael Kouris, individually,

Defendant(s).

THE DEPOSITION OF S. AUSTIN HUGGINS, taken on behalf of the Defendant on the 27th day of April, 2016, commencing at 12:44 p.m. at North Charleston City Hall, 2500 City Hall Lane, North Charleston, South Carolina.

REPORTED BY: Nicole D. White

1 **A. Yes.**

2 Q. All right. And then the other thing

3 is she can't take down if we talk at the same

4 time, so we've got to make sure that I let you

5 answer the questions fully and you let me ask the

6 questions fully and we won't be talking at the

7 same time, fair?

8 **A. Yes.**

9 Q. Okay. Also, if at any point I ask a

10 question and you don't understand it, please

11 direct any questions about my questions to me and

12 not to Mr. Meyers, okay?

13 **A. Yes.**

14 Q. Are you represented here today?

15 **A. Yes.**

16 Q. And who are you represented by?

17 **A. Gregg Meyers.**

18 Q. How long have you been represented by

19 him?

20 **A. About an hour.**

21 Q. Okay. Have you ever talked to him

22 before an hour ago?

23 **A. Talked to him before an hour ago?**

24 **Yes, I have spoken with him before.**

25 Q. How many times have you talked with

STATE OF SOUTH CAROLINA   COURT OF COMMON PLEAS

COUNTY OF CHARLESTON

Jane Doe 202, by John Doe MM and John Doe HS, each of whom holds power of attorney for Jane Doe,
Plaintiff(s),

CASE NO. 2014-CP-10-4591

-vs-

City of North Charleston, Leigh Anne McGowan, individually, Charles Francis Wholleb, individually, Anthony M. Doxey, individually; Howard Thomas, individually, and Michael Kouris, individually,

Defendant(s).

THE DEPOSITION OF BRENDA HUGGINS, taken on behalf of the Defendant on the 27th day of April, 2016, commencing at 10:51 a.m. at North Charleston City Hall, 2500 City Hall Lane, North Charleston, South Carolina.

REPORTED BY: Nicole D. White

EXHIBIT

C

1 at the same time; is that fair?
2 **A. Uh-huh. Yes.**
3 Q. Everyone does it. I told you I'd
4 remind you. This shouldn't take too long, but if
5 you need to take a break at any point, just let
6 me know.
7 Also, are you represented here today?
8 **A. Yes (indicating).**
9 Q. By Mr. Meyers?
10 **A. Yes.**
11 Q. Okay. And how long has he been your
12 attorney?
13 **A. I don't know, couple of years.**
14 Q. Okay. Well, what the rules say is
15 that while this deposition is going on, if you
16 don't understand my question, you're required to
17 ask me to explain it and not direct any questions
18 to your attorney; is that understood?
19 **A. Yes.**
20 Q. Okay. Are you on any medication today
21 that would affect your ability to give full,
22 accurate, honest testimony?
23 **A. No.**
24 Q. Is there any reason today why you
25 can't give honest, accurate testimony?

STATE OF SOUTH CAROLINA   COURT OF COMMON PLEAS

COUNTY OF CHARLESTON

Jane Doe 202, by John Doe MM and John Doe HS, each of whom holds power of attorney for Jane Doe,
Plaintiff(s),

CASE NO. 2014-CP-10-4591

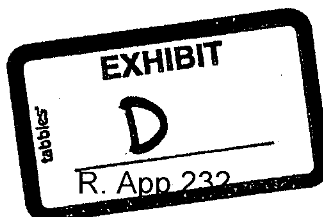
-vs-

City of North Charleston, Leigh Anne McGowan, individually, Charles Francis Wholleb, individually, Anthony M. Doxey, individually; Howard Thomas, individually, and Michael Kouris, individually,

Defendant(s).

THE DEPOSITION OF NEAL MEYER, taken on behalf of the Defendant on the 27th day of April, 2016, commencing at 9:04 a.m. at North Charleston City Hall, 2500 City Hall Lane, North Charleston, South Carolina.

REPORTED BY: Nicole D. White



1 **A. I do.**

2 Q. Were you involved in that decision to

3 file suit?

4 **A. No.**

5 Q. I meant to ask you this at the

6 beginning. Are you represented by an attorney

7 here today?

8 **A. Yes, right here.**

9 Q. So Gregg Meyers is your attorney?

10 **A. That's correct.**

11 Q. How long has he been your attorney?

12 **A. 45 minutes.**

13 Q. Okay. All right. Prior to today,

14 have you ever spoken with Mr. Meyers?

15 **A. With Gregg?**

16 Q. Uh-huh.

17 **A. Yes.**

18 Q. And what have y'all discussed?

19 MR. MEYERS: All right, hang on.

20 Let's go consult about that question.

21 (Off-the-Record conversation.)

22 MR. MEYERS: All right. As near

23 as we can recall, the two of us together,

24 Mr. Meyer and I have had three

25 conversations. The first of them was after

In the State of South Carolina	)	Court of Common Pleas
County of Charleston	)	C.A. No. 2015-CP-10-4212
Jane Doe 202 by her POA and Daughter Doe 202,	)	**Jury Trial Requested**
Plaintiff,	)	Abuse of Process Malicious Prosecution Defamation Civil Conspiracy Injunctive Relief Restraining Order Assault Trespass Wrongful Intrusion into Privacy Intentional Infliction of Emotional Distress
vs.	)	
Jacob Sadler and Sarah Sadler,	)	
Defendants.	)	

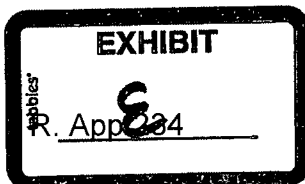
FILED
2015 AUG 19 PM 12: 18
JULIE J. ARMSTRONG
CLERK OF COURT

Amended Complaint

For their amended complaint the Plaintiffs each allege:

1. The events which gave rise to this Complaint occurred in Charleston County in March, 2014. At that time, plaintiff Jane Doe 202 (referred to in this complaint as Jane Doe), was a vulnerable adult woman cared for by her daughter, plaintiff Daughter Doe 202 (referred to in this Complaint as the daughter), in their residence in Charleston County. The Plaintiffs are each a citizen and resident of Charleston County. By March, 2014, when the events which gave rise to this complaint first occurred, the daughter had been caring for her mother for more than 16 months in that Charleston County residence.

2. Each plaintiff is designated by pseudonym, to protect from the public record the identity of Jane Doe, in compliance with an existing circuit court order that protects her privacy in light of her debilitating medical condition. The identity of the Plaintiffs will be disclosed to Defendants upon their written consent to protect Jane Doe's identity from the public record by redacting from the public record both the identity of Jane Doe and information from which her



identity can be derived, such as her daughter's name, addresses, and names of family members. Alternatively, if the Defendants object to the existing circuit court order, and provide to counsel a writing stating their objection to pseudonym use, then the Plaintiffs will submit a motion seeking an order for leave to proceed by pseudonym.

3. Jane Doe acts through her power of attorney because she suffers from an aggressive form of early onset Alzheimer's disease, is not herself competent to manage her own affairs, and for some time has not been competent to manage her own affairs.

4. Jacob and Sarah Sadler are citizens and residents of Charleston County.

5. The court has jurisdiction over the subject matter of this action and the parties to the action.

Nature of Wrongdoing

6. In 2006, the Defendants purchased a home in Charleston County. That home has 1056 square feet and was built in 1959. It is referred to in this complaint as the 1959 home.

7. Within sight of the Defendants' home lived a woman in her nineties, referred to in this complaint as the matriarch. The matriarch was the mother of Jane Doe. The home where the matriarch lived had been built in 1960 by she and her late husband (the matriarch's husband died in 2005). The matriarch had raised in that home Jane Doe and her two siblings, an older sister and a younger brother. That house is referred to in this complaint as the 1960 home.

8. For many years, and continuing to the present, the 1960 home has had no mortgage.

9. At 1840 square feet of finished space, the 1960 home is considerably larger than the 1056 square feet of finished space in Defendants' home. In addition, the 1960 home is

situated on a considerably larger lot, with much greater street frontage, and a much larger, and much quieter, fenced back yard as compared to Defendants' home, which has continual highway traffic noise in its backyard.

10. By December, 2011, the matriarch's medical needs compelled the family to move the matriarch from the 1960 home to a medical facility. For roughly three months, from December, 2011 until February, 2012, the 1960 home was vacant.

11. When the matriarch died in July, 2012, ownership of the 1960 home was held in equal shares by Jane Doe and her brother. Jane Doe's older sister had died some years before the matriarch passed away.

12. While it was vacant, the 1960 home was cared for by periodic visits by Jane Doe's brother, who lived in his own home in Hanahan, S.C., a short drive from the 1960 home.

13. The Defendants were interested in the empty 1960 home, and made a point of talking with Jane Doe's brother during his visits to care for the 1960 house. The Defendants aspired for the house to be marketed so they could consider purchasing it.

14. By 2012, Jane Doe had begun to experience neurological problems that were not fully understood but which began to diminish her capacities and her ability to fully function independently.

15. In February, 2012, because of her neurological problems, Jane Doe was moved by her family from the condominium she rented in Mount Pleasant to the 1960 home so her brother could more easily assist her. She was no longer able to live entirely independently. Apart from her serious neurological problems, her health was generally good.

16. Jane Doe lived alone in the 1960 home, with frequent visits by her brother, and Jane Doe's son, the brother of the daughter, to provide for Jane Doe and the home. Jane Doe's son lived with his own family in Virginia, and he would drive to Charleston County to support Jane Doe, particularly for her medical appointments. The daughter lived in a foreign country, and communicated with her family about the problems her mother had begun to have.

17. With the 1960 home again occupied, it would not be marketed for sale.

18. No one in the family of Jane Doe asked permission of the Defendants before making arrangements for Jane Doe to live in the 1960 home. Because the Defendants desired the 1960 home, the Defendants believed their permission should have been solicited before Jane Doe could be cared for by family members at the 1960 home. Defendants believe they should have been entitled to approve of who took care of Jane Doe, as any care for Jane Doe in the 1960 home delayed the time when the 1960 home would be put on the market for sale.

19. During 2012, Jane Doe continued to lose capabilities to neurological problems not fully understood, but Jane Doe insisted on trying to live as independently as she could.

20. During 2012, on advice of counsel, Jane Doe transferred her ownership portion of the 1960 home to Jane Doe's children in equal shares, subject to a life estate for herself. Doing so had significant financial advantages for Jane Doe.

21. Caring for Jane Doe at the 1960 home was the most economical arrangement for the limited resources available to Jane Doe, since no rent or mortgage was owed on the 1960 home.

22. No one in the family of Jane Doe asked permission of the Defendants before granting Jane Doe a life estate in the 1960 home. Because the Defendants desired the 1960 home,

the Defendants believed their permission should have been solicited before Jane Doe was given a life estate in the 1960 home, as that life estate created an incentive for Jane Doe to remain as long as possible in the 1960 home, transferred her ownership interest to her children, and could reasonably be expected to delay the time when the 1960 home would be put on the market for sale.

23. The daughter, who lived outside of South Carolina, began to organize her affairs so she could better assist her mother by returning to Charleston County. Neither the family of Jane Doe, nor the daughter, asked permission of the Defendants before making arrangements for Jane Doe to be cared for in the 1960 home.

24. The daughter returned to North Charleston in November, 2012 to live with her mother in the 2012 home and assess her mother's capabilities and needs.

25. Not long after moving back to North Charleston, the daughter on two occasions made an effort to be friendly to Defendants. The daughter took her neighbors a small gift, and during that occasion and on one other occasion she engaged the Defendants in conversation. Those occasions disclosed Defendants' predilection for gossip. The daughter chose not to further her contact with Defendants because of the Defendants' predilection for gossip, which the daughter did not share. The daughter withdrew to focus on caring for her mother.

26. Nor did the daughter at any time present any problem for the Defendants other than what the Defendants regarded as the inherent problem of the daughter occupying the 1960 home without the approval of Defendants.

27. No one in the family of Jane Doe asked permission of the Defendants before arranging for the daughter to care for her mother. Because the Defendants desired the 1960

home, the Defendants believed their permission should have been solicited before the daughter could care for her mother at the 1960 home. Defendants believe they should have been entitled to approve of who took care of Jane Doe, as any care for Jane Doe in the 1960 home delayed the time when the 1960 home could be put on the market for sale. In addition, care for Jane Doe provided by a family member was likely to be more attentive than care rendered by strangers to Jane Doe. For Defendants, the daughter posed the greatest risk that the 1960 home might not be sold at all or, if sold, would not be sold for some time.

28. Defendants have explained that they "could not believe" that the daughter was "put in charge of caring for her mom," as Sarah Sadler explained. Defendants have also explained that having the daughter care for her mother was not satisfactory to Defendants.

29. After she relocated to North Charleston, the daughter changed her career and found work that enabled her some flexibility to care for her mother, sometimes working from the 1960 home, and other times being able to check on her mother during the workday.

30. The daughter began to assess and provide in the 1960 home the care her mother needed, unaware that her presence, and the care the daughter provided to her mother, were each objected to by Defendants.

31. When the daughter began adapting the 1960 home to better suit Jane Doe's diminishing capabilities, and to make the 1960 home safer and more suitable to Jane Doe's condition, the Defendants were upset with the changes the daughter made, and Defendants were upset that no permission had been sought of Defendants for those changes.

32. Defendants went through the trash of the 1960 home, looking for information they could try to use against the daughter.

33. The Defendants began plotting a way to have the daughter removed so as to isolate Jane Doe from her daughter caregiver and, by that isolation, to cause Jane Doe to be removed from the 1960 home and placed in a residential care facility, causing the 1960 home to be vacated and creating financial pressure to force the sale of the 1960 home.

34. From November, 2012 to March, 2013, the daughter lived with her mother and as her mother's capacities became reduced, the daughter patiently negotiated with her mother to allow the daughter to perform more and more personal tasks for her mother. The daughter took her mother for various medical appointments and medical assessments. Those doctors were able to identify her mother's problem as an aggressive form of early onset Alzheimer's disease, for which there is no cure. The disease is progressive, and will be fatal to Jane Doe, although how long the disease will take to kill Jane Doe is unknown. Jane Doe's life expectancy is more than 15 years, according to S.C. Code § 19-1-150, although her Alzheimer's disease might shorten her life span.

35. Once Jane Doe was diagnosed with an incurable, and fatal, illness, for the daughter the arduous task of (a) the daughter's care of her mother was joined with (b) the personal tragedy of having to watch her mother slowly die, progressively losing capabilities until her death would result, and (c) the personal anxiety of having to wonder to what extent Alzheimer's disease was genetic, and might also affect the daughter or her brother.

36. Jane Doe slowly began to surrender her independence and allow her daughter to perform more and more personal tasks for her. The daughter did the cooking, housework, shopping, and drove her mother when they went out. Eventually Jane Doe allowed the daughter to wash her hair, which Jane Doe resisted for a long time. After more time, Jane Doe allowed

her daughter to take over Jane Doe's bathing and toileting.

37. Working when Jane Doe made her weekly visit to church with another relative, and in consultation with Jane Doe's medical providers and family members, the daughter began to modify the house to better accommodate her mother's limitations and to make the space safer for her mother to inhabit.

38. For example, working entirely by hand on Sunday mornings while Jane Doe was at church, the daughter slowly removed the very old carpeting in the 1960 home, which the daughter had noticed was beginning to impede the sureness of her mother's footing. The daughter cleared more secure pathways for her mother by doing so, making the home safer for her mother by exposing the original hardwood flooring, and decreasing the chances of her mother falling.

39. During the time her mother was hospitalized, the daughter also replaced a wooden handrail that her mother was no longer capable of properly using when her mother descended one particular set of stairs. The mother's confusion caused her to apply a side force to the handrail that the handrail could not support. That in turn caused the handrail to loosen, making it unsafe. To better protect her mother, the daughter replaced that loose handrail with a much more secure metal handrail of a type used in hospitals and nursing homes, to better allow her mother to move up and down that set of stairs.

40. The Defendants noticed the carpeting being removed when it was placed for trash removal, and between themselves objected to the daughter making the house safer for Jane Doe.

41. The daughter had not asked permission of the Defendants before modifying the 1960 home and its grounds to better accommodate her mother's limitations. Because the

Defendants desired the 1960 home, the Defendants believed their permission should have been solicited before the daughter made changes to the 1960 home. Defendants believe they were entitled to approve of what changes were made in the 1960 home, as they desired to obtain the home.

42. For a long time Jane Doe insisted on dressing herself, and bathing herself, even though she could no longer do so effectively. Jane Doe did not want to entirely surrender her independence to her daughter caregiver, and often insisted (and still insists, from time to time), despite all medical opinion, that she was (and is) "fine." Periodically Jane Doe would insist on resuming her own care in some degree, causing the daughter to have to re-negotiate Jane Doe's permission for the daughter to provide care, particularly very personal care.

43. Because the daughter by living in the 1960 home, and by caring for her mother in the 1960 home, posed an impediment to Defendants acquiring the 1960 home, the Defendants chose to not like the daughter, and even though there had been no conflict between them, Defendants waited for an opportunity when they could disrupt the daughter's ability to care for Jane Doe.

44. On March 27, 2014, Defendants found an opportunity to disrupt the daughter's care for Jane Doe.

45. A little before 10:00 p.m. that night, the daughter recalled that she had left some items in her car that she preferred to have in the house. The daughter went outside to retrieve equipment she had left in her car, and when she returned to the front door of the 1960 home she found the doorknob had locked behind her. The daughter had accidentally locked herself out of the house.

46. The daughter needed Jane Doe's help to get back into the house. The daughter knew: (a) that Jane Doe was asleep, (b) that her Alzheimer's disease had taken so much of Jane Doe's capabilities that Jane Doe was no longer able to herself open the locked front door from the inside of the house, and (c) that Jane Doe still had enough capacity that she could be talked through how to unlock one of the back doors, specifically the sliding glass door.

47. To get back into the house, the daughter had to wake Jane Doe; get her to the front door; direct her to the back door, where Jane Doe could see her daughter and follow the daughter's directions about how to unlock the back sliding glass door.

48. It took a total of about four minutes, starting from when the daughter had locked herself out, for the daughter to get Jane Doe's help and get the daughter back into the house. Without her mother's Alzheimer's limitations, the process would have taken about thirty seconds. Those four minutes caused by Jane Doe's illness were the opportunity the Defendants had long sought to disrupt the daughter's care of Jane Doe.

49. As set out below, the Defendants acted as quickly as they could in those four minutes to disrupt the daughter's care of Jane Doe and inflict damage on both Plaintiffs.

50. In the four minutes it took the daughter to get Jane Doe's help to get back inside their house, the following events took place.

a. The daughter freed both her hands of the items she had brought from the car,
b. For about a minute, the daughter pounded on her front door and called to her mother.
c. Jane Doe heard her daughter's calls from the front door. It did not take long for Jane Doe to hear her daughter's calls.

d. The Defendants were in bed watching television and heard the daughter's efforts to get Jane Doe's attention, although they did not immediately understand what the noise was.

e. Jane Doe began making her way out of her bed and down the two short sets of steps between her bedroom and the front door.

f. The Defendants realized it was the daughter making the noises they were hearing. When Defendants realized their neighbors needed assistance, they did not offer any assistance. Instead, the Defendants realized the daughter being locked out of her house and needing assistance was their opportunity to create trouble for the daughter, to endanger Jane Doe by causing trouble for the daughter, and to impede the care of Jane Doe.

g. Defendant Jacob Sadler got out of bed to observe the daughter and periodically interrupted his observations to return to his own bedroom to narrate to his wife, who remained in bed.

h. According to defendant Sarah Sadler, she lay in bed "stewing about what was going on over there," and how to get the police to intervene so they would disrupt the daughter's care for Jane Doe by causing trouble for the daughter.

i. The Defendants agreed to try to cause trouble for the Plaintiffs by falsely accusing the daughter of various crimes, including the felony offense of not properly caring for her mother, who the Defendants knew to be a vulnerable adult, suffering from dementia.

j. At no time was the daughter violating any law or ordinance in the minute or of

noise making so it took to get Jane Doe's attention.

k. Having decided with his wife to use this brief occasion to disrupt the daughter's care of Jane Doe, Defendants formulated a plan of what to report. Jacob Sadler began to observe the daughter from time to time through the small window of his own front door, breaking his observations to confer with his wife on their plan. The Defendants were aware that the daughter was locked out of her house and was calling to her mother for that reason.

l. Defendant Jacob Sadler did nothing to help his neighbors. Sarah Sadler did nothing to help her neighbors. Neither defendant had any desire to help their neighbors. Nor did they desire to leave their neighbors alone. That their neighbors needed help was their chance to strike against their neighbors, and make as much trouble for their neighbors as they could. The plan discussed and decided upon by the Defendants was to make false accusations so as to disrupt the daughter's care of Jane Doe, and to do so for their improper, ulterior purposes of trying to interfere with Jane Doe's care so as to cause the 1960 home to be vacated so that it might be sold.

m. As the daughter saw Jane Doe inside, descending the stairs closest to the front door of their residence, the daughter stopped pounding on her own front door because in the first minute of the four minute she was outside she had gotten her mother's attention.

n. The daughter directed her mother to the back sliding glass door, then went to meet her at that door.

o. The daughter left her front door to go to the back sliding glass door, collected the equipment she wanted from the car, and moved from her front door to the left of her residence (as viewed from the street) to make her way into the fenced back yard.

p. As Jacob Sadler watched the daughter's difficulties with being locked out, and planned how to manipulate those difficulties for the Defendants' ulterior purposes, he saw the daughter stand. Defendants decided to advance their ulterior purposes by falsely contending the daughter had committed the crime of exposing herself to urinate and defecate in public.

51. At the sliding glass door in the back yard the daughter was able to direct her mother how to unlock the sliding glass door. About four minutes from when she had gone outside and accidently locked herself out, the daughter was back in her house, with the help from Jane Doe.

52. Shortly after that, both Jane Doe and her daughter were back in bed.

53. The Defendants' 1959 home is not the closest neighboring residence to the 1960 home. Other homes are closer.

54. Of the various neighbors around the Plaintiffs' residence, only the Defendants, not any of the other neighbors, including those who live closer than Defendants, reacted to the daughter's efforts to get her mother's attention after having locked herself out.

55. The Defendants had a reaction because they had an agenda to create a problem for their neighbors. It is the kind of people they are.

56. At 10:06 p.m., well after the daughter had stopped making any noise (because she had already attracted her mother's attention and because by that time the daughter was back inside), defendant Jacob Sadler dialed not 911, which a person sometimes dials to get help, but the police, reflecting his desire to summon not help for the Plaintiffs but to summon trouble for the Plaintiffs.

57. That he dialed the police rather than 911 is indicated by the manner in which the Charleston County call taker answered the call. A call to 911 is answered with some variation of, "911, what's the address of the emergency?" A call to police that is referred to the Charleston County system elicits a response such as was given to Defendant Jacob Sadler: "Consolidated dispatch operator one five six."

58. As agreed to in their collaboration, Defendants sought not help for their neighbors but to create trouble for their neighbors in placing their call to police.

59. Defendant Jacob Sadler related to the consolidated dispatch operator a complaint that included four statements the Defendants each knew were entirely false. Defendants later expanded those four false statements with a fifth false statement. Those false statements include:

a. that the Defendants were observing a "family dispute" (the Defendants knew or should have known there was no dispute),

b. that the mother had "locked the daughter out of the house" (the Defendants by that time knew, or should have known, that the daughter had been caring for her mother for more than 16 months, and that Jane Doe's capabilities had been so reduced by her Alzheimer's disease that she could no longer operate the front door lock so as to lock anyone out even if she had wanted to),

c. that the supposed "family dispute" was "occurring right now," even though before the call even was made the daughter had gotten her mother's attention, had ceased making any noise to attract her attention, and was back in the house,

d. That the Defendants told the dispatcher the daughter "might be drunk. I think she's drunk." These four false statements were recorded and are undisputable. Later, the Defendants at the scene would also contend, also falsely,

e. That the daughter had exposed herself while urinating and defecating in her front yard, a fifth statement they knew or should have known was false.

60. All of the Defendants' false statements were designed to advance the ulterior purposes of the Defendants to disrupt the daughter's care for Jane Doe by getting the daughter out of the house and leaving Jane Doe without a caregiver, so as to cause Jane Doe to have to be moved from the 1960 home to a much more expensive housing facility, and to cause the 1960 to be vacated, then sold.

61. Defendants informed the consolidated dispatch operator that Jane Doe had dementia, but did so in order to contend, which they also knew was false, that the daughter was not properly caring for her mother. "I am not sure about the daughter," was the Defendants' statement to falsely infer that not only had the Defendants not "allowed" the daughter to care for Jane Doe, but also the Defendants falsely accused the daughter of the crime of abusing a vulnerable adult, the sixth false statement, which reflected the Defendants' collaboration to harm the Plaintiffs. Necessarily, Defendants were also falsely accusing those family members of Jane Doe who held her power of attorney of doing the same by providing inadequate care to Jane Doe

through the daughter.

62. As to those who hold power of attorney for Jane Doe, the statements are defamatory.

63. As to the daughter, the false statements are defamatory, and actionable *per se*.

64. The report against the daughter and Jane Doe was known to be false by Defendants when the report was made. Defendants' false police call was their effort to disrupt the daughter's care for Jane Doe to advance the Defendants' ulterior purposes. Defendants aspired to have the daughter arrested, so as to cause Jane Doe to be removed from the 1960 home to make it again vacant and cause it to be sold.

65. Defendants were aware (a) that Jane Doe had dementia, (b) that the daughter was Jane Doe's caregiver, (c) that the daughter had been Jane Doe's caregiver since November, 2012, and (d) that the daughter's care for Jane Doe is what enabled Jane Doe to reside in the 1960 home. That care for Jane Doe by her daughter is what the Defendants aspired to disrupt, so that neither Jane Doe nor the daughter would reside in the 1960 home.

66. Consolidated dispatch operator 156 informed defendant Jacob Sadler that dispatch would ask police to respond. Knowing that the content of the police call he and his wife made was false, defendant Jacob Sadler asked that no officer come to his house. "They aren't coming to my house, are they?" he asked the dispatcher. When he was told the dispatcher would let the officers know his preference not to be contacted, defendant Jacob Sadler responded, "Okay, good."

67. Defendant's plan was to set in motion events which could not be attributable to them.

68. Defendant Jacob Sadler made his false police call with full cooperation of, and knowledge of, his wife, in furtherance of their ulterior purpose to cause the daughter to be arrested, and to disrupt Jane Doe's care, without being known as the source of those disruptions.

69. The Defendants' plan was to pursue their ulterior purposes by falsely accusing the daughter of various crimes, including not caring for her mother, so as to get police to arrest the daughter, but Defendants wanted the daughter to be unaware of their hostility towards the daughter. Given their many false statements, the Defendants did not want to be identified as the persons placing the call.

70. The Defendants' false police call started at 10:06:40 p.m. and lasted three minutes and 27 seconds. That call ended at approximately 10:10 p.m.

71. When the dispatcher communicated the Defendants' false police call, three North Charleston police officers were dispatched in response.

72. Records reflect that the first officer arrived at the scene at 10:14 p.m., four minutes after the Defendants' false police call ended. The other two officers did not arrive on the scene until 10:30 p.m. The first officer was alone at the scene for sixteen minutes.

73. Records reflect that after eight of those sixteen minutes, the officer on the scene asked the dispatcher to call defendant Jacob Sadler and ask that he step out of his house to talk with that officer. Defendant Jacob Sadler agreed to do so, but each claims not to recall the conversation.

74. After that conversation, the conduct of the Defendants and the officer reflect the agreement reached at the scene during that conversation: the officer agreed to remove the daughter from the 1960 home that night, to isolate Jane Doe from her caregiver. Defendants

agreed to support that the daughter was abusing a vulnerable adult, a statement known by Defendants to be false.

75. After that conversation, Jacob Sadler returned to his home and continued to watch from time to time the police activity the Defendants had initiated.

76. Records reflect that by 10:33 p.m. police had entered the Plaintiffs' home. When police entered the home both the Plaintiffs were asleep in their beds.

77. In the house, police encountered Jane Doe who, according to police, told the officers that everything in the house was fine. That information should have terminated the police intrusion, but it did not. Based on the agreement reached with Defendants, the officer first on the scene had committed to remove the daughter that night, so that officer needed to isolate herself with the daughter so as to fabricate a confrontation with the daughter that the officer could claim was the daughter's fault.

78. That officer is experienced at fabricating a basis for groundless arrest, experienced at warrantless entry that lacks proper justification, and experienced at using her office to retaliate against innocent citizens her personal pique. After meeting with the defendant Jacob Sadler at the scene, the officer began the arrangements to enable the officer to do each as to the Plaintiffs.

79. By 10:41 p.m., and despite any proper basis for doing so, police had removed the daughter from the 1960 home, as the officer had agreed with Jacob Sadler she would do. The removal was pretextual, since no proper basis existed to remove the daughter, as Defendants falsely claimed.

80. All officers have claimed that Jane Doe appeared fine to them, even though they had been told by Defendants that under the daughter's care that Jane Doe was not fine.

81. To effectuate the pretextual removal, the officer who had agreed in advance with Defendants to remove the daughter from the 1960 home that night isolated herself with the daughter by prolonging her stay in the 1960 home and directing her fellow officers to leave her alone in the house with the Plaintiffs. As the first to arrive on the scene, that officer was in charge of the scene, so the other officers complied with the directive.

82. There are no criminal charges pending against the daughter from her removal that night from the 1960 home. The charges against her were *nol prossed.*

83. No charges were ever brought against Jane Doe.

84. It took more than 15 hours for the daughter to begin to get help for Jane Doe after the daughter was removed from the 1960 residence late on March 27, 2014. In that time, Defendants were aware that Jane Doe was alone, and unable to care for herself, but took no steps to assist Jane Doe. Defendants intended Jane Doe to be isolated from all caregivers so as to cause injury to Jane Doe and the daughter.

85. Once the daughter was able to return to her residence, late the next afternoon, she necessarily had to attend to both the injuries she sustained during her removal, and the legal implications caused by her pretextual removal. She did so both on March 28 and March 29. Jane Doe's brother assisted the daughter with Jane Doe's care while the daughter dealt with the new problems created for her by Defendants.

86. On March 29, Jane Doe's brother arrived at the 1960 home to cover the daughter's absence as caregiver to Jane Doe. He found Jane Doe so confused and agitated after

the events set in motion by the Defendants that he called for an ambulance and had Jane Doe evaluated. MUSC hospitalized Jane Doe for nearly three weeks.

87. Defendants at no time have apologized to the daughter for her removal, because, of course, it was Defendants' intention that the daughter be removed, and that the daughter and Jane Doe each be inconvenienced and injured in the exact manner in which each was inconvenienced and injured.

88. Defendants have at no time apologized for their false statements used to initiate process against the daughter, reflecting Defendants' intention that the Plaintiffs be inconvenienced and injured by those false statements in the exact manner in which each plaintiff was inconvenienced and injured.

89. Specifically, Defendants were aware that Jane Doe had dementia, and that she had a progressive form of dementia. Defendants were aware that Jane Doe was unable to care for herself, that the daughter was Jane Doe's primary caregiver and had been for more than 16 months. As they intended, the Defendants' false statements and agreement at the scene with the first responding officer had succeeded in getting the daughter being removed on a pretext, and caused Jane Doe to be isolated from the daughter. As Defendants intended, Jane Doe was put in a position of being unable to care for herself. As Defendants intended, the daughter was put in isolation from Jane Doe and was unable to communicate for anyone to assist Jane Doe.

90. Defendants also intended to inflict the ensuing emotional harm on the Plaintiffs; Jane Doe to feel isolated and confused, and the daughter to be distressed because her mother was unable to toilet herself, prepare food for herself, understand the events of the daughter's removal, and, because all of the doors had been locked by police with Jane Doe inside, unable by herself

even to escape the house should she need to in an emergency such as a fire.

91. By March 29, after she had been isolated from her caregiver and unable to toilet herself for over 18 hours by the agreement and action of the Defendants and the first responding officer, Jane Doe developed the only urinary tract infection she developed during the entire time the daughter cared for her mother. That urinary tract infection was detrimental to Jane Doe and exacerbated her confusion, as urinary tract infections are known to do.

92. Defendants and the first responding police officer intended that physical injury for Jane Doe, and for the daughter to sustain physical injury when she was removed from the 1960 home. Defendants and the first responding officer intended emotional injury to each plaintiff. All injuries were intended by the Defendants to promote Defendants' illicit objective to compel Jane Doe and the daughter to vacate the 1960 home.

93. Defendants did nothing for Jane Doe after initiating process against the daughter and isolating Jane Doe from her caregiver. Defendants intentionally injured Jane Doe and the daughter.

For a First Cause of Action: Abuse of Process

94. Allegations above are incorporated into this cause of action as if fully stated.

95. Defendants made a police call to knowingly and falsely report, among other things (a) that conflict existed between Jane Doe and the daughter, (b) that Jane Doe had locked the daughter out of her house, (c) that conflict between them was ongoing, and (d) that the daughter was "drunk." Defendants were aware they had no proper basis for their police call, planned for the Plaintiffs to be unaware they had made the call, made the call as part of their plan

for causing problems for the Plaintiffs, and made the call after the Plaintiffs had already solved the problem of the daughter accidentally locking herself out of the house.

96. Defendants had an ulterior purpose in making the false police call, and engaged in multiple willful acts in the use of the process they initiated that were not proper in the conduct of the proceeding. Defendants were motivated to make the call by a desire to cause problems for the daughter. They desired to isolate the mother, known to have dementia, and known to be unable to care for herself, to accomplish the ulterior purpose of inflicting harm on the Plaintiffs and to cause the 1960 home to be vacated. Not only did it suit the Defendants' malicious intention to cause problems for the Plaintiffs, they desired to isolate Jane Doe so her dementia would require she be moved from the 1960 home to a more expensive facility to cause the 1960 home to be vacated and later to be sold.

97. Defendants acted contrary to facts they knew or should have known to be true, in collaborating with a police officer who responded to their police call. Each took overt acts in furtherance of the corrupt agreement reached with that officer. The officer agreed to remove the daughter that night and to leave Jane Doe without support, as the Defendants desired. The Defendants agreed to maintain a false history as to the daughter's care of Jane Doe, to sustain the known falsehoods put into their police call.

98. The officers entered the Plaintiffs' home on a pretext of their own making, derived from their agreement with Defendants that the daughter would be removed that night from the 1960 home. Once inside the plaintiff's home, the officer saw there was no support for the Defendants' false claims about the Plaintiffs. The officers contend that when they encountered Jane Doe she not only assured them that everything was "fine," the daughter had

taken such care of her mother that the officers contend that Jane Doe also appeared to be fine, even though the officers knew that Jane Doe had dementia. The daughter was removed on a pretext despite the evidence at the scene that the Defendants' report was false.

99. The Defendants have also taken overt acts in furtherance of the agreement reached at the scene with Defendants. They have defamed the daughter by publicizing their false accusations to persons with whom there is no privilege to speak, and defamed Jane Doe by publicizing she had willfully locked her daughter out of the house.

100. Defendants willfully used process to accomplish their ulterior motives, and aware that the charges against the daughter were false.

101. The actions by Defendants were not proper in the regular conduct of the proceeding. Defendants acted with the ulterior purpose and bad intent in making the police call against the Plaintiffs when Defendants were aware that a complaint as to the Plaintiffs was neither necessary nor supported by the facts.

102. Defendants perverted the process for the improper result of satisfying their own displeasure at the Plaintiffs, and the Defendants' interest in causing the 1960 to be vacated and to compel its sale.

103. Harm to the Plaintiffs resulted from the "bad intent" of the ulterior purpose that motivated the Defendants. Defendants intended to harm the daughter, and harm to Jane Doe was either intended by Defendants or was an acceptable by-product of the Defendants' ulterior purpose to try to force the sale of the 1960 home.

104. Through cooperation with the officer who first responded to the scene, Defendants effectuated the removal of the daughter, which removed her as caregiver of Jane

Doe, as Defendants intended. Defendants then did nothing to assist Jane Doe, knowing she was alone, and knowing she had dementia, in the aspiration that Jane Doe would be removed from the 1960 home, the home would be vacated, and Jane Doe's family would be compelled to sell the 1960 home.

105. Injuries by Defendants towards the Plaintiffs were done without cause and wantonly, to obtain the collateral benefit of causing a problem for the daughter, isolating Jane Doe from her caregiver, and compelling the vacating and then sale of the 1960 home, none of which interests are properly involved in the use of process itself.

106. Defendants used the process against the Plaintiffs to coerce the daughter and extort Jane Doe and her family to satisfy the interest of Defendants in gratuitously burdening the daughter, isolating Jane Doe, and attempting to compel Jane Doe to be institutionalized in the care of strangers so as to cause the 1960 home to be sold.

107. Charges against the daughter were *nol prossed.* Defendants inflicted harm on the daughter, as they intended to do, and conspired with the officer who was first on the scene to inflict harm on the Plaintiffs for Defendants' improper and gratuitous purposes.

108. Defendants were motivated to use, participate in, and contribute to, the process against the Plaintiffs due to events occurring *outside* of the process, namely the daughter's care of her mother without the approval of Defendants, the daughter's alterations to the 1960 home without the approval of the Defendants, and the daughter's threatened longevity in the 1960 home, all of which Defendants believed impeding Defendants' improper objective to have the 1960 home vacated and then sold.

109. Defendants used the criminal process to satisfy the Defendants' personal interests and their dislike for the daughter, not any proper public purpose. Process was used against the Plaintiffs to cause them special damage. The daughter was physically assaulted, was improperly removed from her home, had her caregiving for her mother interrupted, and her caregiving for her mother was then burdened with additional problems created by the police, all as the Defendants intended. Jane Doe was burdened with being isolated from her caregiver, unable to care for herself, feed herself, bathe herself, or toilet herself, an isolation that harmed Jane Doe solely to further the illicit personal interests of the Defendants.

110. Defendants acted willfully and overtly as to the Plaintiffs, to use process against the Plaintiffs for an unauthorized, illegitimate, collateral objective to isolate Jane Doe from her caregiver, burden the daughter as caregiver, and to cause the 1960 home to be vacated and sold.

111. Actions of Defendants created for the daughter physical injuries which required medical care and treatment, mental injuries which required care and treatment, loss of her time, interference with her work hours, and the mental anguish of knowing her mother was alone and unable to care for herself, and being unable to let anyone know or get anyone to listen to her.

112. Defendants are responsible to the Plaintiffs for actual and punitive damages inflicted by their improper use of process against them.

For a Second Cause of Action: Malicious Prosecution

113. Allegations above are incorporated into this cause of action as if fully stated.

114. Defendants instituted criminal judicial proceedings against the plaintiff daughter based on information known by the Defendants to have been false.

115. Those proceedings were terminated in the daughter's favor.

116. Defendants exhibited malice in instituting those criminal proceedings by reporting first to the consolidated dispatch operator, and then to police, false information about the daughter and her mother.

117. There existed no probable cause for any process to be initiated against the daughter, nor could Defendants claim any proper basis to have properly claimed to know, for example, as they reported, that the daughter had been locked out by Jane Doe, that any family dispute was taking place, that the dispute was ongoing (when the daughter was, with cooperation of her mother, back in her house before the 10:06 p.m. call was made by Defendants), or that the daughter was abusing or neglecting Jane Doe, as Defendants contended.

118. As set forth in detail above, the daughter was injured and damaged as a result of the Defendants' malicious prosecution. Her home was improperly entered, she was improperly removed from her home, she was improperly charged as a pretext to remove her from her home, she missed work, her caregiving for her mother was impeded, false statements were made about her, defamatory statements were published about her by Defendants, and mental strain and upset was placed upon her because her mother was left to fend for herself, all as Defendants intended.

119. Defendants intentionally and maliciously initiated a prosecution of the daughter, and entered an improper agreement with police to have the daughter removed that night from the 1960 home on pretext.

120. Defendants are properly charged with actual and punitive damages as assessed by the finder of fact in favor of the plaintiff daughter.

For a Third Cause of Action: Defamation

121. Allegations above are incorporated into this cause of action as if fully stated.

122. Defendants each defamed each of the Plaintiffs.

123. As to the daughter, the Defendants published to persons with whom they had no privilege, and persons who had no role in the criminal process, information they knew to be false, and which falsely accused the daughter of multiple criminal acts. As alleged in detail above, the statements are defamatory *per se* and actionable *per se*.

124. Those statements caused damage to the daughter and the daughter is presumed to have damage from the defamatory statements.

125. As to Jane Doe, who the Defendants were aware was entirely dependent on her daughter's care, the Defendants falsely published to persons with whom they had no privilege, and persons who had no role in the criminal process, false information that Jane Doe had intentionally locked the daughter out of her home, was in a "family dispute" with her daughter, and was not being properly provided for by her daughter.

126. Jane Doe was falsely accused by Defendants of being a victim of a crime, the implications being that (a) Jane Doe and those who hold her power of attorney would be content to permit her to be the victim of a crime, (b) that her family and own child would commit a crime against her, and (c) that police intervention was required for Jane Doe. Defendants were aware their claims were false.

127. The Defendants' statements about Jane Doe are false, and were known to have been false when made. Jane Doe had special damages as a result of the false statements made by the Defendants about her, including having her caregiver removed, having her caregiver

burdened by additional concerns beyond the burdens associated with working and caring for Jane Doe, isolating Jane Doe from her caregiver, and causing Jane Doe to be without any assistance for more than 18 hours when she could not perform the most basic functions for herself.

128. Defendants took those actions against the Plaintiffs intentionally and are liable to the Plaintiffs for actual and punitive damages in amounts to be assessed by the finders of fact.

For a Fourth Cause of Action: Civil Conspiracy

129. Allegations above are incorporated into this cause of action as if fully stated.

130. In addition to the actions alleged above, Defendants conspired with each other and with the officer who first arrived on the scene to cause special and unique damage to the Plaintiffs over and above the damages alleged above and below, and distinct from the other damages alleged in this complaint. Defendant Jacob Sadler acted with knowledge and consent of defendant Sarah Sadler in engaging with that officer.

131. The Defendants and the officer had a joint assent of minds to accomplish the unlawful enterprise and each took one or more overt acts to further the agreement they made.

132. The officer's act was to agree to that night remove the daughter from the 1960 home, to leave Jane Doe unassisted after the daughter had been removed, and to arrange for particularly nasty treatment for the daughter at the jail by the charges she made against the daughter, including both the formal (and false) charge of assault on a police officer, and by her explanation (also false) that Jane Doe had caused her daughter's arrest because Jane Doe and her daughter were in conflict.

133. Even though the daughter was falsely charged with a crime, a charge that was later *nol·prossed*, even had that charge been legitimate it is conceded by the officer that it was not necessary to remove the daughter from the residence because of that charge. Nor was it necessary to leave Jane Doe isolated and alone at the 1960 home after the daughter was removed. Nor was it necessary for the officer to charge the daughter, falsely, with assaulting a police officer. Nor was it either truthful or necessary for that officer to contend that Jane Doe was in danger from her daughter, that Jane Doe had caused the daughter to be arrested, that conflict existed between Jane Doe and her daughter, or that Jane Doe needed a "better" caregiver than her daughter. Those unnecessary contentions were a reflection of the agreement reached with Defendants.

134. Nor was it necessary or truthful for that officer to communicate with the transport officer and the detention center to obtain for the daughter especially harsh treatment at the detention center, in the form of:

a. having a strip-search imposed as a condition for the daughter having access to each of water, telephone use, and consultation with counsel,

b. the arresting officer opposing bail for the daughter so as to maximize her time spent at the detention center, so that Jane Doe would be isolated and alone as long as possible, and

c. The arresting officer contending, falsely, that there was conflict between Jane Doe and her daughter, such that Jane Doe had caused her daughter's arrest.

135. Removing the daughter from the residence with those gratuitously harsh provisions for the daughter to get at the detention center and arranging no care for Jane Doe once the daughter had been removed was an overt act in furtherance of the conspiracy reached between that officer and each of the Defendants, the essence of which was to remove the daughter on March 27, 2014, and leave Jane Doe to fend for herself, to set in motion a chain of events which Defendants hoped would cause Jane Doe to be moved to another care facility, and vacate the 1960 home. Removing the daughter was gratuitous by the officer, and part of the agreement reached with Defendants, who wanted the daughter removed and Jane Doe to be isolated. Making the daughter's confinement at the detention center especially unpleasant and offensive was added by the officer as part of her agreement with Defendants to give the daughter as hard a time as possible once she was removed.

136. The officer agreed with the Defendants to remove the daughter, make no provision for Jane Doe's care, and make arrangements for the daughter's time at the detention center to be (a) as prolonged as possible at the detention center and (b) as offensive as possible at the detention center. The officer did so. The Defendants agreed to continue their false accusations against the Plaintiffs, and agreed to provide no assistance to Jane Doe after the Defendants knew the daughter had been removed. The Defendants did so.

137. The object of the civil conspiracy both between Defendants and with the first responding officer was to cause such special damage to the Plaintiffs so that Jane Doe would be institutionalized, and not cared for in the 1960 home by the daughter.

138. As to the daughter, the special damage she sustained from the Defendants as part of the conspiracy with the officer who first arrived on the scene was (1) being removed from her

home and her bed unnecessarily and without a proper reason, even if the charge against her had been legitimate, which it was not, (2) knowing that her mother, who was unable to care for herself, was being provided with no care the entire time she was unable to communicate with family members after her removal from her home, (3) having to spend more time in the jail than necessary, and (4) having that time be made as offensive as possible, as alleged above. Those damages are not claimed in any other cause of action stated in this complaint.

139. As to Jane Doe, the special damage was the isolation and personal discomfort for the time between when the police wrongfully entered the 1960 home, about 10:30 p.m., and removed her caregiver, as agreed by Defendants and the officer who first arrived on the scene, and when Jane Doe's brother was first informed that Jane Doe was isolated and alone, the following afternoon. For that time period, Jane Doe was alone and unable to provide for herself in any way, including her own toileting. When the brother arrived he could provide Jane Doe food, but was limited by decency from toileting or bathing or properly dressing Jane Doe. That injury as to Jane Doe continued until the daughter could return home to resume care for her mother, late the following day.

140. The time period of Jane Doe's isolation without food prepared for her was from approximately 10:30 p.m. on March 27, 2014, when the police intrusion began, until about 2 p.m. on March 28, when the daughter could first tell Jane Doe's brother that Jane Doe had been alone all night and all morning. Until about 5 p.m. on March 28, when Jane Doe's brother could first bring the daughter back home, Jane Doe was deprived of her daughter's more personal care that her brother could not provide. And by the time the daughter was released from the detention center she had her own injuries and her own legal charges to contend with, infringing on Jane

Doe's care.

141. Jane Doe was also deprived of her daughter's care by the utterly false contention by Defendants and police that Jane Doe was in danger from the daughter and was in conflict with the daughter. On March 29, when the daughter was attending to her own injuries from her arrest, the brother of Jane Doe found Jane Doe so disoriented and agitated that he called for an ambulance and had her evaluated at the Medical University of South Carolina. Jane Doe was admitted after that evaluation, and was hospitalized for some weeks. Initially, MUSC would not permit visits from the daughter due to the contention that originated with the Defendants and was repeated by police (despite there being no evidence of it) that the daughter was a danger to her mother. Once MUSC confirmed that Jane Doe had been well cared for by the daughter, she was again allowed access to her mother. Eventually, MUSC would release Jane Doe back to the care of her daughter. The isolation of Jane Doe from her daughter due to the false statements of the Defendants and others is part of the special damage attributable to Defendants and their conspiracy with the officer who first arrived on the scene.

142. Despite the opinions of medical experts overseeing Jane Doe's care, in September, 2014, Defendants again collaborated with city officials and agents to try a second time to compel the daughter to be removed as caregiver, Jane Doe to be removed from the 1960 home, and Jane Doe to be institutionalized. The conspiracy between Defendants and North Charleston agents and officials is ongoing.

143. Defendants should be enjoined from any contact with officials or agents of the City of North Charleston that relates in any way to the Plaintiffs.

144. Defendants, and their co-conspirator, intended these injuries to the Plaintiffs.

145. Plaintiffs are entitled to actual and punitive damages from the Defendants in amounts to be established by the finders of fact.

For a Fifth Cause of Action:
Injunctive Relief, Request for Restraining Order, Assault

146. Allegations above, other than those relating to the damages from the civil conspiracy cause of action, are incorporated into this cause of action as if fully stated.

147. Defendant Jacob Sadler has placed the plaintiff daughter in reasonable fear of bodily harm and a restraining order should issue to prohibit the Defendants from any contact with the Plaintiffs. He has done so with agreement of Sarah Sadler. Each should be enjoined from any contact with the Plaintiffs, and from making any intrusion on their property.

148. Defendants are hereby placed on trespass notice.

149. In addition to the actions alleged above in this complaint, Jacob Sadler has threatened the plaintiff in the presence of third persons.

150. On Saturday, May 16, 2015, about 9:30 a.m., the daughter was conversing in her yard with a business vendor, discussing furniture the daughter was interested in having the vendor evaluate. The vendor and the daughter had not previously done business, and had not previously met. May 16, 2015 was the first time they had ever met.

151. At the end of that meeting, the vendor and the daughter talked in her front yard for 15-20 minutes, about the neighborhood, and her gardening, each of which interested the vendor.

152. For part of their conversation, defendant Jacob Sadler was mowing his lawn. When he finished that, he began moving the various cars that he parks in his front yard. Those

actions were in view of the vendor and the daughter.

153. The vendor noticed Mr. Sadler repeatedly looking in the direction of the daughter, and doing so in an angry manner. Neither the vendor nor the daughter were paying any special attention to Mr. Sadler. Nor was either of them bothering Mr. Sadler. The daughter and the vendor wee engaged in their own conversation, having nothing to do with the Sadlers.

154. Consistent with the allegations of this complaint, Mr. Sadler was unable to mind his own business on May 16, 2015, and he intruded on the conversation between the daughter and vendor. As the vendor observed him, Mr. Sadler glared at the daughter and demanded of her, in a loud and angry voice, "Do you have a problem with me today?"

155. The vendor knew none of the Sadlers' 2014 efforts, set out above, to create problems for the Plaintiffs, or how the Defendants aspired to force the 1960 home to be vacated. The vendor was surprised at the anger, belligerence, and physical aggression Mr. Sadler displayed towards the daughter. The vendor responded to him that he did not, meaning have a problem with Mr. Sadler, but he would if Mr. Sadler desired a problem.

156. Once Mr. Sadler withdrew, the vendor advised the daughter that in his opinion, based on what he had just seen, her neighbor was obviously looking for a way to create a confrontation with her and a problem for her. Unknown to the vendor was how Jacob Sadler and Sarah Sadler had coordinated to cause special harm to the Plaintiffs, and the physical aggression of Jacob Sadler is a posture fully endorsed by Sarah Sadler. The vendor advised the daughter to take steps to protect herself from her neighbor, and has offered to testify about the threatening and inappropriate aggression he observed from Jacob Sadler.

157. Jacob Sadler has demonstrated an explosive and extreme anger in the past. He and Sarah Sadler have chosen to be antagonistic towards his neighbor, for their own desire of trying to cause their neighbor to vacate her house. Defendants each represent a physical danger to the daughter and a restraining order should issue against either of them having contact with the Plaintiffs or making any entry to the Plaintiffs' property.

158. On multiple occasions, but only one time in front of a third party witness, the daughter has been in reasonable fear of bodily harm by the conduct of the defendant. She remains in reasonable fear of bodily harm from her physical aggression of the defendant.

159. Acting through those who hold her power of attorney, Jane Doe presently has a suit pending against North Charleston and its officials for the conduct of the police from March, 2014. Among other things, that suit alleges certain retaliatory behavior by the city and its agents directed towards these Plaintiffs, and directed towards the daughter even though the daughter has no pending claim against the city. Knowing her neighbor's role in collaborating with city officials concerning the events of March 27, 2014, the City of North Charleston and its agencies and mechanisms will continue to retaliate against the daughter and her mother.

160. For example, when the daughter sought a restraining order from a magistrate in North Charleston, she and her local counsel for that purpose were directed to a particular magistrate office. Despite the rules of court, that magistrate's office prohibited any filings for a restraining order without consulting directly with the magistrate. When local counsel sought to consult directly with the magistrate, and presented a complaint and affidavit, the magistrate prohibited the filing on the theory that the witness affidavit was an *ex parte* communication with the court, a nonsensical response, but a rationale which serves well to indicate that at present, the

City of North Charleston remains an entity oriented towards retaliatory conduct against anyone who challenges the corrupt behaviors of the City, and will continue to retaliate against the daughter solely because Jane Doe has a claim against the city.

161. The City's retaliatory conduct has extended to the daughter in the form of police harassment, police surveillance directed at her, and random, unprovoked aggression of police officers directed at her, even though the daughter has made no claim against the City. Those claims are not part of this civil action.

162. The daughter will be able to get no relief to protect herself from her neighbors without action of this court. Because of its retaliation against them, no mechanism with any connection to the City of North Charleston can be expected to assist the daughter or Jane Doe.

163. As set out below, and incorporated into this cause of action, the Defendants have each made unauthorized entry to the daughter's home, have each gone through her trash, have collaborated to falsely accuse the daughter of crimes, and have taken advantage of Jane Doe's neurological deficits to gain admission to the plaintiff's residence, for the purpose of seeking evidence to use against the Plaintiffs.

164. Both temporary and permanent restraining orders should issue against the Defendants to enjoin the Defendants from:

a. having any contact with each of the daughter or any member of her extended family, including those family members who hold power of attorney for Jane Doe,

b. abusing, threatening to abuse, or molesting the daughter, the furniture vendor who witnessed Mr. Sadler's aggression, or any member of the family of the

daughter or the witness' family,

c. entering or attempting to enter the daughter or witness' place of residence, employment, or business,

d. making surveillance against the daughter or any member of her family,

e. recording, photographing, making any video record, or any other type of visual record of the daughter or any member of her family,

f. intruding in any way into the daughter's privacy,

g. continuing to make false statements about or accusations against the daughter, and

h. communicating false statements or accusations about the Plaintiffs in any manner with any North Charleston agent or official.

165. Defendants must be ordered to leave the Plaintiffs alone, to let her live their lives without the intrusions of the Defendants, and without their repeated efforts to institutionalize Jane Doe.

166. Defendants believe themselves entitled to dictate to the daughter how she conducts her life, whether she cares for her mother, and how the daughter treats her own property, and must be enjoined by the court from continuing to act on their astonishing arrogance directed towards the daughter and Jane Doe.

167. The daughter is entitled to actual and punitive damages from Defendants for their aggressive physical actions which have placed the daughter in reasonable fear of imminent bodily injury, and in fear of imminent removal of Jane Doe to be institutionalized.

For a Sixth Cause of Action: Trespass

168. Allegations above, other than those relating to the damages from the civil conspiracy cause of action, are incorporated into this cause of action as if fully stated.

169. It took some time after the events of March, 2014, for the daughter to understand that the Defendants originated the police call on March 27 and had reported the various falsehoods they had reported. Until the summer of 2014, the daughter was unaware of the Defendants' role in spreading falsehoods about Jane Doe and her daughter.

170. Until the fall of 2014, the plaintiff was unaware that the Defendants had used Jane Doe's substantial neurological problems to trespass into her house, invade her privacy, and gather information to try to use against her and substantiate their false police report.

171. Trespass is an intentional tort, and this cause of action alleges intentional conduct of the Defendants, as does this complaint.

172. Jane Doe holds a life estate in the 1960 home. Through that life estate she has the right to exclude all others from her property, including its owners, as would any life tenant. The daughter has an ownership interest in the house, subject to Jane Doe's life estate, and has agreement from Jane Doe and those who hold her power of attorney to reside in the property. The daughter has both actual possession and constructive possession of the 1960 home. Jane Doe benefits from her daughter's presence through the care she renders her mother.

173. The property interest held in the 1960 home by each of the Plaintiffs is objected to by the Defendants, who desire Jane Doe to be institutionalized and for the 1960 home to be vacated.

174. Jane Doe's consent that her daughter reside with Jane Doe both preceded Jane Doe's loss of competence from her neurological condition and is a consent which has continued and been reaffirmed by those who hold power of attorney for Jane Doe.

175. By 2013, Jane Doe had lost her capacity to manage her own affairs. Before she lost her competence she turned over to those who hold her power of attorney the management of her affairs.

176. Defendants were aware by 2013 that Jane Doe had substantial neurological difficulties, had lost her competence, and was unable to give informed consent on any topic. Indeed, Defendants maintain that Jane Doe should be institutionalized and removed from the 1960 home. Jane Doe can deal with others through only those who hold her power of attorney or through her caregiver daughter, who also has authority through those who hold Jane Doe's power of attorney.

177. Defendants undertook affirmative acts to manipulate Jane Doe to trespass into the 1960 home and, by Defendants' own account, used that manipulation to explore every room of the property. Defendants intentionally invaded the 1960 home, and fully intended their actions in invading the 1960 home. Their purpose was illicit: to gather information to use to attempt to eject the Plaintiffs through a false police report, so as to further their interest in causing the 1960 home to be vacated.

178. By their own account, Defendants manipulated Jane Doe's known neurological weakness to trespass into the home of the Plaintiffs and to do so before March 27, 2014. Based on the conditions the Defendants claimed existed during their trespass into the 1960 home, including reports of construction work not undertaken until Jane Doe was absent from the 1960

home for an extended hospitalization that occurred only after March 27, 2014, it is apparent that Defendants took advantage of Jane Doe to make multiple acts of intentional trespass into the 1960 home both before March 27, 2014, and after March 27, 2014.

179. In their false reports of March 27, 2014, Defendants failed to cause the 1960 home to be vacated. Having failed in that objective, Defendants trespassed after March 27, 2014 to try to find information to support after the fact the false allegations they made on March 27, 2014, to note their own objections to the changes being made to the 1960 home, and to make their own plans for the 1960 home.

180. Defendants made a second collaborative attempt with City of North Charleston agents and officials, in September 2014, to compel Jane Doe to be forcibly removed from the 1960 home and to be institutionalized.

181. Defendants took advantage of Jane Doe's known neurological limitations to trespass into the 1960 home to advance their own illicit agenda. Jane Doe was not capable of consent and was known by Defendants to not be capable of consent. The Defendants' trespass interfered with the interest each plaintiff held in the exclusive peaceable possession of their property, and was used by Defendants to gather information to use for the Defendants' false reports about the daughter to impair Jane Doe's care, to institutionalize Jane Doe, and to impair the rental value of the 1960 home.

182. Should Plaintiffs have needed to rent the 1960 home to benefit Jane Doe that rental value is eliminated by the property being subject to Defendants' unilateral and repeated acts of random trespass and persistence in trying to cause the 1960 home to be vacated. The 1960 home has rental value only if quiet enjoyment and exclusive possession can be conveyed

by those who hold an interest in the property. Neither quiet enjoyment nor exclusive possession can be conveyed if the Plaintiffs must rent the 1960 home subject to Defendants trespasses at times of Defendants' choosing. Defendants' repeated trespasses, by their random and repeated nature, render the property unfit for rental or for habitation for lack of peaceable possession and impair the value of the property.

183. Defendants should be enjoined from future contact with the 1960 property, and future trespass, and the finder of fact should award actual and punitive damages against the Defendants for the intentional trespasses into the 1960 home.

For a Seventh Cause of Action:
Wrongful Intrusion Into Privacy

184. Allegations above, other than those relating to the damages from the civil conspiracy cause of action, are incorporated into this cause of action as if fully stated.

185. Once inside the 1960 home, Defendants wrongfully intruded into the privacy of each of the Plaintiffs. The Defendants, as they put it, "went through the whole home," which constitutes an intrusion into the privacy of each of the Plaintiffs.

186. By intruding into the home, and manipulating the known mental deficiencies of Jane Doe to do it, Defendants intruded into private areas, where one normally expects will be free from exposure to prying neighbors, and did so on multiple occasions, each time for an illicit purpose.

187. The intrusions were substantial and unreasonable. First, because the Defendants manipulated Jane Doe's known neurological deficits to make their intrusions. Second, because Defendants did not disclose to the daughter caregiver that they had manipulated Jane Doe's

deficits to gain that access. Third, because the Defendants used the intrusion to gather as much information as they could to support their falsified and exaggerated reports about the Plaintiffs. And fourth, because the Defendants have repeatedly collaborated with the first officer to respond to the scene and other City of North Charleston agents and employees to attempt to compel Jane Doe to be removed from the 1960 home and institutionalized.

188. The idea of the Defendants going through the Plaintiffs' entire home is by itself disturbing to the plaintiff daughter and those who hold power of attorney for Jane Doe. That disturbance is not made less so knowing that the Defendants used their repeated improper access for the purpose of gathering information to disrupt the Plaintiffs and to isolate Jane Doe from her caregiver, and to compel Jane Doe to be institutionalized, all because the Defendants desire to compel the 1960 home to be vacated.

189. .Defendants showed a blatant and shocking disregard of the rights of the Plaintiffs in making their intrusions.

190. Defendants acted intentionally, and for the purpose of injuring the Plaintiffs, in making their wrongful intrusions.

191. Defendants concealed their intrusions from the caregiving daughter, and attempted to use against that daughter the information they obtained during their intrusions.

192. Damage from those intrusions is presumed as a matter of law for each trespass, and Defendants' conduct also caused shame, humiliation, and emotional distress in the Plaintiffs. Plaintiffs are each entitled to actual and punitive damages assessed against the Defendants by the finders of fact.

For an Eighth Cause of Action:
Intentional Infliction of Emotional Distress

193. Allegations above, other than those relating to the damages from the civil conspiracy cause of action, are incorporated into this cause of action as if fully stated.

194. Defendants were aware that Jane Doe had diminished mental capacities from dementia, was unable to care for herself, and that her daughter had been caring for her since November, 2012.

195. Defendants preferred that the 1960 home be vacated and sold. Defendants preferred that until the 1960 was vacated and sold that no changes of which they did not approve be made to the 1960 home. Defendants did not approve of the daughter, or of Jane Doe having care from the daughter, as that care by the daughter for Jane Doe might delay the 1960 home from being sold, or prevent Jane Doe from being institutionalized.

196. Jane Doe's desire was to live as long as she could in her own home. Defendants objected to that desire and the means by which that desire could be effectuated by Jane Doe's family and by those who hold her power of attorney.

197. As put by defendant Sarah Sadler, referring to Jane Doe's daughter, "I just can't believe that she was put in charge of caring for her mom."

198. .Throughout 2013, Defendants gathered information towards finding a way to isolate Jane Doe from her daughter caregiver so as to hasten the 1960 home being sold. Defendants also waited for an opportunity to separate Jane Doe from her caregiver daughter, and to compel Jane Doe to be institutionalized.

199. About 10:00 p.m. on March 27, 2014, the daughter was briefly, and accidentally, locked out of her home. It took the daughter about a minute to get her mother's attention that she

was locked out. For that short period the daughter pounded on her own front door and called for her mother's help.

200. In that minute, the Defendants heard the noise, looked outside, realized the daughter was locked out, and decided not that they should help their neighbors but that they finally had an opportunity to isolate Jane Doe from her daughter's care and try to cause Jane Doe to be institutionalized and to compel the 1960 home to be vacated and sold.

201. The Defendants agreed that Jacob Sadler should call police. He did so. That the daughter had already gotten Jane Doe's attention, had stopped making any noise, and was back in her house, did not stop the Defendants from their plan to intentionally harm the Plaintiffs.

202. That the daughter, with Jane Doe's help, by 10:06 p.m. was already back in her house and both she and her mother were back in bed also did not stop the Defendants from their plan to intentionally harm the Plaintiffs.

203. At 10:06 p.m., after all was quiet at the 1960 home, Jacob Sadler called police and proceeded to report false information, as agreed with his wife they would do, as alleged in detail above: that there was a family dispute, which was false, that it was ongoing, which was false, that Jane Doe had locked her daughter out of the house, which was false, and that the daughter was "drunk," which was false. Each statement was false, and was known by Defendants to have been false.

204. By the time an officer arrived, Jacob Sadler decided to add two additional falsehoods: that the daughter had exposed herself while urinating and defecating in her front yard and that the daughter was not properly caring for Jane Doe, who was a vulnerable adult due to her dementia. As put by Sarah Sadler, Jane Doe "should be in a home," meaning

institutionalized and living elsewhere than the 1960 home.

205. After talking with the first officer to arrive at the scene, during which Jacob Sadler, as he and his wife had agreed, proposed that the officer remove the daughter that night, isolate Jane Doe from her caregiver, because the daughter was, as Sarah Sadler put it, "not an appropriate person to take care of her mother, and has done a poor job of taking care of her mother." Defendants contend that the daughter was abusing a vulnerable adult, an assertion known by Defendants to be false and without any proper basis.

206. After that conversation, the officer removed the daughter from the 1960 home, as agreed, isolated Jane Doe from her caregiver, as agreed, but saw no evidence that the daughter was not properly caring for her mother. All officers maintained that Jane Doe seemed fine to them. One officer testified that Jane Doe told the officers, including the officer who first responded to the scene, that everything was "fine." Since the officers found no evidence to support the defamatory charge of the Defendants, that the daughter had abused her mother, the officer who first responded, to fulfill the agreement to remove the daughter that night, created a false charge of assault on a police officer, contended that the daughter was a danger to Jane Doe, and contended that Jane Doe needed a "better caregiver" than the daughter. Yet no charges were made about the daughter's care.

207. Once Defendants were aware that the daughter had been arrested, and that Jane Doe had been left without care, the Defendants made no provision for Jane Doe and gave her no assistance, reflecting both the agreement to do so with the officer who first responded to the scene and the Defendants intention to compel Jane Doe to be institutionalized. They intended that she be isolated from all care, and had accomplished that objective with the help of the first

officer who responded to the scene.

208. Defendants were aware that the daughter's removal from the 1960 home was pretextual, and that no proper basis existed to remove the daughter, as Defendants falsely claimed. Defendants were aware that their charges about the daughter were false, and lacked any proper basis, and reflected Defendants' admitted complete ignorance of Jane Doe's medical care.

209. Defendants intended that the daughter and Jane Doe each be inconvenienced and injured in the exact manner in which each was inconvenienced and injured, although Defendants desired even greater inconvenience in that they failed to accomplish Jane Doe's being institutionalized either through their efforts in March, 2014 or their second attempt in September, 2014.

210. Defendants desired that Jane Doe be unable to care for herself for as long as possible, be isolated from her caregiver for as long as possible, and have as many ensuing health complications as possible from that isolation. Defendants also desired that the daughter be isolated from her mother, undergo the mental distress of knowing her mother was alone and unable to care for herself, to have the daughter unable to communicate with anyone who would listen about her mother's dementia, for the daughter to have no understanding what had caused a police officer to invade her home, isolate herself with the daughter, then attack the daughter in her bed when she told the officer she did not require medical attention and demanded that police leave the 1960 home.

211. The Defendants are extreme and outrageous people, with no concern for others if those others intrude on the Defendants' own projection of their entitlement to the Plaintiffs' property or to control the Plaintiffs' lives. Since neither plaintiff had asked permission of the

Defendants (a) before moving to the 1960 home, (b) before the daughter was "put in charge of caring for her mom," or (c) before the daughter modified the 1960 home to better care for her mother, and because the Plaintiffs' doing those things interfered with Defendants' desire that the 1960 home be sold, Defendants acted so as to retaliate by intentionally inflicting as much emotional distress on the Plaintiffs as the Defendants could arrange to inflict. Their means for doing so was a series of false statements, as alleged in detail above, on two occasions: in March, 2014 and in September, 2014.

212. Defendants hoped they had created a plan, which would conceal their identities as the source of the various false statements used in March, 2014, then hoped to collaborate with the retaliation by the agents and officials of the City of North Charleston to institutionalize Jane Doe.

213. Defendants failed in each attempt, but did succeed in inflicting emotional injury, as they intended to do.

214. The conduct of the Defendants is atrocious, utterly intolerable in a civilized community, and is so extreme and outrageous as to exceed all possible bounds of decency. To promote their own material interests, Defendants used calculated false statements so as to create as much emotional distress as possible on Jane Doe and the daughter, hoping their doing so would remain undiscovered but have the desired effect of causing emotional harm to the Plaintiffs and institutionalizing Jane Doe. Planning to disrupt another family's struggles to cope with a loved one's incurable and terminal disease is an utterly intolerable objective that a civilized community cannot tolerate. Defendants not only planned that objective, they carried out that objective, through two separate efforts in 2014, and the Defendants in fact disrupted and

made more difficult the family's struggle to cope with Jane Doe's disease, as the Defendants explicitly intended to do.

215. The Defendants fully intended the emotional distress they inflicted on the Plaintiffs. Their objective was to cause injury to Jane Doe, compel her to be institutionalized, which would vacate the 1960 home and cause it to be available for purchase.

216. The Defendants were aware of Jane Doe's dementia, how it confused her and disabled her from managing her own affairs, knew of Jane Doe's dependence on her daughter caregiver, and knew the extent to which her daughter had rearranged her life to care for her mother. But no one had asked permission of the Defendants before the daughter "was put in charge of caring for her mom," so Defendants treated the Plaintiffs as being of utterly no consequence as human beings, and regarded the Plaintiffs only as impediments to the Defendants desire to have the 1960 home sold.

217. The actions of the Defendants caused the Plaintiffs to suffer emotional distress, which did not end when the daughter was able to return home. That distress continues to this day and will continue into the future.

218. The distress suffered by the Plaintiffs was so severe that no reasonable person could be expected to have endured it. Jane Doe quickly became confused without her daughter's steadying presence, as Defendants intended she would. She required hospitalization, but the Defendants failed in compelling the 1960 home to be vacated, as they planned. When Jane Doe was discharged, it was back to the care of her daughter. The Defendants had succeeded in accelerating the burdens on the daughter and Jane Doe's entire family for Jane Doe's care, and in making that care more difficult, with its additional emotional stress. All of this was intended by

Defendants, and reflects their callous and offensive disregard for the Plaintiffs.

219. The daughter was diagnosed by a mental health professional with cognizable injuries, physical and emotional, stemming from the actions of the Defendants and the North Charleston police.

220. Defendants cooperated with the North Charleston police to add to the daughter's burden of caring for her mother by aggravating the mother's condition, and increasing its severity. The daughter also eventually realized, once the role of the Defendants became known, that the 1960 home had as neighbors people of surpassing arrogance, and ignorance, and hostility, sufficient for the Defendants to believe that they were entitled to control, and toy with, the manner in which Jane Doe's family struggled with the burden to care for Jane Doe while Jane Doe suffered the ravages of dementia caused by early onset Alzheimer's disease.

221. As they intended, Jane Doe was isolated from the daughter and Jane Doe had been put, as Defendants intended, in a position of being unable to care for herself. As Defendants intended, the daughter was put in isolation from Jane Doe and was unable to communicate for any other family member to assist Jane Doe. Defendants intended to inflict that emotional harm on the Plaintiffs, Jane Doe to feel isolated and the daughter to be distressed at her mother's inability to toilet herself, prepare food for herself, understand the events of the daughter's removal, and, because all of the doors had been locked by police with Jane Doe inside, unable by herself even to escape the house should she need to in an emergency such as a fire.

222. Defendants intended to cause emotional distress to both Jane Doe and the daughter because Defendants desired to injure the Plaintiffs for their own pleasure and to cause

the 1960 home to be vacated.

223. Defendants did nothing for Jane Doe after isolating Jane Doe from her caregiver, despite Jane Doe's known problems. Defendants intentionally injured Jane Doe and the daughter.

224. Plaintiffs are entitled to actual and punitive damages from the Defendants, in amounts to be assessed by the finder of fact, for the emotional distress they intentionally inflicted.

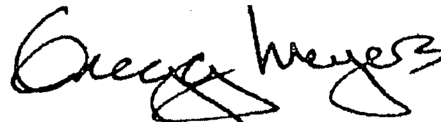
Request for Jury Trial

225. Plaintiff requests a trial by jury for the allegations above.

Relief Requested

WHEREFORE, plaintiff requests damages for each of the causes of action set forth above, that all costs of this action be taxed against the Defendants, that all factual issues be decided by a jury, for special damages for the damages alleged uniquely to the conspiracy cause of action, and for such other and further relief as the Court and jury shall deem just and proper.

Respectfully submitted,



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STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF CHARLESTON	)	CASE NO. 2014-CP-10-4591

Jane Doe 202, through John Doe MM and John Doe HS, each of whom holds power of attorney for Jane Doe,

Plaintiffs,

vs.

City of North Charleston;
Leigh Anne McGowan, individually,
Charles Francis Wholleb, individually,
Anthony M. Doxey, individually;
Howard Thomas, individually, and
Michael Kouris, individually,

Defendants.

FILED
2015 AUG 19 PM 12: 19
JULIE J. ARMSTRONG
CLERK OF COURT
BY

Certificate of Service

I hereby certify that I have a served a copy of the enclosed

Amended Complaint

by causing a copy of the document to be placed in the United States mail, first class postage pre-paid, addressed to:

Jacob Sadler
Sarah Sadler
5346 Hartford Circle
North Charleston, SC 20405

Done August 17, 2015

Gregg Meyers
Jeff Anderson & Associates, P.A.
366 Jackson Street Suite 100
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JEFF ANDERSON & ASSOCIATES PA
REACHING ACROSS TIME FOR JUSTICE

August 17, 2015

Julie Armstrong
Clerk of Court for Charleston County
100 Broad Street
Charleston SC 29401

Re: Jane Doe 202, by her POA and Daughter Doe 202 v. Jacob Sadler and Sarah Sadler

Dear Julie:

Enclosed for filing is an original and one copy of an Amended Complaint in the above-referenced matter. Also enclosed is an original Certificate of Service. Please file the original documents and return to me a file-stamped copy.

Best personal regards,

Gregg Meyers
Gregg@Andersonadvocates.com

GM:tld
Enclosure

cc: Jacob and Sarah Sadler, w/enclosure

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STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
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Done August 17, 2015

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From:	Gregg Meyers <Gregg@andersonadvocates.com>
Sent:	Tuesday, September 22, 2015 7:01 PM
To:	Julia M. Flumian
Subject:	98 items, reduced version
Attachments:	2015-09-22 - Notes to Julia.docx

Gregg Meyers
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****
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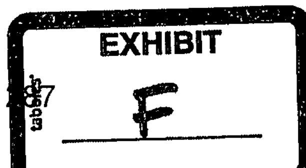


CONFIDENTIAL AND PRIVILEGED SETTLEMENT DISCUSSIONS UNDER SCRE 408.

I regard this letter as completely privileged by SCRE 408 as statements made in compromise negotiations, as will any documents I get from you in this process, at least up to a settlement agreement and possibly including any settlement agreement.

This writing may not be shared with your clients. It may not be shared with Sandy Senn or Chris Dorsel or anyone representing my opponents in other cases. It is confidential, for you only. You will have to discuss it with your clients, but I do not want any version of this document circulated, as the document is part of our settlement discussions.

Pursuant to our discussions about possible ways to resolve this action, I have laid out below a series of topics for clarification. I am sorry it is so long, but I have tried to be exhaustive among the sources of the Sadlers' testimony and their interactions with Sandy Senn and the police officers.

1. Has there been any communication by either of the Sadlers with any of officers McGowan, Doxey, Wohlleb, Howard Thomas, and Kouris, the defendants in the pending 2014 case for [redacted]?

2. Has there been any communication by either of the Sadlers with NCPD Deputy Chief Coyle Kinard?

3. How does Jake Sadler or Sarah Sadler, or the both of them, know Ashley Scott? From what context are they friends, as has been represented (by Sandy Senn and Jake) that they are?

4. What was the conversation Sarah Sadler had with McGowan on the day of Sarah's deposition? A writing reflecting that, in as much details as is available, would be helpful. If we can conclude this informally, then I would like an affidavit about it.

Let me work through the testimony each of the Sadlers gave, item by item.

5. P. 8. Sarah contends she's had no contact from Ms. Senn. Would she agree that she had contact with Ms. Senn indirectly, since there were emails from Senn to Jake prior to that answer being given, and Jake discussed things with Sarah. If she wants to distinguish no direct contact that is fine, but is the most accurate answer not that she had been in contact with Sandy Senn through her husband Jake?

6. P. 9. Sarah omits any reference to talking with Jake when she summarizes the family members with whom she spoke, yet later she agrees she talked with him. Would she agree that she had spoken to him, and he had spoken to Sandy Senn, about the events of 3/27, and had done so prior to her deposition on 9-3-14?

7. P.14 – she testified to their own home renovations to kitchen, laundry, bathroom, new roof, and that they replaced two windows for energy efficiency. She was newly pregnant at the time of the deposition, so I assume by this time there may be some other modifications they have by now made. Has there been anything else at this point by way of renovation to their house?

8. P.15 – does she still work for MAPS (Multi-disciplinary Assn. for Psychedelic Studies)? Does MAPS still engage in studying psychedelic drugs for medical treatment?

9. P.20 – does she still maintain that she would be "grateful" if someone called the police on her? Would that be true if the person who called police made up false information to give police, and told them something that was not true? Such as telling police falsely that that the Sadler dogs were being abused or neglected? Or that the Sadlers were abusing their child? Would she be "grateful" for a call like that? That is the parallel of the call they made.

10. P.28 – are there any other phone calls since her deposition on 9/3/14 that she or Jake have made about 5345?

11. Had Sandy Senn disclosed to Jake and Sarah that she had voluntarily withdrawn her "emergency" motion of 9/2/14 to try to remove the mother from the home? Sandy Senn's emails suggest she had no choice but in fact the motion was withdrawn voluntarily. It tells me more about Sandy's conduct than theirs to know that, which is why I ask.

12. P.32 – Sarah states she does not know what [redacted]'s capabilities are. Does she appreciate that [redacted] has a complex disease being managed by experts at MUSC and Sarah know far less than those experts do about [redacted]'s care and what she needs? Would they agree to defer to the family for providing [redacted]'s care? Many people think you can just drive an Alzheimer's patient to a nursing home and that's all there is to it — are they aware it doesn't work that way?

13. P.32-33 – Sarah relates the day [redacted] was looking for her second dog. There is no second dog. [redacted] would confuse the cat with being a second dog, or perhaps she couldn't that day recall the word "cat." Did either of the Sadlers inform Parker of that instance of [redacted] being confused about a "second dog?"

14. P.33 – Sarah relates an instance where [redacted] "headed down the street." Did either of them inform Parker of this instance of her mother wandering?

15. P.35 – Sarah says she saw a home health nurse "one time." At p.36 she admits she has "no idea what the arrangement is for [redacted]s care." In fact, there were many different people who came to the house for [redacted] that simply went unnoticed by the Sadlers. Will they concede there was ample room for that among their sporadic observations?

16. At p. 37-38 she agreed she never helped with [redacted]'s care, or appointments, or getting her anywhere. Does she now contend anything different?

17. P.46 is where she testifies to Jake telling her that Parker is committing the crime of "peeing – or she's using the bathroom in the front yard." This needs to be clarified as to what they saw and didn't see. And when we get to Jake, he needs to get very precise about what he saw and what he presumes.

18. P.48 – Sarah testifies to a concern about where [redacted] was and described herself as "laying there stewing about what was going on over there." All the Sadlers see is their neighbor apparently locked out of her house, so I am trying to understand how and why they project any concern for [redacted] when they are looking only at Parker being apparently locked out, and hearing only Parker call to her mother. There was not in fact any conflict happening between Parker and [redacted].

19. P.50 – the transcript reflects Sarah testifying they didn't want to be "noisy" neighbors, which I assume she intended to be "nosy." I know they want to think of themselves as wanting only "someone to go over there and make sure everything was okay." (Also p. 50). The problem is that they got out of that role and into an advocacy role when they continued to argue, in September, 2014, that [redacted] should be removed and placed in a "home."

a. Will they agree the disturbance was over by the time they made the call? None of it is in the background of the audio recording of the call to police.

b. Jake reports a "family dispute." There was no dispute. Will she agree that their report was not as accurate as it could have been? That "dispute" and who-locked-who out overstates what they saw?

20. P.51 – Sarah stated she was "worried" about "what on earth could be happening over there." Will they agree they did not consider the simple possibility that Parker was accidentally locked out?

21. P.51 and 52 – Sarah agrees there was no "screaming" after the police were called. She testified (p 51) that Jake "didn't want to be involved," and Jake talked about how he went to some lengths to try to keep the public records from disclosing that he had made the call. If they were only trying to help, as opposed to trying to get Parker into trouble, why do they have any reason to try to hide their involvement? Was there an effort by Sandy Senn before their depositions to get their help to build a record last

September so as to justify immediately removing [redacted] from the home, as Sandy moved the court the day before the depositions?

22. P.54 – Sarah here expresses her conclusions that terrible things must be happening because the inside of the house ("their whole living situation") doesn't look the way her presumptions and prejudices would expect it to. She says "this is the last straw for me." What were the other straws? She also testified that "someone needed to see inside of their house and see what was going on across the street." Police photos from Feb 2014 show no large changes made in the house, except carpeting removed. No large changes were made until [redacted] was hospitalized. Changes were made for [redacted], to accommodate [redacted]'s diminished capabilities, to make the house safer for [redacted] (she had no falls after Parker arrived). Some changes were things [redacted] had always herself wanted to make. WIl they agree that [redacted]'s family has to work within the resources [redacted] has, which are very few.

23. Please have the Sadlers list for you the "power tools" they claim to have seen in the house and be concerned about. After they do, I will send you the email I just today sent myself which lists the "power tools" Parker owns. The email is to my gmail address, attygm@gmail.com, is titled Power Tools, and that email is dated September 16.

24. Was Sandy Senn ahead of the depositions promoting the pejorative view the Sadlers have towards Parker? At p. 56 and at p. 60 Sarah testified that the call was made out of concern for [redacted]. But once that arguably benign objective was satisfied, meaning once the police arrived and the police found no problems inside the house, and neither abuse nor neglect of [redacted], I am confused as to why that didn't satisfy them. They continued to maintain into September, 2014, six months later, that Adult Protective Services should remove [redacted] (e.g., Sarah at p. 84). What is that about, and is it about Sandy Senn promoting that idea to them ahead of their deposition?

25. P.54 – "she obviously was intoxicated." Meaning Parker. Jake is not certain of this even when he is talking to the police dispatch on 3/27/14. He speculates Parker "might be" intoxicated. He isn't certain. Would Sarah defer to Jake's recorded description during the call to police? Jake eventually attributes his presumption to his interpretation of Parker urinating or defecating in her front yard. But will Sarah agree she relies entirely on Jake and has no personal knowledge for this testimony?

26. P. 55 – Sarah here lists the things that gave her concern about [redacted]. Add them up and see how they equal a description of a person with Alzheimer's. Remember, we start with [redacted] living entirely on her own, able to wander at will. Parker arrived, and negotiated preventing her mother from doing that. Sarah lists [redacted] wandering (p. 54-55), and (later) for [redacted] not being seen, for not wandering. On p. 55 she blames Parker for [redacted] being "very dirty," and "having some major issues," and [redacted] not dressing as "very put together," and "Sam Huggins was no longer coming over every day," which add up to Sarah being "very concerned about what was going on over there." Welcome, Sarah Sadler, to aggressive early onset Alzheimer's. People with Alzheimer's stop bathing. Nor do they want to be bathed by others. This is all standard

Alzheimer's information. Would Sarah agree that she is not as well educated about Alzheimer's as are 's doctors, and 's family?

27. P. 55. Sarah testified that what happened on March 27 was "someone beating on the front door intoxicated in the night, screaming and using the restroom." I assume some major clarifications are in order to be very accurate about what was and was not seen.

28. P. 56-57. Sarah admits she doesn't know of s medical care, and agrees it is Parker who takes to her appointments, but then says, "I don't know of multiple reoccurring appointments that Parker is taking her to," suggesting that perhaps that is not in fact the case. In fact, Parker has taken to regular appointments at MUSC. s doctors will say is fortunate to have Parker caring for her. Will the Sadlers concede that if 's doctors are satisfied with Parker's care that the Sadlers should be, too? And that it is not their business?

29. P. 57 – Sarah agrees Parker was removed by police but claims Parker was able to return "in the morning." (On p. 83 she concedes Parker's return "maybe it was a little later in the day.") Will they defer to records which show she was incarcerated until after 3 p.m.? Do they appreciate that their supposedly benign purpose of getting help for left entirely alone, confused about why her daughter had been forcibly removed in the night, where her daughter was, unfed till about 2 p.m., (when Sam Huggins arrived), and unbathed and untoileted till about 5 p.m. when Sam could get Parker home?

30. P. 58 – Sarah says Jake later called the city to find out "what had happened." Will she defer to Jake's testimony that he tried to make sure his name wasn't associated with the call?

31. P. 60 – Sarah testified that she wanted someone to get inside the house "to make sure was okay," and she had a secondary concern that Parker was locked out. Those are legitimate purposes that I have no quarrel with, if the rest of the pejoratives can be shed.

32. P. 61. She relates Jake's account of the "scuffle" inside the house in a way that is fine.

33. P. 61. She refers to the "big lock" on the front door. This isn't a lock at all, it is a relator's key safe, so the home health workers and others who visit can get the key to the front door and let themselves in. is not being locked away, but given more access to people through Parker's efforts.

34. P. 63-64-65. Sarah related that before March 27, "very easily" lost her train of thought, and "her appearance has changed a lot," and agreed her "capabilities have diminished," and was 'obviously not bathing." From this Sarah concludes is "***someone having a severe form of Alzheimer's who's not being***

cared for." On p. 65 she says that if [redacted] was being cared for "she would be clean" and she "would be clothed properly," meaning not in pajamas. Will she defer to [redacted]'s doctors on the quality of Parker's care?

35. P. 67. Sarah testified that "the condition of the house and the condition of" [redacted] meant also that the home health nurse wasn't caring for [redacted]. Will she defer to [redacted]s doctors about Parker's care of her mother?

36. P. 67. Sarah testified about the "cleanliness" of the house deteriorating, meaning the carpeting that had been pulled up. She argues that the house had a "dramatic change" in its cleanliness, and says it was "such a dramatic change, that it was shocking." It is true that many changes were made to the house, but the large ones were made to benefit [redacted] and most were made only after [redacted] was hospitalized. The carpeting was removed not, as Sarah presumes, "because the dog urinated in – used the bathroom throughout the house," but for [redacted]'s benefit. It was better for her footing. It made the house ***easier to clean*** when [redacted] would spill a coke or forget and leave an ice cream container out to melt, for example.

37. P. 71 – Sarah testified that she'd had no contact with Parker and hadn't seen [redacted] since March 27. Given that, will Sarah agree that she has no basis to continuing to insist that [redacted] needed to be removed and Parker was committing felony neglect?

38. P. 73. Sarah testified that Parker was gone at night, "after dark, often." Even if this was pertinent, or Sarah's business, it is completely untrue. Jake explains that when Parker pulls her car into her driveway, the end of the drive curves around a tree that blocks the Sadler's view of her car (page 95 and 96 of Jake's deposition). Will she agree that it is impossible to know if Parker is home or not? Parker and [redacted] tended to retire about 8 p.m., so the house was usually dark very early. At other times [redacted] and Parker were both out together visiting family. Sarah has to agree that she knows nothing of Parker's habits, that her habits are none of her business, and that she has no idea how frequently Parker is or isn't home.

I would like the Sadlers to email you a photograph taken of Parker's house from inside their home, looking through the small window of their front door. That is the window Jake used to observe Parker's conduct on March 27.

39. P. 73. Sarah entirely speculates that Parker "maybe had a boyfriend, and there was a car. Again, I don't know," but then agrees that that when she "may have had a boyfriend" was in March, 2014. The truth is that everyone who came to the house was a person engaged in some fashion by Parker, for either Parker's business or [redacted]s care. Will Sarah please be more precise about what she sees versus what she projects?

40. P. 74. "We have seen a car there overnight, which led us to think she may have a boyfriend." Incorrect conclusion from visits by friends and family. Friends and family are, after all, allowed to visit.

41. P. 74 – Sarah describes as "her biggest concern" that "there's someone across the street that needs care or maybe shouldn't even be over there alone. They should be in a home." Will she defer to the doctors about the level of care [redacted] needs, and the care Parker is providing?

42. P. 75. Sarah again refers to the "real estate lock" on the front door, apparently not understanding that it is a key safe, not a lock. She also says "I don't see people using that door anymore." This is incorrect, as that front door is now the only routine way in and out and the other doors require overcoming the fence (and locks) to reach them.

43. P. 77-78. Sarah testifies that "[redacted] was very fearful and said repeatedly, Please don't tell Parker that I can't – I've lost the dog. Please don't tell Parker about this. She will be so mad at me. She was very frightened that we were going to tell Parker what had happened." I can't dispute that testimony if it is true, although no one else reports any conflict between Parker and her mother. But will Sarah appreciate that first, there is no second dog, and second, that it is very common for an Alzheimer's patient to be confused and paranoid, especially about the person who gives them care? Or at least defer to [redacted]'s doctors about her conduct and her care? This testimony was used by Sandy to bolster the officer's claim that [redacted] was 'fearful" not of the three strangers who broke into the house at 10:30 p.m. but of the daughter who had cared for her for 16 months, so the Sadlers in this aspect are also contributing to the attack on [redacted] and her family.

44. P. 78. "[redacted] was concerned that Parker was frustrated with her for things she had said. Parker was mad at her. I've heard [redacted] say that a number of times, that Parker was mad at her." I'd ask for Sarah to defer to doctors about whether such statements can be a manifestation of her Alzheimer's and that [redacted]'s doctors are in the best position to evaluate [redacted] and the care she gets from Parker. Sarah should know that none of the home health nurses report anything remotely similar over the months they visited regularly.

45. P. 79. Sarah testified that when Parker's computer was stolen "it was down the street with someone that they knew." This is entirely false. The computer was stolen, and it was stolen by people in the neighborhood, who had apparently been observing the house. That Parker or [redacted] or the Huggins family knew the thieves is entirely a creation of the Sadlers. Jake also projects this, in his deposition. It is false. Will they admit they don't know that? The attribute it to Parker and [redacted] so will they admit they might have this detail confused?

46. P. 80-81. Referring to the February, 2014 burglary, Sarah testifies, falsely, that it was not unusual for Parker to be gone at 11:30 p.m., when it is not even common for Parker to be awake at 11:30 p.m. Will she agree both that Parker's comings and goings are not her business, that she kept no track of those comings and goings, that

she defers to [redacted]'s doctors on [redacted]'s capabilities and the care she needs, and the care she gets from Parker, and cut the pejoratives?

47. P. 82. Sandy picks up, with no disagreement from Sarah, "the incident where Parker was urinating in the yard." This needs to be rejected as outside their knowledge in any form in which it arises. I understand that it is most accurate to say that they didn't in fact see that.

48. P. 83. Sarah testifies again that she has "seen her car not be there at night. And gone to bed, and in the morning not seeing her car." From this Sarah presumes that [redacted] has been left alone overnight. Parker has NEVER left her mother home alone at night. Will Sarah agree that she kept no systematic track, that it was none of her business, that if Parker's car was gone at night she doesn't know that Parker and [redacted] weren't both gone together somewhere?

49. P. 84. "I feel like somebody should be living that's 100 percent for her [meaning [redacted]] and does not have a job or any other obligation." "Or she [[redacted]] should be in a home." Because it isn't "safe" to leave [redacted] and "social services should be called at this point," which she explains by saying, "Considering the state of the house and her, yes I do." This is the odd doubling down on their supposed "concern" for [redacted]. Will they defer to [redacted]'s doctors and the various people assisting Parker with [redacted]'s care? I'd also ask them to consider the financial realities of long-term Alzheimer's care. Will Sarah concede she has no information on the resources involved in doing that, and those questions are best left to [redacted]'s family and her doctors?

50. P. 85. Sarah gratuitously criticizes Parker's "care for the yard," which Sarah describes as "night and day" from what it used to be, and states it as "another reason why I feel like the house has gone downhill dramatically." On p. 91 she attributes it to Parker telling them she ended the lawn services "because it "wasn't worth the money." The yard services were ended because the noise of the equipment scared [redacted]. Will Sarah defer to [redacted]'s doctors on whether [redacted] needed a certain type of yard care?

51. P.92. Sarah says overtly that Parker is "not an appropriate person" to care for her mother, has done a "poor job" of caring for her mother, and that her motivation on March 27 was that she "wanted the police to go there to see her [[redacted]] and see the inside of that house," "and see Parker intoxicated and question Parker." This seems pretty malicious. There is no history to support it. Will she concede this is not their business, that the doctors are in the best position to evaluate [redacted]'s care and Parker's care for her, and that it goes beyond any simple concern for [redacted] to aspire to have Parker "questioned" and to get her in trouble. This is outside of the "good Samaritan" role that Sandy Senn tries to convince them they are performing.

Deposition of Jake

52. P. 32. Starting on p. 31 Jake describes entering 5345 Hartford Circle in response to [redacted] looking for her "missing" dog, and being "fearful of her daughter, Parker, finding out that the dog was missing." Since there is no second dog, and there has never been a second dog, will Jake agree that it is entirely possible that the entire conversation reflects [redacted]'s confusion, as to both number of dogs and supposed fear of Parker finding out that [redacted] has "lost" the non-existent dog? At p. 86 is explains that "[redacted]'s seeming fear when I talked to her about the puppy being missing," as explaining why he presumed [redacted] had locked Parker out of the house. But it's all the imagining of a woman with Alzheimer's. Will Jake agree there is no chance in reality that [redacted] could have conflict with her daughter over a missing second dog, or fear from her reaction of a missing second dog, when in fact there is no second dog to go missing? [redacted]'s medical records reflect distortions in her perceptions.

53. P. 33. Jake relates why he "had reason to believe" there were two dogs, which was that "Parker had indicated that she may acquire another dog." This was never a plan of Parker's. There was never a second dog. Might Jake concede that most likely he confused Parker's acquiring the small dog of which he is aware, which Parker acquired for her mother (as good for her mother's condition), with his thinking the acquisition comment was about a second dog?

54. P. 34. Jake here testifies about the "deconstruction" that he observed in the house, and he lists on p. 34 and 35 seeing "quite a bit of carpet had been ripped up," an electric sander, cabinets that had been sanded, cabinets that were painted, sporadic painting, "tools sitting around," a "stair rail had been ripped off," meaning "pulled off." On p. 54 her refers to "so much construction or deconstruction going on."

The problem with this testimony is that there have never been a set of "power tools" in the house, and, other than carpeting being removed, the alterations happened in the house only after [redacted] was hospitalized on March 29, so these alterations can't form the basis of any concern for [redacted] on March 27.

Is there a person Jake is relying on for the condition of the interior of the house, or was he in fact went into the house after March 27, which is what appears to have been the case.

55. P. 39-40. Jake describes [redacted] as being "disheveled, not looking herself, not well-kept, not well-groomed, not speaking clearly, speaking of things that necessarily didn't make sense" when she spoke to him. Does he agree those are consistent with a person with Alzheimers, and will he defer to [redacted]'s doctors to discuss those conditions without presuming it equals poor care?

56. P. 41. Jake testified that he does not know that Parker moved to 5345 to care for her mother. Does he contend she moved for any other reason? (She didn't, but I would like to know if he contends otherwise).

57. P. 46. He testified to Parker urinating and "pulling her dress up." He needs to clarify what he did and didn't see, as there is no chance he actually saw Parker urinating or defecating. She was wearing a pencil skirt, so had to pull her skirt down each time she stooped. Would he agree that what he saw was her pulling her skirt down and that he was presuming the rest?

58. P. 46. He testified the lights of the car were on, which he says meant "The headlights and the interior lights," but then he later agrees he doesn't know which lights were on. No other witness has described the headlights as being on. Would he agree that he may have been confused about the headlights being on? Or does he have a particular recollection about the headlights being on for some time and then being off?

59. P. 47. Jake testified that he called "the police," as opposed to calling 911. I had presumed he called 911. A police witness explained to me that you can tell from the way the call was answered that the call was to police, who then linked him to the county dispatch operator.

60. P. 51. Jake is not sure but he thinks he related to officer McGowan at the scene about Parker urinating in her yard. There is no mention of it in the dispatch audio, but if he related it to the officer then Jake will certainly be called as a witness by the defendants, as they are so intent on attacking Parker. If it is possible for Jake to be definitive that he didn't relate that detail, that would be good to know. If he can't be precise, or he can and knows he did, it would be helpful to know that. But that detail, being absent from the dispatch tapes, will get him called to trial, I am pretty sure, by the defense.

61. P. 70. Jake testified he "had reason to believe that it may not be the best living situation for an elderly person who was suffering from dementia," referring to [redacted] and her home. Will Jake agree to defer to [redacted]'s family and doctors and the other professionals assisting [redacted]'s care about what she needs, versus his opinions about the house mattering in any way to that question?

62. P. 74. Jake refers to "based on the behavior I had seen in the urinating or defecating in the yard...." On p. 75 he says it was one of the other, "urinating or defecating." On p. 76 he says he saw "Pulling up her dress, seeing her underwear down around her ankles, pulling them up. Or pulling up something and pulling down a dress." Then later, he backs off a bit, "she may have just pulled down. But either way, her dress was up above her waist, and she [sic] pulling it down." "[S]he was in a squatting position when I initially saw her. You know, feet in front of her, squatting down, and then, when I – shortly after I observed her, she got up, and pulled her skirt down. She had the skirt maybe, up above her knees. Around knee-length." Then he agrees he saw no underclothes, and says "really recall the down motion, of the dress coming down." On p. 84 he says this behavior is why he concluded that Parker was intoxicated.

This will have to be clarified to be very precise as to what he saw and didn't see. Parker was wearing a pencil skirt, and any time she stooped, to put down her items and to pick

up her items, she had to push her skirt down. That may be consistent with what he saw, but his elaborate detail moves around quite a lot and it needs to be clarified.

63. P. 77. Jake testifies Parker is "not best suited" to care for her mother, because of "the frequency of her being at the home, and how often she was away from home – her car was not at the home, at least," which he says is "in contrast to her brother." He means (he explains) Sam Huggins, who came by, at most, for a short daily visit before Parker moved in. ▇▇▇▇ of course, was more capable when Sam was dropping by, and at no point did Sam live with ▇▇▇▇, so Sam was never there but a fraction of the time Parker was there on any given day. Yet Jake testifies on p. 78 that Sam is at the home more frequently than Parker, when Parker lives there and is there every single day whereas Sam came by occasionally. Would he agree to defer to the family, ▇▇▇▇'s doctors, and the various people caring for ▇▇▇▇ on what ▇▇▇▇ needed and what Parker was providing?

64. P.78. Jakes testifies about Parker, "had a unique lifestyle," "lived overseas," had married a gentleman as an art project. Never had met him. Just wanted to live over there. Had been asked to leave the country. Wouldn't be permitted a Visa because she didn't attribute economically as the country would have her do." This is all incorrect. Then he describes her as not "stable," and not "around as often." Will he defer to Parker to explain the actual history?

65. P.78-79. Jake complains that ▇▇▇▇ was "not ever visible, never leaving the house, very rarely at least, was cause for some concern for me." Although ▇▇▇▇'s world was shrinking, as it must given her disease. Will he defer to Parker to explain how she arranged her work life to be able to check on her mother during the day (p. 79), for example? He also agrees that from time to time he'd see a car in the drive that might have been a home health nurse. (p. 79). In fact, there were months of multiple, weekly home health visits.

66. P. 80. ▇▇▇▇ had given him her phone number but he had misplaced it. So he had no means of calling her. If one Googles "Sam Huggins North Charleston," you get on the first page of results his address (in Hanahan) and his phone number. Will jake concede that had the means of calling Sam Huggins, or of helping his neighbor (as he agreed (on p. 17) one ought to, but that instead, he called the police? He admits he never just walked across the street to see how ▇▇▇▇ was doing. P. 83.

67. P. 80. Jake attributes to Parker, through Parker's cousin, Austin, that Parker is the "black sheep of the family," and (p. 82) that Parker is a "wild card" and that "her relationship with the family seemed to be somewhat strained." In fact, Parker and her entire family are close, and she is close with Austin. Sam Huggins is in charge of ▇▇▇▇'s health care, as her HCPOA, and Sam thinks Parker has done a fantastic job of helping ▇▇▇▇. Will Jake defer to Sam Huggins on the quality of care Parker gives ▇▇▇▇?

68. P. 84. In the course of testifying about why he didn't just walk outside to help Parker, he gives a list of things, including that his wife was pregnant. But of course, in March, 2014 she wasn't pregnant. She was newly pregnant in September, 2014.

69. P. 85. He thinks he "probably" (p. 86) related to McGowan on the scene that [redacted] must have locked Parker out because "perhaps she was trying to stay protected from her daughter." He concedes no history of conflict across the street, no prior arguments. Will he agree he simply didn't consider the possibility that the door lock (the hardware for which was old, and failing) had caused Parker to be accidentally locked out and it was no more complicated than that?

70. P. 87. Jake testified that the family "were hesitant to turn the home over to Parker." He also (same page) gives his criticisms of the "haphazard" way the changes were being made in the house. Sam Huggins will not agree with this testimony. Will he defer to Sam Huggins on each of these subjects?

71. P. 88. Jake's most outrageous comments about Parker are on this page. He thinks she can "get herself dressed and go to work," but he then infers she has brought criminals to the neighborhood and says it is "more than a coincidence" that her house was twice burglarized "right after she had moved in." This is the same idea Sandy Senn was promoting in her emails — was she promoting that idea to them before the deposition? What were the Sadler contacts with Sandy Senn before the post-deposition emails? What evidence does Jake have that Parker has caused any "element" to come to the neighborhood? If it was suggested to him by someone else that he should make such comments I would like to know. Parker moved to the neighborhood on November 1, 2012. The break-ins were 9/28/13 and 2/8/14, hardly "right after she moved in." Other police reports connect to the house before Parker ever lived there. Crime happens in this neighborhood. It is still happening in this neighborhood, as indicated recently by the Post & Courier. Will Jake agree that this testimony is entirely speculative?

72. P. 89. Jake testifies Parker "would not be best suited for caring for someone else." Will he defer to the family on how [redacted] is cared for and by whom? He essentially defers to Sam on p. 91-92, until he takes it back later on p. 92.

73. P. 90. Jake accuses Parker of a "degree of instability," and says she was "yelling, with [her] lights on, urinating and defecating in the front yard." Will he confine himself to what he actually saw, retract all of the defamatory insinuations and connotations, and agree that what he saw is consistent with Parker being accidentally locked out?

74. P. 91. Jake here proposes that "Parker may have had a couple of love interests that she brought over." Will Jake agree he is entirely speculating? Will he agree this topic is none of his business? Does he have any basis to challenge that everyone who came to the house was employed in some fashion by Parker's company or for her mother?

75. P. 92. Jake testified not just that the didn't see Sam Huggins, but that the family visits "were all stopped," as if he knows. Sam Huggins does not agree. Jake says on p. 93 he has no idea how involved Sam Huggins is in working with Parker to care for ██████. Since Sam is HCPOA he has to be involved. Will Jake defer to Sam Huggins for issues about ██████'s care?

76. P. 94. On cross, jake agrees that he believed that Parker was not "stable or safe" for ██████. Will he agree he actually knows nothing about this, it is utterly none of his business, that he has no basis for presuming Parker has not given ██████ excellent care, that his testimony is completely speculative, and that he defers to Sam Huggins on the family's efforts to care for ██████, and to ██████'s doctors for ██████'s care and the quality of Parker's care?

77. P. 95. Jake presumes he knows, so testifies as if he knows, that Parker's car is "gone at night" "much more frequent than now," meaning more frequently before 3/27/14 than after 3/27/14. On 96 he testified that where Parker parks her car makes it impossible to know if she is home or not, because it can't be seen from his home, yet he presumes she is not at home, and presumes she is doing something wrong. Records bear out that Parker was routinely home early each day, and retired early each day. Will Jake agree that he is speculating? Was he asked or invited to do so by Sandy Senn? Sandy disclosed to the court that she got the case August 4, 2014. I am interested in her contacts with Jake on and after August 4.

78. P. 96. Jake testifies, on one hand, that he doesn't know if ██████ is safe or not, then lists the reasons why he concludes she is not, all of the reasons speculation. "I don't think she is in a good spot if Parker is taking care of her." Each of the Sadlers testifies that ██████ is "unsafe" in Parker's care, but will they defer to Sam Huggins, the nurses, the adult daycare, the doctors involved in ██████'s care?

79. P. 110. Jake flushes out his testimony about Parker not being at home, and although he concludes Parker is not home, he qualifies that (a) he's often not home, and (b) when he is home, and has noticed Parker is not, he does not know if ██████ is home. In other words, that ██████ and Parker could be gone together, which has definitely happened as they have gone together to family events and doctor appointments and to just go out together. Will Jake agree that all of his observations can fit within both Parker and ██████ being gone together, and he doesn't have enough information to be able to conclude either (a) that Parker was at any time leaving ██████ alone at night or on weekends, (b) that ██████'s capabilities to be left alone is necessarily a problem, and (c) that he defers to ██████'s doctors and family for the care she needs and the care Parker has given?

80. P. 112. Jake accuses Parker of "taking care of the dog, but not the mom." Jake will have to concede that he has no basis on which to have made this accusation, and that he defers to the family and ██████'s doctors about the care ██████ needs and the care Parker has given.

81. P. 112 – 113. Jake opines that is not safe with Parker because "what little Parker seems to be home and Parkers sentiment towards her mother," and Parker's "not best suited to be cared for by Parker." He claims only two conversations with Parker but claims intimate disclosures that Parker "didn't have the best childhood." In fact, Parker and her mother were always close, which is pretty well documented. Will Jake defer to the family and s doctors about the care needs and the care Parker has given?

82. P. 114 – 115. No doctor has told me so far that an Alzheimer's patient needs a certain type of yard care. Jake testified it was "fair to contrast it [the yard care] with what went on before" in assessing if is safe with Parker. On 115 he attributed to Sam Huggins, that "Sam had indicated some concern over Parker getting rid of the yard people." This is entirely false. Sam Huggins doesn't support it. Jake himself on p. 115 describes it as an assumption on his part. Jake complains about "a vine had grown up the side of the house," but that was an intentional planting done for good reasons. Will Jake defer to Sam about the care needs, the care Parker has given , and the manner in which Parker has made changes to the house, inside and out?

83. P. 116. Jakes testified that he *assumed* that the relationship between Parker and her mother wasn't "healthy." He claims Parker "indicated some frustrations with her mother and the situation," which Jake assumes is pejorative. Surely Jake agrees that a person might be frustrated that her mother is dying from an incurable disease that slowly strips her of her capabilities? Jake testified that was more isolated, when in fact she was LESS isolated but Jake isn't paying attention sufficient to know that. Jake has had almost no contact with Parker. Will he concede he has no basis on which to accuse Parker of not caring for her mother, or of having conflict with her mother, or of even assessing if their relationship is "healthy" or "unhealthy." In fact, Parker and her mother have long been close. Will Jake defer to the family and 's doctors about the care needs and the care Parker has given?

84. P. 117. "Systematically people were not present who were normally present," and "people were missing who normally were around." Jake is trying to make the case, I assume because Sandy has in advance asked him to, that is isolated and implicitly in danger. The reality is that had MORE contact with outside people after Parker got her mother diagnosed and made changes for her mother. Will Jake defer to the family and 's doctors about the care needs and the care Parker has given?

85. P. 118. Jake explains another of his "assumptions," that Parker moved to Amsterdam as an art project, "To see how not knowing someone and just being married to them would work." Entirely false, and none of Jake's business, but will he agree he had no business making pejorative assumptions, that none of this is any of his business, that none of it is pertinent to Parker's care for , and that he defers to Parker to explain her marriage and defers to 's doctors and Sam Huggins to explain 's care?

86. P. 119. Jake ends all this with reiterating that he doesn't know, but joins the attacks on Parker, as I assume Sandy Senn asked him to do ahead of time, to say, "I didn't see anything that would indicate any professional level of gardening ability there." The gardening has nothing to do with [redacted]'s care, but Sandy wants to discuss it. Parker's 2008 master gardener certification is not a professional certification. Nor is it claimed to be. It is an education level. Why this is the basis of an attack is hard to understand. Will Jake defer to [redacted]'s doctors about whether [redacted] needs a certain yard care for her Alzheimer's?

87. P. 122. Jake testified (in September, 2014) that he thinks someone needs to check on [redacted] as if police breaking in and finding nothing (in March, 2014) wasn't good enough for Jake. Will Jake defer to the family and [redacted]'s doctors about the care [redacted] needs and the care Parker has given?

88. P. 122. Jake testified that in addition to being concerned for [redacted]'s safety, he is "concerned for his safety" because he has given a deposition. "My wife's safety and my safety," is how he put it. At p. 123 he testified, "I don't have a clear picture of her mental state. Parker's." He presumes she has 'frustration over this issue," and (p. 124) "I'm concerned about my safety in my home and my wife's safety." We will have to disagree about this. There was no history of conflict until the Sadlers created conflict. Neither Sam Huggins, nor [redacted] nor Parker have taken any action against the Sadlers.

Sandy Senn's court filings say she got the defense of [redacted]'s 2014 case on August 4. I would like to understand when the Sadlers first talked with Ashley Scott, and what they were asked by Sandy Senn to testify about, and when they were asked. The emails after the deposition indicated communications before the deposition.

Senn Emails

89. Sandy Senn's 9-2-14 email to me at 5:25 pm was copied to Jake Sadler, among others. She must have permission from the Sadler lawyer to have communicated directly with their client.

> A. The email attached an "emergency motion." Sandy had prepared which sought the court's help to (i) block the deposition of the Sadlers, (ii) get [redacted] immediately removed by the court from her home because "If the allegations as raised in the plaintiff's complaint are true, Jane Doe is not in a safe environment with her daughter as caregiver." Among her allegations was that "the alleged caregiver apparently leaves the vulnerable adult to fend for herself."
>
> Sandy Senn of course needed a factual basis to make that allegation. That basis could have come only from the Sadlers, because no other person claims to have a basis for an opinion about that, whereas the Sadlers, on their own or because

Sandy Senn maneuvered them into it, were quite willing to attack Parker and feign a basis for it, even though they had no valid basis for doing so.

This means that Sandy either had contact with the Sadlers before September 2, or the Sadlers gave information to her prior to September 2 through indirect contact, possibly through their counsel, Ashley Scott.

I would like to know what the contact with Sandy Senn was prior to September 2 and what that information was that was exchanged.

If there was no contact, which seems unlikely, then I will need a signed writing which states that.

And if Sandy made any disclosure to the Sadlers, of any of the various information protected by court order, I would like to know that.

B. Sandy asserts in this email that Ashley Scott is Jake's "friend and lawyer." This is the reason I want to understand the context of that friendship, as requested above. Jake agrees with that on p. 4.

90. Sandy Senn's 9-2-14 email to me at 7:38 p.m. was also copied to Jake Sadler and his lawyers. It complains about the depositions going forward.

A. Were the Sadlers ever told that on August 14 I had asked Sandy Senn (by email) if the 9/3/14 date for the Sadler depositions was agreeable, and then got no response from her?

B. Did Ashley Scott ever inform the Sadlers that I offered to let her give me an affidavit about their communications with the police at the scene and that she failed to pursue that option?

91. Sandy Senn's 9-2-14 email at 8:28 p.m. was sent to Jake and his lawyers. It informs Jake that Chris Murphy will call Jake before the depositions. The email from Chris Murphy to Sandy Senn at 8:31 p.m. indicates that it will be Ashley who makes the call, not Chris Murphy. Is it correct to understand that Sandy Senn asked Chris Murphy and Ashley Scott to communicate fact information to Jake Sadler? I am not asking what his counsel told Jake, but what Sandy Senn told Jake's counsel to tell Jake.

92. Generally, in the communications prior to the deposition date, 9/3/14, what subject requests were made by Sandy Senn for the Sadlers to address in their testimony?

93. Sandy Senn's 9-3-14 email at 8:09 p.m. to Chris Murphy and Ashley Scott and Jake Sadler reports on the depositions having gone "smoothly," and informs counsel that Sandy will communicate directly with the Sadlers in the future. Had Sandy Senn arranged for Ashley Scott to represent the Sadlers, as this makes it appear?

94. Sandy Senn's 9-3-14 email at 8:18 p.m. to Jake Sadler alone, the "Thank you" email, is presumably thanking him for testifying. Had there been contact about what the testimony should be that she is thanking him for giving?

She tells them they "did the right thing by calling the police," and "it was the only moral choice." Had this been the subject of communications before the deposition? As set out above, we have a very different view of Sandy's contentions.

Sandy Senn then informs Jake, that Parker's lawyer is "planning to sue the jail." This is an interesting observation since that is only an option under consideration, and no decision even to this day has been made. What do the Sadlers understand was the purpose in Sandy Senn discussing this topic with them? Was it to create opportunity for Sandy to further disparage Parker so as to influence the Sadlers against her?

Sandy Senn goes out of her way to inform Jake that Parker was NOT "tased while in a restraint chair," while at the jail when in fact it is undisputed that Parker WAS tased while strapped in a restraint chair. Records show it. What do the Sadlers understand was the purpose of this factual misrepresentation by Sandy Senn, and what did they think when Sandy Senn made this misrepresentation to them? I assume the Sadlers had no reason to know that Sandy Senn was misrepresenting these facts. It had to have affected how the Sadlers regarded Parker. Did Sandy Senn ever inform the Sadlers that she was wrong to deny Parker's tasing?

Sandy Senn also makes commentary about Parker's conduct at the detention center. Did Sandy Senn at any point inform the Sadlers that Parker was denied the right to make a phone call, and denied the right to counsel, and that she argued with them because they would not give her those basic rights?

Sandy Senn claims she has been "worried about" [redacted] "all day," implying she has a factual basis for that worry. To what extent had that come from the Sadlers? It appears to have, since she is reflecting that concern back to the Sadlers. Or is Sandy trying to give the Sadlers a reason to support the concerns the Sadlers project in their depositions, thinking that is the more correct view of these events?

Sandy Senn also speculates that the "family cleaned her up for the lawyer's visit." What did the Sadler's understand this to refer to? It appears that it necessarily refers to me. Was any basis ever given by Sandy Senn for that statement?

The last paragraph asks the Sadlers to "trim those bushes." Had Sandy Senn enlisted the Sadlers in passing on to her observations about 5345 and the people in it?

95. Jake's email to Sandy Senn of 9-4-14 at 2:26 p.m. concludes, "Hopefully the 'powers that be' understand the hypocrisy that seems to exist within the argument put forth by the plaintiff(s), and this silliness is put to rest." I would like an explanation of what hypocrisy Jake is referring to in the argument of the plaintiffs, and what "silliness" Jake is referring to. It appears to reflect communication he has had with Sandy Senn in which she promotes to Jake how he should consider [redacted]'s allegations.

Jake also asks Sandy Senn to let them know what happens with [redacted]. Has Sandy Senn done that? She agreed to do so in her response email on 9-4-14 at 2:32 p.m. Do the Sadlers now see this as Sandy Senn manipulating them into believing that Sandy has any concern whatever for [redacted], when she is instead enlisting the Sadlers in testifying so as to attack Parker?

96. Sandy Senn's email to Jake on September 12, 2014 at 1:55 p.m. sends him the statutes on vulnerable adults. She describes them as "the law on the duty to report suspected abuse of a vulnerable adult." She relates that her hands are tied because I represented to her that [redacted] is not, in fact, isolated, as the Sadlers have testified that she is. Did the Sadlers take this email to be Sandy Senn's invitation for the Sadlers to report suspected abuse of [redacted]?

97. Sandy Senn's July 30, 2015 email to Jake Sadler and Chris Dorsel assures Jake they will "bring it up with the judge," the "it" being the suit I filed against the Sadlers. They did raise it with the judge, in chambers. It got no reaction. Did anyone report back to the Sadlers the outcome of Chris Dorsel raising the suit with the court?

Sandy invited a phone call from Jake to discuss the complaint, which Sandy refers to disparagingly. Was there such a conversation? If so, what was the content of that conversation?

Jake's email to Sandy Senn of July 30, 2015, at 7:42 a.m. was omitted from that production. I would like to see it, too, as it is within the discovery requested.

98. Sandy Senn's last email, of August 5, 2015, concludes, "I can't believe a lawyer signed it," referring to my signing the complaint. What did the Sadlers understand that to mean, and how did they take it?

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

Jane Doe 202, by John Doe MM and John Doe HS, each of whom holds power of attorney for Jane Doe,

Plaintiffs,

v.

City of North Charleston; Leigh Anne McGowan, individually, Charles Francis Wholleb, individually, Anthony M. Doxey, individually; Howard Thomas, individually, and Michael Kouris, individually,

Defendants.

IN THE COURT OF COMMON PLEAS

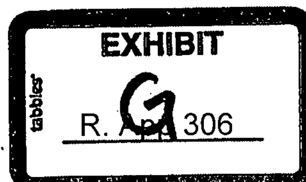
CASE NO.: 2014-CP-10-4591

FILED 2014 SEP -2 PM 4:25 BY JULIE J. ARMSTRONG CLERK OF COURT

EMERGENCY MOTION FOR PROTECTIVE ORDER/STAY DEPOSITIONS AND MOTION TO COMPEL THE ACTUAL IDENTITIES OF THE DOE PLAINTIFFS AND DOE VULNERABLE ADULT AND MOTION TO GATHER EXPEDITED MEDICAL RECORDS ON JANE DOE

Come now the defendants, above named, and hereby move for protective order staying on depositions noticed on August 7, 2014, for September 3, 2014 and September 19, 2014 in the above referenced matter. The basis for this motion is as follows:

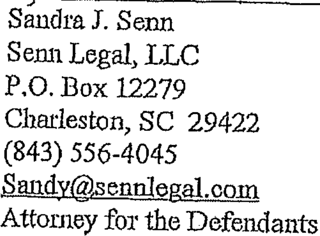
1. The defendants were served with this suit on July 30, 2014;
2. The undersigned counsel was assigned on August 4, 2014;
3. The undersigned counsel has been working diligently to contact each of her clients and gather all necessary documentation to be able to file a responsive pleading;
4. The responsive pleading is due in this matter by September 28, 2014;
5. As of the date of this filing, the responsive pleading has not been filed;
6. Subpoenas were served on witnesses Sarah Sandler and Jake Sandler for September 3, 2014, without consultation with the undersigned for scheduling purposes;
7. As counsel is still gathering documents and preparing the responsive pleadings, no discovery has been served on the plaintiffs; and
8. Counsel has not received sufficient information about Sarah and Jake Sandler to be able to prepare for these depositions. In fact, because this case was filed by two "Doe" plaintiffs about a "Doe" vulnerable adult, counsel does not even have the capability to gather records on the plaintiffs. Therefore, the defendants pray that the Doe's true identity be revealed to include all identifying information before depositions are conducted.



9. If the allegations as raised in the plaintiffs' complaint are true, Jane Doe is not in a safe environment with her daughter as the caregiver. This is clear from jail videos just recently obtained by counsel for the defendants. In those videos, the alleged caregiver cannot take care of herself much less a vulnerable adult. And, the alleged caregiver apparently leaves the vulnerable adult to fend for herself. Therefore, the defendants move for an order expediting the production of health and mental health records as well as any probate records about Jane Doe, to include the MUSC records reflected in the complaint. The defendants feel this action is needed in order to assure that Doe is safe. The defendants are more than willing to agree to a protective order of Does' idenities and to have a non-affiliated agency check on her welfare.

For all of the foregoing reasons, counsel for the defendants is hereby requesting that the court issue an order staying these depositions for sixty days giving the defendants enough time to gather the necessary documents, file a responsive pleading and conduct discovery. Defendants further pray that an order be issued to expedite production of records regarding the Does. A Rule 11 consult has not been successful.

Respectfully moved,

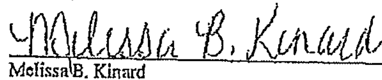


Sandra J. Senn
Senn Legal, LLC
P.O. Box 12279
Charleston, SC 29422
(843) 556-4045
Sandy@sennlegal.com
Attorney for the Defendants

September 2, 2014
Charleston, South Carolina

CERTIFICATE OF SERVICE

I hereby certify that I have served a copy of the above and foregoing by electronic delivery and by mail to counsel of record in said proceeding to his office address with sufficient postage affixed hereto, this 2 day of September, 2014.



Melissa B. Kinard

Read from bottom to top

Sandy

From: Sandy
Sent: Friday, September 12, 2014 1:26 PM
To: Gregg Meyers
Subject: Re: sorry/wrong address

Please stop arguing your case to me. Is the lady in harm's way? That's what I want your assurances on.

Thank you for acknowledging that I am not overdue on discovery on this very new case. Pushing me won't get it done faster and I'll soon ask for a scheduling order if you keep trying to move this case along prematurely.

My concern for the lady is not a joke. It is not a strategy. That is offensive. I looked at your very abusive, drunken client on tape and if she acts like that regularly, I have a good reason to be concerned. Society should be concerned. That's why I want those releases back asap because I want to eyeball the records myself. I know you are an officer of the court and I'm giving you the benefit of the doubt because of it, but you haven't seen the records yet yourself and the records we do have show only sporadic care at MUSC. I'm sure there are others, but I want to see them. The picture you are painting of Ms. [redacted]s care lies in stark contrast to that reported by the neighbors and if Ms. [redacted] was so vulnerable back then, Parker Myer was in no condition to care for her. I still don't understand why Parker wasn't home with her two days later. She left her mom alone. Why?

Let me know which week works well for you for depositions.

Sandra J. Senn
Senn Legal, LLC
P.O. Box 12279
Charleston, SC 29422

Tel: (843) 556-4045
Fax: (843) 556-4046
Sandy@sennlegal.com

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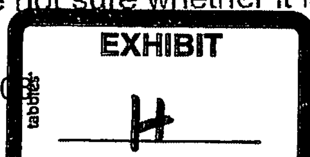

immediately notify us by return email and destroy any copies--electronic, paper, or otherwise--which you have of this communication. Please note that nothing in this email should be construed as giving tax advice. Should you need tax advice, please contact a tax attorney.

On Sep 12, 2014, at 11:08 AM, Gregg Meyers wrote:

Sandy:

So as to be clear. I am not saying, and have not said, that mom isn't a vulnerable adult. She is a vulnerable adult. She has a very aggressive case of early onset Alzheimer's disease. Her disease is irreversible and terminal. She easily satisfies the definition of vulnerable adult, and has for some time, and easily satisfied that definition on March 27, when your clients removed her caregiver despite being told that mom had dementia, and on March 29, when another of your clients also left her alone despite their statutory duties to protect a vulnerable adult. But the idea that mom is isolated from everyone but the daughter is a false idea, as she goes to church each week, sees a psyche nurse each week, sees her doctors, and sees other caregivers each week.

As I said last week, she is definitely in a crisis, but she is not in an emergency. Your motion presumes some emergency condition is going on, and none is. Mom has a routine and mom's only hope is to keep in the routine and allow her world to keep shrinking as her capabilities shrink. Adding stress mom is a bad thing to do in her condition.

You can try to retaliate for this claim having been made by piling on the daughter all you want, but the medical records are going to show that the daughter is providing very good care of her mother.

I presumed from the beginning that your motion was really about trying to get me to say mom is fine. Mom is not fine. Mom has an aggressive illness that is reducing her capabilities and that illness will eventually kill her. But she is being well cared for within the confines of her terminal illness, and she has many eyes on her, contrary to the premise of your motion.

I will get back to you on the dates. Discovery is not due only after you have answered the complaint. Discovery is due 45 days after service of the summons and complaint and discovery, so is due September 15. So that is coming up rather than as yet being overdue. You have more time than that to answer the complaint, as I agreed as a courtesy to extend your time to answer to September 30.

Gregg

From: Sandy [mailto:sandy@sennlegal.com]
Sent: Friday, September 12, 2014 8:56 AM
To: Gregg Meyers
Cc: Missi
Subject: RE: sorry/wrong address

Based on your assertions as an officer of the court that the mom is not vulnerable and has been seen regularly by health care providers, then that motion is moot. I do still need full identities of Does which I assume will be forthcoming on those forms?

To my knowledge, I am not overdue on discovery as I haven't even answered the complaint as of yet. I have exchanged informally the documents I have (although I did get an anger management completion

certificate which I don't believe I have shared yet). I'll get that over and formal discovery over to you soon.

After seeing that video, Mr. Huggins still thinks Ms. Myer is a good person to be caring for his sister?

Regarding deposition, my suggestion is that we book an entire week to depose my officers, the plaintiffs and Ms. Myer as well as the medical providers. However, I'm not in a position to take those depositions until the medical records are in hand. As soon as I get the releases, I'll immediately request those documents.

How does the week of November 3rd work for you? That should give us time to get all medical records in hand and complete written discovery. I also have four days open the last week of October.

<image001.gif>

Sandra J. Senn, Esquire
Senn Legal, LLC
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Charleston, SC 29422
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Sandy@sennlegal.com

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From: Gregg Meyers [mailto:Gregg@andersonadvocates.com]
Sent: Friday, September 12, 2014 9:32 AM
To: Sandy
Subject: RE: sorry/wrong address

Sandy:

Thanks for your email about the release forms.

As I understand it, the forms have been signed and are coming back to me. I was able to fill them out with the info asked for, the DOB and SSN. When I called to ask, MUSC told me to leave blank the Medical Record Number line, as they say that is for them to fill in. (Good news, since the form says to the contrary). As soon as I get them I will forward them to you.

I asked last week for you to give me your position on your outstanding motion so I can formulate my response for only the issues that are active. Given what you now know from my representations of how often mom is being seen by others, are you withdrawing the emergency demand for protective services?

Your motion also asked the court to compel the identities of people which you now have. Do you regard that as moot? Are there any other aspects you regard as also moot?

I had also asked, and got no response to, my asking you to tell me where you are on the discovery that is overdue to me.

Finally, I need new dates for deposing your clients in light of my accommodating your request that I not depose them on the 19th and my agreement not to do so. I am just asking for some feedback. The September 3 depositions became a problem only because I got no response from you when I wrote you about them on August 14, so I am trying to make sure I get a response when I ask you to clarify your position. Talk to me.

Gregg

From: Sandy [mailto:sandy@sennlegal.com]
Sent: Thursday, September 11, 2014 8:19 AM
To: Gregg Meyers
Cc: Missi
Subject: sorry/wrong address

Gregg;

It looks like I sent a follow up request for the signed releases to your old email address. What is the status of the releases? I can't get the psyche records with just the Hippa and subpoena. Did your clients sign?

<image001.gif>

Sandra J. Senn, Esquire
Senn Legal, LLC
P.O. Box 12279
Charleston, SC 29422
Tel: (843) 556-4045
Fax: (843) 556-4046
Sandy@sennlegal.com

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Demarchi, Cheri

From:	Rublee, Steve
Sent:	Monday, January 25, 2016 2:36 PM
To:	Belton, Sandra; Demarchi, Cheri; Broadway, Jessica
Subject:	RE: [redacted]

He is not without control (or other) issues, it appears.

From: Belton, Sandra
Sent: Monday, January 25, 2016 2:35 PM
To: Demarchi, Cheri; Rublee, Steve; Broadway, Jessica
Subject: RE: [redacted]

This attorney is amazing I can't tell if he really cares about the patient or if he just wants to manipulate the system. Wow unbelievable all his stipulations.

From: Demarchi, Cheri
Sent: Monday, January 25, 2016 2:22 PM
To: Belton, Sandra; Rublee, Steve; Broadway, Jessica
Subject: FW: [redacted]

On Friday January 22, 2016 I spoke with the pt's brother and POA, Sammie Huggins about [redacted] going to Prince George under the MUSC contract. He seemed open to the idea but wanted to discuss it with her two children. We had a pleasant conversation. I shared with him the reason I had not been calling to update him about his sister was Mr. Greg Meyers had requested that all communication go through him. I had been waiting on clarification from our legal department regarding this but the opportunity for her to go to a lower level of care that was appropriate for her needs had come up and I felt I should discuss it with her POA. He stated that he understood and would be in contact with her children and would get back to me the first of the week.

Today I received the email from Mr. Meyers. To the best of my knowledge Mr. Greg Meyers has been hired by the family, I have no paper work that he is either the patient's attorney, her POA or her guardian.

After you read it please advise me on how to proceed in communicating with this family and her potential placement at Prince George.

Cheri Demarchi LISW-CP
Social Worker
Senior Care Unit
Institute of Psychiatry
Medical University of South Carolina
67 President Street
Charleston SC 29425
843-792-9031
Fax 843-792-8971

From: Gregg Meyers [mailto:Gregg@andersonadvocates.com]
Sent: Monday, January 25, 2016 12:59 PM
To: Demarchi, Cheri
Cc: Broadway, Jessica; Sammy Huggins; Mark Meyer; parker@parkermeyer.com
Subject: [redacted]

CAUTION: External

Ms. Demarchi:

Three things.

First, I have been notified that you on behalf of MUSC have AGAIN, now for the third time, ignored my direction to communicate with me, not with Mr. Huggins or Mark Meyer, about all matters related to [redacted].

The next violation of that principle by anyone at MUSC will result in a lawuit against you personally and MUSC. I want this to be plainly understood. Neither you nor anyone else at MUSC is at liberty to disregard legal counsel, and simply ignore the import of a person who is represented. [redacted] is represented, by me. I am employed by Mr. Huggins and Mr. Meyer, who each hold (independently) her power of attorney and (in sequence, her Health Care Power of Attorney). They are within the scope of my representation of [redacted] Meaning, that on matters related to [redacted] you communicate with me and I communicate with them. They have the freedom to contract on her behalf, and that latitude to contract is protected by law.

Your behavior to ignore that inconvenient fact will please cease immediately. You, and MUSC, are on notice.

Second. To my amazement, you have also chosen to ignore my offer to protect MUSC's financial interest as to [redacted]. I have requested all of the MUSC billings as to [redacted] so I can protect MUSC's interests if and when other parts of the state of South Carolina come to the table to resolve my lawsuit against them for their mistreatment of [redacted], an event which is expected soon.

If MUSC chooses to ignore my offer of protection I will consider [redacted] relieved of the obligation to protect MUSC's interest, and I will let you explain in your job performance review at MUSC why you chose not to send me all bills associated with [redacted] so I could make sure MUSC gets paid.

Third. The most recent breach of the obligation to communicate with me concerns a proposal to move [redacted] to a nursing facility. We are not agreeing to that proposal without substantial information about it, which has to come to me.

As you should know, Medicaid is presently communicating with me about aligning support for [redacted], in lieu of the appeal I have brought over her denial. Meaning they want to resolve the appeal by providing for [redacted].

We are opposed to placing [redacted] in any facility where she can be summarily removed without her funding being settled. We require assurances, in writing, from both MUSC and the proposed vendor nursing home, that if [redacted] is placed in a vendor facility before that Medicaid funding is concluded, that she cannot be removed, or will be returned to MUSC, if the facility insists on removing her over any matter, financial or otherwise. Let us refer to that as the stability factor.

Assuming the placement meets the stability factor, we also want assurances that any alternative facility is equipped to handle [redacted]s dementia with an appropriate level of care. We want that assurance in writing, also from MUSC and from the vendor facility.

That concludes my list of three things. Kindly stop ignoring my presence. I know it may be bothersome to have to deal with a lawyer rather than use your well-practiced techniques to push around family members, but you are now obligated to try your pushing around through me, not on them directly. I don't personally appreciate your efforts to

push the family around, but I have accepted it is part of your job to do so. Please accept that it is part of my job to prevent you from doing so.

Unless, of course, you are looking for an opportunity to be personally sued for violating her civil rights, and to get MUSC sued for violating her rights, which will be my next step if you or anyone else at MUSC does it again. I don't enjoy pointing out the consequences of someone's behavior, but you keep doing it and I am offering a way to avoid you and your employer being sued. Please note that in my decades of practicing law I have never, ever, threatened suit if I was not prepared to bring suit. Please understand that I am through giving you warnings.

Gregg Meyers
Attorney | Jeff Anderson & Associates PA | Gregg@AndersonAdvocates.com
office 651.227.9990 | *fax* 651.297.6543 | 366 Jackson Street, Suite 100 - St. Paul, MN 55101

****
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****

From: Gregg Meyers [mailto:greggmeyers@phswlaw.com]
Sent: Friday, February 24, 2017 10:01 AM
To: Barrett, Andrea
Cc: syanderson@charlestonlaw.edu
Subject: [redacted]

CAUTION: External

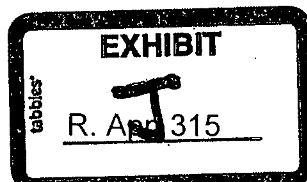
Andrea:

I have tried t copy this to Charlie, but the CC is the best email I have for him. If you have a better one, please feel free to share it.

The essence of the agreement with SCDHHS is this:

I have to extinguish the son's interest in the property, and do that in the next 30 days. As I indicated, I have that underway through Dennis Christensen's office. Dennis drew the initial documents, so I have asked them to revise them. The son is agreeable to transferring his interest

In 30 days the son's interest in the house will be removed by some means, most likely transfer to the daughter, his sister.



In exchange, SCDHHS and Medicaid agree:

1. The 2012 grant of a life estate to [redacted] in the property at 5345 Hartford Circle, North Charleston is approved and has no effect on her Medicaid eligibility. Before the transfer [redacted] owned the house with her brother. Each owned ½ interest. Her brother subordinated his interest to grant her the 2012 life estate.

2. The 2012 transfer of all of [redacted]'s remainder interest in the house to her daughter is approved and has no effect on her Medicaid eligibility. The transfer to her son was disputed by Medicaid, but this agreement resolves that dispute. Within 30 days the son will remove his interest in the house, and the remainder interest of [redacted]'s property interest will be owned solely by the daughter. No penalty will be assessed based on the 2012 transfer.

3. There is no dispute that the daughter provided more than two years of care to [redacted] in the home at 5345 Hartford Circle. By agreement, the property is recognized as being exempt from Medicaid's look-back provision.

4. The two month penalty noticed on 12/21/2016 is by agreement removed. [redacted] will have no penalty, and no penalty period, if and when she enters a nursing home.

5. [redacted]'s eligibility for Medicaid by agreement will have an effective date of May 1, 2015. No penalty period will apply to those benefits.

6. [redacted] continues to qualify for General Hospital Medicaid, effective May 2015.

7. [redacted] by agreement will qualify for HCBWS or NH Medicaid benefits if she enters a nursing home. By agreement, no penalty period will apply to those benefits, and she will be deemed eligible for vendor payments.

8. [redacted] will qualify for HCBWS benefits beginning in December 2017.

Because of the various litigation I am pursuing for the family, it is important to us that we retain HCPOA and POA for [redacted]. There will be too many decisions involved in those cases not to keep the family in charge of those. But we are not opposed to a transfer to a nursing home, so my aspiration is that we can coordinate that by agreement rather than by surrendering that control. I mentioned that to Charlie this morning, and he seemed okay with that.

If I can get the name and location of the Georgetown nursing home then I can get the family to review it. I had the impression the son was familiar with it, and was okay with it, but I would like him to give me that okay.

Gregg Meyers
Of Counsel
PIERCE, HERNS, SLOAN & WILSON, LLC
321 East Bay Street
Charleston, SC 29401
(843) 722-7733
(843) 725-7750 (Direct)
(843) 324-1589 (Cell)
greggmeyers@phswlaw.com

STATE OF SOUTH CAROLINA | IN THE COURT OF COMMON PLEAS
COUNTY OF CHARLESTON | NINTH JUDICIAL CIRCUIT

JANE DOE 202, by John Doe MM and John Doe HS, each of whom holds power of attorney for JANE DOE,

Plaintiff,

-vs-

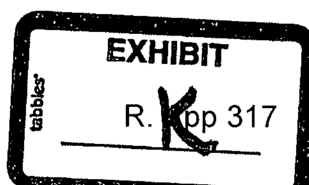
Case No.: 2014-CP-10-4591

CITY OF NORTH CHARLESTON, LEIGH ANNE MCGOWAN, Individually; CHARLES FRANCIS WHOLLEB, Individually; ANTHONY M. DOXEY, Individually; HOWARD THOMAS, Individually; and MICHAEL KOURIS, Individually,

Defendants.

THE DEPOSITION OF JARED NEWMAN, Esq., taken on behalf of the Defendant, on February 22, 2016, commencing at 1:10 p.m., at the Law Offices of Jared Newman, 1508 Paris Avenue, Port Royal, South Carolina, 29935.

Reported by: Douglas K. Liperote
Spectrum Reporting Services



1 negligence question, we don't even have to ask that.
2 Q. Okay. Well what about on a civil rights
3 question?
4 MR. MYERS: Objection to the form of the
5 question.
6 A. I mean, some of their policies are sketchy
7 and all that, but I don't see any clear custom,
8 practice to violate civil rights. I think the people
9 in North Charleston, the citizens of North Charleston
10 could argue that after that ridiculous shooting. But
11 no, I can't say that -- you know, I told you I've
12 reviewed their policies, the ones I have reviewed and
13 the ones you've showed me, and they're consistent,
14 they're standard, they're reasonable. So I don't see a
15 policy, custom and practice with the North Charleston
16 Police Department to make them liable under a
17 Monell-type situation that would attach a policy,
18 custom or practice to actually see the department as a
19 tortfeasor in a 1983 action. I see plenty of evidence
20 for the individual officers to be sued in their
21 individual capacity. I think they were sued correctly.
22 And when I say correctly, by the correct party with the
23 correct tort ascribed to it.
24 Q. And we're about to get to that. This section
25 B of your report, Civil Rights Violations. In

1 told to transport, she's 1095, she's under arrest, take
2 her to the Al Cannon Detention Center, and that was his
3 only information, then I don't have any problem with
4 what he did because he has no knowledge. If, however,
5 I read Ms. Meyer's deposition and she informs him about
6 the mother and he takes no action to notify other
7 officers or any other action, then he's just as guilty
8 on the gross negligence part on the vulnerable adult,
9 because he's now getting information from the daughter
10 that the mother needs to be taken care of. If he
11 didn't act on that, that's grossly negligent. Either
12 side of that is a conditional opinion. I've got
13 to see more evidence on that.
14 Q. All right. As of now, your opinion is that
15 the City of North Charleston and the North Charleston
16 Police Department is liable on the state law claims,
17 but that there is no constitutional claim against them,
18 is that correct?
19 MR. MYERS: Object to the form of
20 the question.
21 A. Against the City of North Charleston based on
22 the Monell theory of policy, procedure, practice and
23 custom?
24 Q. Correct.
25 A. I don't see enough that you could string

1 those together. There are a number of isolated
2 incidences that I'm aware, you know, like the shooting
3 case, but I don't -- I don't have enough and have not
4 been shown any empirical data. Typically, those cases
5 are made by doing statistical data to show a policy,
6 custom, practice, or procedure. I'm looking at an
7 isolated case, and I can't say that they had a policy
8 to break in people's houses to violate people's civil
9 rights, meaning Parker
10 MR. DORSEL: Let me mark this as an
11 exhibit.
12 A. That doesn't mean they weren't grossly
13 negligent.
14 (Whereupon, Exhibit 14 was
15 marked for identification.)
16 BY MR. DORSEL:
17 Q. Let me show you what is marked as Exhibit 14.
18 You said that you relied on Parker Meyer's -- the
19 daughter's medical records?
20 A. I don't necessarily know if I relied on them,
21 I have reviewed them. I have seen Exhibit 14. I have
22 seen this document, yes.
23 Q. Why would you have reviewed this? What would
24 it -- why would it have impacted your opinion?
25 A. I don't know. Just a due diligence to get a

1 STATE OF SOUTH CAROLINA COURT OF COMMON PLEAS

2 COUNTY OF CHARLESTON CASE NO.

3 2014-CP-10-04591

4

5

6 JANE DOE 202,)

7 PLAINTIFF,) TRANSCRIPT OF RECORD

8 VS.)

9) OCTOBER 3, 2017

10 CITY OF NORTH CHARLESTON, ET AL,) CHARLESTON, SC) VOLUME 2

11 DEFENDANTS.)

12

13 B E F O R E:

14 HONORABLE DEADRA JEFFERSON, JUDGE, AND A

15 JURY.

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

17 GREGG MEYERS, ESQUIRE
Attorney for the Plaintiff

18

19 SANDRA SENN, ESQUIRE
CHRISTOPHER DORSEL, ESQUIRE
Attorneys for the Defendants

20

21

22 *

23 Ruth C. Weese, RDR

24 Official Court Reporter
Ninth Judicial Circuit

25

1 MR. MEYERS: Yes. And that still
2 remains in the case because that's the heart of the
3 evidence. It is true that in discovery we kicked
4 out a lot more information about the particular
5 officers than we knew starting the case.
6 But I would say the same whether a
7 different standard would apply if they had the
8 information and they didn't follow it up.
9 THE COURT: That's about hiring, not
10 about training. Training is an overall concept.
11 You don't tailor training to every single officer.
12 You have an overall training program. It has to be
13 deficient in some way.
14 MR. MEYERS: But once you have hired
15 somebody and you find out they have demonstrated a
16 weakness then you need to progress.
17 THE COURT: You haven't shown me that
18 yet.
19 MR. MEYERS: No. That's coming.
20 That's what we are trying to get to.
21 THE COURT: How is that coming? How
22 are you saying that they had notice there was a
23 demonstrated weakness? In what capacity?
24 MR. MEYERS: The next line of
25 questioning with respect to the chief is about

1 those things factor into their exigent
2 circumstances to enter the house.
3 Q. Well, I thought we were on the same
4 wavelength that the blood is kind of a critical
5 component. Without the blood you lack the urgency
6 of possible injury?
7 A. Them seeing that is one of those that
8 will rate up there, yes, sir.
9 Q. Okay. And can we agree then that the
10 purse becomes the ability -- a photograph of the
11 purse that's supposedly covered with blood is it
12 shows that it is covered with blood, becomes the
13 basis by which in the criminal charge the officer
14 says this is a good charge because I was authorized
15 to be in that house?
16 A. I think it comes with the authorization
17 to be in the house. I don't think it has to do
18 with being poked in the eye.
19 Q. That would be the charge itself. The
20 other is whether the charge is ever going to see
21 the light of day in the courtroom or would be
22 suppressed as a result of an illegal search, right?
23 A. If you put it that way I would agree.
24 Q. And, finally, the -- well, whatever my
25 final point was I had it a moment ago, but I don't

1 herself her out of the house?
2 A. No.
3 Q. So he was telling you at the scene he
4 still believes it was an argument?
5 A. Yes.
6 Q. And he still believed the mother locked
7 the daughter out of the house as opposed to the
8 daughter finding herself locked out of the house by
9 her own actions?
10 A. Correct.
11 Q. Okay. When you arrived it is
12 10:14 p.m., right?
13 A. Yes.
14 Q. And everything is quiet, right?
15 A. Yes.
16 Q. No one is outside, right?
17 A. Correct.
18 Q. And you go from the report that you are
19 going to try to make contact so you go to the front
20 door and knock, right?
21 A. Correct.
22 Q. Nobody answered that knock, right?
23 A. Correct.
24 Q. And then you leave the front door and
25 you decide to go into the backyard, right?

1 A. Correct.
2 Q. Your contention has been that before
3 you got to the fence, the chain link fence, that
4 you could see what you claim is the purse covered
5 with blood or purse with blood on it beyond the
6 fence in the backyard; is that right?
7 A. Yes.
8 Q. And at that point is when you do some
9 looking around, but pretty soon after that you
10 report in your first transmission where you mention
11 blood on the purse, right?
12 A. Say that one more time.
13 Q. I am trying to get just the sequence.
14 Your first reference to the blood on the purse
15 occurs after you made this route into the backyard?
16 A. Correct. But I had also seen her shoes
17 on the outside of the car by the driver's side and
18 the dome light on inside the car at that point.
19 Q. Sure. And what you were saying in that
20 transmission was that, and I can play it for you if
21 you want, you refer to or you say it looks a little
22 bit suspicious?
23 A. Correct.
24 Q. That's the start of your first
25 transmission seven minutes after you have arrived

1 on the scene, right?
2 A. Yes.
3 Q. You are not saying I have got an
4 emergency on my hands at that point. You are
5 saying it looks a little bit suspicious?
6 A. Correct.
7 Q. And then you did some more looking
8 around and then you communicated with the
9 dispatcher about your preference to talk to the man
10 who made the call, right?
11 A. Correct.
12 Q. Then you talked to him, right?
13 A. Yes.
14 Q. And can we agree that when you talked
15 to him you didn't learn anything that you didn't
16 already know?
17 A. No. The updated information that I had
18 from dispatch's call back to Mr. Sadler was that
19 Parker had left towards the -- left the front yard
20 towards the left of the house. That was new
21 information for me.
22 Q. So you got that additional piece of
23 information. In his conversation with you did he
24 tell you as he told the 911 police call when he
25 made it that the mother had dementia?

1 A. I don't recall him saying that.
2 Q. Did he tell you anything about his
3 desire that the mother should be in a nursing home?
4 A. No.
5 Q. And did he tell you what he told the
6 police call when he made it that mom -- his belief
7 is that the mother slept on a couch in the living
8 room?
9 A. I don't recall that information.
10 Q. Now, Officers Doxey and Wohlleb arrive
11 at 10:30 I think we have pinned it down. Agree
12 with that?
13 A. Yes.
14 Q. And then at 10:32 Doxey reports that he
15 has got somebody at the front door. The two of you
16 hear Doxey. Can you and Wohlleb hear Doxey when he
17 was making that communication?
18 A. Over the radio or physically hear him?
19 Q. Just in any way.
20 A. We could not hear him in the
21 environment. He was in the front of the house. We
22 were at the back of the house.
23 Q. Does his radio not communicate with the
24 three of you? You're not on the same channel even
25 at that point?

1 A. We were on the same channel.
2 Q. Could you hear him on your radio that
3 he had contact with someone at the front door?
4 A. Yes.
5 Q. If you knew he had contact -- did you
6 hear that before you made the entry?
7 A. No.
8 Q. Is it correct to understand that you
9 heard that only after you had already made entry?
10 A. Correct.
11 Q. Okay. The arrest is timed, you're
12 informing somebody that an arrest had been made was
13 at 10:41 and some seconds. Do you have any reason
14 to dispute that?
15 A. Nothing in addition to what you have
16 already discussed about the times not being
17 accurate. I don't know that it happened at 10:41.
18 There was -- that's the during overlap of shift so
19 there's evening shift officers and night shift
20 officers on the radio at the same time. I could
21 possibly have had to wait for other officers to
22 transmit maybe a traffic stop or responding to an
23 alarm. I could have had to wait for dispatch to be
24 given a call out.
25 Q. Well, you could have waited for

1 on the scene, right?
2 A. Yes.
3 Q. You are not saying I have got an
4 emergency on my hands at that point. You are
5 saying it looks a little bit suspicious?
6 A. Correct.
7 Q. And then you did some more looking
8 around and then you communicated with the
9 dispatcher about your preference to talk to the man
10 who made the call, right?
11 A. Correct.
12 Q. Then you talked to him, right?
13 A. Yes.
14 Q. And can we agree that when you talked
15 to him you didn't learn anything that you didn't
16 already know?
17 A. No. The updated information that I had
18 from dispatch's call back to Mr. Sadler was that
19 Parker had left towards the -- left the front yard
20 towards the left of the house. That was new
21 information for me.
22 Q. So you got that additional piece of
23 information. In his conversation with you did he
24 tell you as he told the 911 police call when he
25 made it that the mother had dementia?

1 A. No.
2 Q. So the question is did you believe that
3 having a skinned knee was sufficient to produce the
4 quantity of blood that you claim was on this bag?
5 A. Yes.
6 Q. So you didn't go looking for anybody
7 else that had serious a bleeding injury?
8 A. No.
9 Q. You were satisfied it must have come
10 from her knee?
11 A. Correct.
12 Q. A skinned knee in retrospect you
13 thought had produced so much blood that you had to
14 break into the house?
15 A. Yes.
16 Q. All right.
17 THE COURT: Refrain from
18 characterization, Mr. Meyers.
19 BY MR. MEYERS:
20 Q. At this point you say you did not have
21 the keys to the house, right?
22 A. Correct.
23 Q. Do you now understand that this item
24 that you interpreted as being a purse is not a
25 purse?

1 A. I don't have any knowledge whether they
2 had a phone.
3 Q. So you don't know if Doxey was issued
4 one by the City of North Charleston?
5 A. No.
6 Q. The City of North Charleston doesn't
7 require to do anything more than put in your report
8 the contention that there was blood on a purse,
9 right, to justify warrantless entry?
10 A. Correct.
11 Q. And nobody bothered to take any photos
12 about whether there was blood on the bag?
13 A. Correct.
14 Q. Your contention is that the reason the
15 daughter was arrested is she attacked you, correct?
16 A. Yes.
17 Q. Is it correct that the City of North
18 Charleston has not given you training in assessing
19 a person that you're going to leave alone in a
20 house by removing somebody else from the house?
21 A. I have never attended a training that
22 had such a title like that, but it is definitely
23 something that is spoken about, not leaving
24 somebody by themselves that weren't able to stay,
25 can't stay by themselves.

1 working up on Ashley Phosphate Road don't hear
2 about what's going on at Tanger Outlets. We can
3 kind of minimize the chatter on the radio, the
4 radio traffic as we call it. We can minimize it by
5 dividing the channels up into three different
6 channels.
7 Q. And what did the call go out as to you?
8 A. The call went out as a domestic
9 disturbance.
10 Q. And why did you respond to that?
11 A. I responded to the call because Officer
12 Doxey and Officer Wohlleb were both coming from
13 city hall. I was on the street already so I was
14 closer to the residence. So to expedite the
15 response time from the police I responded.
16 Q. So you were in the area?
17 A. Correct.
18 Q. And now tell us about a domestic
19 disturbance. What is your understanding of the
20 risks involved for an officer responding to a
21 domestic disturbance?
22 A. The risks involved are immense.
23 Domestic violence calls and traffic stops are the
24 most dangerous calls that we respond to. There is
25 risk involved and a lot of unknowns that we might

1 encounter when we get on scene.
2 Q. And when you get on scene when you are
3 approaching the scene what kind of things are you
4 looking for?
5 A. Initially first getting on scene Mr.
6 Sadler didn't know the address of the neighbor
7 across the street so I was looking for his address
8 and then also being aware that the house across the
9 street from the address is -- was my intended
10 location. So I couldn't look for Rhonda's actual
11 address. Once I located Mr. Sadler's address I got
12 out of my car and was looking for any kind of
13 threats in the area to make sure that there wasn't
14 any -- nobody was coming out from behind -- there
15 was a car in the driveway. It's a very established
16 neighborhood with very mature landscaping. There
17 are tall shrubs, making sure that no threats came
18 from any of those areas.
19 Q. And before we get to you actually going
20 on the scene and what you did I want to ask you
21 before this night did you know either the mother or
22 the daughter, Parker or Rhonda?
23 A. No.
24 Q. Had you ever responded to a call at
25 this house before?

1 A. No.
2 Q. Did you have any kind of scheme to
3 arrest the daughter and take her out of the house?
4 A. No.
5 Q. Did you have any kind of agreement with
6 the neighbor to get the daughter out of the house
7 so the mother could be out of the house so that
8 they could buy the house?
9 A. No.
10 Q. All right. Now, initially on scene
11 take us -- you get there -- your initial approach?
12 A. I park across the street from Rhonda's
13 house and walked across Hartford Circle. And
14 walked up towards the driveway towards the front
15 door of Rhonda and Parker's house. I could see
16 there was an SUV parked in the driveway and a pair
17 of high heel shoes that were outside the driver's
18 side door. The interior dome light was on in the
19 car. I didn't see anybody in the front yard. So I
20 went to try and knock on the front door to see if I
21 can make contact with somebody.
22 Q. Were any doors of the car open?
23 A. I believe the driver's side door was
24 possibly open.
25 Q. So did you go to the front door?

1 A. Yes.
2 Q. What did you do?
3 A. I knocked on the front door several
4 times trying to get somebody to respond to the
5 door.
6 Q. Did anyone respond?
7 A. No.
8 Q. Then what did you do from there?
9 A. I walked back towards the car and
10 looked in the car a second time. I noticed the
11 wine bottles in the back of the car. I noticed
12 again the shoes on the side of the driver's side
13 door and I noticed that there's a chain link gate
14 to the backyard and that gate was open and just
15 inside the gate I could see a green bag that I
16 described to be a purse. It was larger than a
17 clutch purse, something the size to fit a small
18 laptop in. I could see that from the top of the
19 driveway.
20 Q. And what did you do from there?
21 A. Once I saw that the purse was on the
22 inside of the fence and the gate was open I went to
23 check the backyard of the house to see if possibly
24 the person who was supposed to be in the front yard
25 had wandered into the backyard and went and looked

1 in the backyard with regard to see if I could make
2 contact with the female that was supposed to be
3 knocking on the front door that Mr. Sadler called
4 about.
5 Q. At this point did you know if there was
6 an attack here or what had happened?
7 A. We had no knowledge of what might have
8 happened and who else might have been involved. It
9 was -- the street is -- Mr. Sadler's house is
10 across the street from Rhonda's house and I can't
11 take anything for granted. Just because Mr. Sadler
12 saw one person outside I have to assume that
13 there's two people outside and if there were two
14 people reported to be outside I have to assume
15 there was three people outside. So I was able -- I
16 had to continue to search for people to make sure
17 that they were -- whoever the disturbance might
18 have been between was safe.
19 Q. And did you knock, are there two back
20 doors?
21 A. Yes. There's a split level left house
22 and so there's a sliding glass -- if you are facing
23 the back of the house on the right side of the
24 house there's a sliding glass door and on the left
25 side of the house there's a couple stairs to go up

1 and a single door that swings in.
2 Q. Did anyone respond to either of those
3 doors?
4 A. No.
5 Q. And did you search the rest of the
6 backyard?
7 A. Yes. There's a shed, what I would
8 describe as a shed in the backyard. This -- if you
9 are facing the front of the shed the right side of
10 the shed was open. I believe the wall was
11 partially collapsed so I could see -- partially see
12 inside that from the side and then I came around to
13 the front to make sure that there wasn't anybody
14 inside it looking either for a threat or looking
15 for a person who was believed to be involved in the
16 disturbance.
17 Q. So did you notice anything on the green
18 bag?
19 A. Yes, there was blood on the green bag.
20 The blood appeared to be fresh. It was bright red.
21 I have gone to many traffic accident scenes and
22 seen injuries over the past ten years and I feel
23 very confident that it was blood and that it was
24 fresh.
25 Q. So what did you do at this point?

1 A. I asked our dispatcher to try to get
2 back in touch with Mr. Sadler, the one who had
3 initially made the 911 call to see if he was
4 agreeable to come outside and meet with me and try
5 and get some more information from him.
6 Q. At some point you were in here when
7 they played the dispatch. It looks like a family
8 dispute. Did you hear -- you were in here when
9 that was played, correct?
10 A. Yes.
11 Q. And did you hear the fact that it said
12 mother with dementia and a daughter looks like she
13 went around the left side of house. On this
14 particular night did you hear anything about
15 dementia?
16 A. I did not.
17 Q. And why not?
18 A. We get a lot of information from the
19 dispatchers on a lot of different calls. There's
20 things going on in the environment that I am in
21 there I am paying attention to and making sure that
22 nobody is coming out from behind a tree, from
23 behind the other side of the house. Making sure
24 that nobody is coming from inside the house back
25 outside. A lot is going on with the -- it's not

1 very light in the backyard so I would say that I
2 was hyper aware of my surroundings at that point.
3 Q. Did you go to -- over and speak with
4 the neighbor?
5 A. Yes.
6 Q. And then at some point your backup
7 arrives, Officers Wohlleb and Doxey?
8 A. Yes.
9 Q. At that point you went around the back
10 of the house, correct?
11 A. Yes.
12 Q. And you had told them about what you
13 had seen on the scene?
14 A. Yes.
15 Q. And so when you and -- you and Wohlleb
16 went around the back of the house and Officer Doxey
17 went to the front door?
18 A. Correct.
19 Q. At this point you had gotten a call
20 about a family disturbance, about someone yelling
21 and screaming, there's a light on in the car, the
22 shoes outside, the purse with what looks like fresh
23 blood on it, no one answering the door and you
24 can't see anyone inside, no one outside. What is
25 your concern about?

1 A. My concern is with respect to Parker,
2 where is the person that was banging on the front
3 door. Where is at least one half of this
4 disturbance that's going on and how come if 15,
5 20 minutes prior to that point in time she is
6 outside knocking on the door why she could not hear
7 me now. Is she safe still, is something wrong with
8 her.
9 Q. At that point it's still in a kind of
10 an unknown situation?
11 A. Correct.
12 Q. Now, how did you and Officer Wohlleb
13 end up making entry into the house?
14 A. The sliding glass door in the back has
15 -- when it's locked there's a hook that goes over a
16 mechanism on the door and Officer Wohlleb was able
17 to lift -- to push the sliding glass door up and
18 lift it over top of the piece of metal that the
19 lock would initially latch on to.
20 Q. Did you break any doors down, break any
21 windows?
22 A. No.
23 Q. Was there any property damage at all?
24 A. No.
25 Q. And so you go in the house and let me

1 A. Yes.
2 Q. Did you notice anything out of the
3 ordinary just from her appearance?
4 A. No.
5 Q. Were you able to speak with her or ask
6 her questions?
7 A. Yes. We were able to speak with her.
8 Q. What was that conversation like?
9 A. Officer Wohlleb asked if she was okay,
10 if she needed any medical attention.
11 Q. And did -- she how did she respond?
12 A. She said that she didn't need any
13 medical attention and we then went on to tell her
14 that we were called to the house to -- because of a
15 disturbance and we wanted to check and make sure
16 that everybody at the house was okay.
17 Q. And at that point did Rhonda tell you
18 and Officer Wohlleb to leave the house?
19 MR. MEYERS: Objection, hearsay.
20 THE COURT: Basis? Please approach.
21 (Off-the-record conference.)
22 THE COURT: Mr. Foreman, ladies and
23 gentlemen, we are going to take a brief restroom
24 break. During the break please do not discuss the
25 case and please leave your note pads on your seats.

1 (Thereupon, the jury exited the
2 courtroom at 3:54 p.m.)
3 THE COURT: Ma'am, you may take care of
4 your needs, but don't talk to anyone during the
5 break. We will be out about ten minutes.
6 (A recess transpired.)
7 THE COURT: Plaintiff ready to proceed?
8 MR. MEYERS: Yes.
9 THE COURT: Defendant ready?
10 MR. DORSEL: Yes.
11 THE COURT: All right.
12 (Whereupon the jury entered the
13 courtroom at 4:10 p.m.)
14 THE COURT: We will now resume the
15 witness's questioning. You may proceed, Mr.
16 Dorsel.
17 BY MR. DORSEL:
18 Q. Leigh Anne, I meant to ask you this
19 earlier. I'm not a fashion person. I don't know
20 the answer to this, but Parker claims that it was
21 not a purse at all that was in the backyard. You
22 saw shoes and you saw what you thought was a purse.
23 Did those match in terms of fashion?
24 A. Yes. They were both green.
25 Q. Now let's get back to what we are

1 talking about. You have gone in the house. You
2 met up with the mother. She's in her pajamas. Did
3 she ever tell you to leave the house?
4 A. No.
5 Q. And then did you talk to her about why
6 you were there?
7 A. Yes.
8 Q. And then what happened from there?
9 A. When we told her -- when we told her
10 that we had gotten a call about a disturbance, she
11 offered the other person in the house was her
12 daughter Parker and we asked if it was okay if we
13 could make contact with her to make sure that she
14 was also okay. And Rhonda led us up through the
15 house up the stairwell to the bedrooms upstairs.
16 Q. So when you were asking her those
17 questions explaining that did she appear to
18 understand you?
19 A. Yes.
20 Q. Did she appear oriented to place and
21 time?
22 A. Yes.
23 Q. Did she appear to have an understanding
24 of the events around her?
25 A. Yes.

1 Q. And was her emotional response
2 reasonable, like she wasn't crying when she should
3 be laughing or screaming when she should be quiet?
4 A. No, she had appropriate response.
5 Q. So then you go upstairs. What did you
6 see when you got into Parker's room?
7 A. Parker's room is at the end of the
8 hallway when you come off the stairs. And
9 immediately I could see her bed and Parker lying on
10 top of -- she was laying on her back on the bed
11 dressed in the same clothing identified by Mr.
12 Sadler.
13 Q. Was she under the covers, on top of the
14 covers?
15 A. She was on top of the covers.
16 Q. And did you -- did she have anything
17 spilled on her shirt?
18 A. Yes. She had red wine spilled on her
19 white button front shirt.
20 Q. Now, at this point what do you ask her?
21 A. My first question to her was whether or
22 not she needed an ambulance.
23 Q. And what was --
24 A. If she was okay.
25 Q. What was her response?

1 A. She denied needing an ambulance.
2 Q. And when you first got there and saw
3 her did you see any injury?
4 A. Yes, I could see that her left knee was
5 bleeding, had fresh blood on it.
6 Q. And after she said that she didn't need
7 an ambulance what happened from there?
8 A. It was -- I continued to question
9 Parker. I was concerned that given the amount of
10 red wine that was on her shirt that existed the
11 possibility that she had too much to drink, that
12 maybe she had an injury that she didn't realize she
13 had. So my next goal was to continue to ask her
14 questions and find out. I certainly didn't want to
15 go and make contact with her and assume that it was
16 just her knee bleeding and have some more
17 significant injury that needed medical attention.
18 Q. Now, and then in fact if she did have
19 some kind of more significant injury and you had
20 just left would you be concerned about being sued
21 for that as well?
22 A. Yes.
23 Q. Now, her car is open, light is on,
24 purse is outside. How did those things get to come
25 inside or did you speak with Parker about her

1 things being outside?
2 A. Parker had no recollection of her purse
3 or shoes being outside. When we told her that her
4 belongings are outside she tried to get up off the
5 bed and make her way down the hallway to go out and
6 collect her belongings.
7 Q. Was she able -- describe how she was at
8 that point?
9 A. Parker was unsteady on her feet. She
10 appeared to lack balance to walk down the stairs
11 and outside even in bare feet. I was concerned
12 that she would fall again and at that point I asked
13 Officer Doxey and Officer Wohlleb to go out and
14 retrieve her items, bring her shoes and her purse
15 back into the house so that we limited the risk
16 that Parker might fall again by going out to
17 collect her belongings.
18 Q. Now, when you were first in the room
19 with -- just with Parker was her mother in the room
20 with you?
21 A. No.
22 Q. And you had at least one other officer
23 with you in the room, correct?
24 A. Yes.
25 Q. Now, when the other officers went down

1 -- I am sorry, where was the mother when you were
2 initially in the room with Parker?
3 A. She was at the back of the hallway with
4 Officer Doxey.
5 Q. Okay. And so then when Officer Doxey
6 and Officer Wohlleb go outside to get the stuff you
7 stay in the room, correct?
8 A. Yes.
9 Q. And at that point does the mother come
10 into the picture?
11 A. Yes. Once Officer Doxey ended his
12 conversation with Rhonda she came close up behind
13 me and Parker started to get very agitated. That
14 was when she got up off the bed. She was screaming
15 at her mother. She was yelling profanely at her
16 and --
17 Q. So was it a calm situation at that
18 point?
19 A. No.
20 Q. Would it have been okay for you to just
21 leave at that point?
22 A. No, we would have had to make sure that
23 the situation was either resolved or diffused
24 before we could have left.
25 Q. And then at some point were you

1 assaulted?
2 A. Yes.
3 Q. Tell us about that.
4 A. Parker got up off of her bed and while
5 she was screaming at her mother she lunged towards
6 me. She had -- she was flailing her arms at me and
7 poked me in the eye.
8 Q. At that point you're standing there.
9 Parker is in front of you. Rhonda is behind you?
10 A. Correct.
11 Q. So you are kind of in between them?
12 A. Yes.
13 Q. If you hadn't been there and she was
14 doing this would it --
15 A. Rhonda would have probably been.
16 Q. Well, but that didn't happen. I guess
17 however you want to look at it you were the one
18 that got assaulted?
19 A. Correct.
20 Q. And so what did you do from there?
21 A. From there I removed department issued
22 handcuffs from the pouch on my belt and I was able
23 to handcuff Parker's left wrist and tried to get
24 the second handcuff on her, but she was still
25 resisting and actively combative with me.

1 Q. I have seen in one of the records that
2 Parker claims that you tased her or yelled tase her
3 or something. Did that ever happen?
4 A. No.
5 Q. Is there any need to tase her at that
6 point?
7 A. No. I knew that I had two officers
8 that were outside in close proximity to me.
9 Q. So then you -- is she escorted out of
10 the house, Parker?
11 A. Yes. So I struggled to get the second
12 handcuff on her right wrist and at that point I
13 think we heard on the recording from dispatch I
14 asked Officer Doxey to come back upstairs. Both
15 Officer Doxey and Officer Wohlleb both came back
16 upstairs and into the bedroom and Officer Wohlleb
17 helped me to get that second handcuff on Parker
18 before we stood her up off the ground and brought
19 her outside to the police car.
20 Q. Okay. Now, let me ask this: There has
21 been some questions about training. When you
22 respond to a call at a house obviously you're
23 responding to the substance of the call, but are
24 you looking for other things, looking for the
25 situation to see if there's any safety issues?

1 A. She had a cut on her left knee.
2 Q. And the other injuries, do you have any
3 explanation for how those bruises and cuts got on
4 her beside what her explanation is?
5 A. I am not aware of any additional
6 injuries that she had.
7 Q. Would you agree it is fair to call this
8 a quiet street?
9 A. Yes.
10 Q. In terms of traffic?
11 A. Yes.
12 Q. And was it quiet that night?
13 A. Yes.
14 MR. MEYERS: No other questions, Your
15 Honor. Thanks.
16 THE COURT: Ma'am, you may step down.
17 Call your next witness.
18 MR. MEYERS: Your Honor, I can put up
19 Mr. Huggins.
20 THE COURT: Up to you.
21 MR. MEYERS: I would ordinarily do the
22 deposition, but I don't have all of them done yet.
23 So let me call Mr. Huggins.
24 SAMMY HUGGINS
25 having been duly sworn, testifies as follows:

1 Q. Hang on. As opposed to telling us
2 anything about what Sergeant Tanner said, let me
3 ask you once you got the message and this other
4 call from the detention center what did you do?
5 A. Once I had all the information where
6 she was I went to -- found out what it took to get
7 her out of jail. He told me what her bail was. So
8 I went first to check on my sister Rhonda because I
9 knew she had been alone since the night before and
10 made sure physically and mentally what was her
11 state of mind.
12 Q. How did she seem in terms of her state?
13 A. She was a wreck, crying, shaking, just
14 kept saying something bad happened. It was
15 terrible. It was terrible.
16 Q. And what did you do to try to address
17 that needs of hers at the moment?
18 A. I didn't tell her what had happened,
19 what my knowledge was. I just told her I talked to
20 Parker which I hadn't, but I told her everything is
21 going to be okay. I would be -- Parker would be
22 coming home with me shortly.
23 Q. And what did you do for your sister in
24 terms --
25 A. Made sure she had something to eat,

1 water to drink and calmed her down, got her over
2 these nervous shakes or just sobbing fits.
3 Q. How long were you with her to get her
4 to calm down?
5 A. Somewhere between 15 minutes and
6 30 minutes probably.
7 Q. And then where did you go?
8 A. Then I went to Al Cannon Detention
9 Center and paid the bond or whatever, fine and
10 asked if Parker could be released. They told me
11 no, it would be sometime later that afternoon.
12 Q. About what time of day was it when she
13 finally got out?
14 A. It was a little after 4:00.
15 Q. And where did you and your niece go
16 when you left the detention center?
17 A. We went back to the house. Parker
18 wanted to show her mom that she was okay. Rhonda
19 was happy to see her, seemed to calm Rhonda down.
20 Parker took care of some things with herself as far
21 as her disheveled appearance. Made sure that
22 Rhonda was okay and she was toileted and had
23 something to eat.
24 Q. Your niece took care of those basic
25 functions including the toileting?

1 A. Correct.
2 Q. And given Parker's absence was Rhonda
3 -- what was her capability at that time to toilet
4 herself?
5 A. She was in a diaper. It was hit or
6 miss, more miss than hit. I would say she just
7 didn't have the wherewithal to realize it was time
8 to go to the restroom.
9 Q. Was she able to dress herself?
10 A. No.
11 Q. Able to use a telephone?
12 A. She can talk on a phone if you hand it
13 to her and said this is so and so on the phone she
14 could talk, but to dial a phone or no, she couldn't
15 put the numbers together to be able to dial
16 anything.
17 Q. In the interaction you observed between
18 your sister and your niece did you pick up any of
19 this contention that your sister was afraid of her
20 niece?
21 A. No, not at all. Just hard -- there was
22 something misunderstood or misinterpreted or
23 misinformed. There's no way Rhonda has ever been
24 afraid of Parker. That's her daughter. Parker had
25 been with her now -- then a year and-a-half. I

1 never heard any complaints. I don't know what
2 happened. Where they got that inference I don't
3 know.
4 Q. All right. This case is about your
5 sister, not your niece, so I don't need to ask you
6 about her condition in this case. But let me ask
7 you to describe the events of Saturday the next day
8 when you made a phone call to call an ambulance for
9 your sister. Do you recall that?
10 A. I do.
11 Q. And can you sort of back up and explain
12 what led to your making that call?
13 A. I told Parker -- well --
14 Q. You can say what you said.
15 A. Not what anybody else said. Parker
16 called me on the -- returning from a physical
17 inspection she had because of injuries she had
18 crying again that police are in front of my house
19 again. I can't go there. So I said I'm on the
20 way. When I got there the police had gone.
21 Q. Let me ask, I should have asked if you
22 could -- when just seeing Parker did you see any
23 injuries on her?
24 A. Yes.
25 MR. DORSEL: Objection, Your Honor.

1 STATE OF SOUTH CAROLINA COURT OF COMMON PLEAS

2 COUNTY OF CHARLESTON CASE NO.

3 2014-CP-10-04591

4

5

6 JANE DOE 202,)
)
7 PLAINTIFF,) TRANSCRIPT OF RECORD
)
8 VS.)
)
9) OCTOBER 4, 2017
CITY OF NORTH) CHARLESTON, SC
10 CHARLESTON, ET AL,) VOLUME 3
)
11 DEFENDANTS.)

12

13 B E F O R E:

14 HONORABLE DEADRA JEFFERSON, JUDGE, AND A
JURY.

15

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

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22

23 Ruth C. Weese, RDR
Official Court Reporter

24 Ninth Judicial Circuit

25

1 enough to leave her?
2 A. After I calmed her down and told her
3 that I'd spoken with Parker. That was a lie.
4 Calmed her down and I will be bringing Parker home
5 shortly.
6 Q. Are you aware of your sister's diet at
7 that point in time?
8 A. It's never been good. Certainly to get
9 her to eat calories pretty much had to feed her
10 what she wanted which was usually chocolate or ice
11 cream.
12 Q. Would it surprise you that her daily
13 intake was one or two eggs, one hamburger patty and
14 ice cream or chips?
15 A. That wouldn't surprise me.
16 Q. And had she suffered a good deal of
17 weight loss under Parker's care?
18 A. Not that I know of.
19 Q. Now, with respect to that particular
20 hospitalization, at some point you were able to get
21 her back home and you thought everything was okay
22 with she and Parker?
23 A. Yes.
24 Q. And it wasn't until what was like a
25 year later that she goes into the hospital again?

1 A. Yes.
2 Q. What happened during that year period?
3 What happened so that she ended up being
4 rehospitalized?
5 A. She continued to -- her mental
6 condition continued to fall off, degrade to the
7 point where Parker just couldn't handle all the
8 issues that were involved with her illness.
9 Q. Now, didn't you tell me when I took
10 your deposition that the whole plan when you set up
11 this meeting with the lawyer was that at some point
12 when Rhonda needed to sell the house so she could
13 have skilled nursing care that you would do that?
14 A. I don't recall saying that, but if
15 that's in my deposition then I will say I said it.
16 Q. Well, let's let you read it, then we
17 can refresh you on that. Hand up two original
18 depositions.
19 (Court's Exhibits 1-3 marked.)
20 BY MS. SENN:
21 Q. Sir, look at the first deposition
22 starting at page 9 and then read through page 12 or
23 so, see if this helps refresh your memory.
24 A. (Witness complies with request.)
25 Q. Would it help if I play it for you,

1 STATE OF SOUTH CAROLINA COURT OF COMMON PLEAS
2 COUNTY OF CHARLESTON CASE NO.
3 2014-CP-10-04591
4
5
6 JANE DOE 202,)
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7 PLAINTIFF,) TRANSCRIPT OF RECORD
)
8 VS.)
)
9) OCTOBER 5, 2017
CITY OF NORTH) CHARLESTON, SC
10 CHARLESTON, ET AL.,) VOLUME 4
)
11 DEFENDANTS.)
12
13 B E F O R E:
14 HONORABLE DEADRA JEFFERSON, JUDGE, AND A
JURY.
15
16 A P P E A R A N C E S:
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24 Ninth Judicial Circuit
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1 decent amount to where it would cause concern.
2 Q. And are you telling us that it was not
3 -- give me a sense of quantity of blood and relate
4 it to the emergency sense that you have something
5 had to be done immediately?
6 A. I am sorry. Repeat.
7 Q. I am trying to understand the amount of
8 blood that you saw on the bag. You said it wasn't
9 covered.
10 A. It wasn't covered like somebody has
11 been gushing blood all over the bag. I mean it was
12 again several droplets of it, fair amount size,
13 probably about quarter or half dollar size
14 droplets.
15 Q. So several that are quarter or half
16 dollar size?
17 A. Yes.
18 Q. And anything dripping?
19 A. There was a couple from what I remember
20 seeing kind of on the edge and onto the pavement.
21 Q. And is it correct that you and Officer
22 McGowan went to the rear of the house to the back
23 sliding glass door?
24 A. That is correct.
25 Q. And you first knocking?

1 A. We tried knocking on the front, the
2 back sliding door. There was also another back
3 door that led more towards the kitchen dining area.
4 I tried knocking on that one several times too.
5 Q. And Officer Doxey was in front knocking
6 on that door?
7 A. He was.
8 Q. And then is it correct to understand
9 you were able to open up the sliding glass door?
10 You and Officer McGowan were able to go in?
11 A. I was. I used to live in an apartment
12 that had the same kind of sliding door. I locked
13 myself out several times and that's how I was able
14 to get back in.
15 Q. Is it correct you encountered the
16 mother when you got into the first floor?
17 A. From I recall I remember seeing the mom
18 on the stairs as we -- as I pushed in the door, was
19 able to open it we announced ourselves, North
20 Charleston Police, North Charleston. We did not
21 get any kind of response back. So we started
22 making our way in slowly making sure to see if we
23 could find anybody. Then as we got to the stairs
24 that's when it came over the radio and said mom at
25 the front door -- I am sorry, contact at the front

1 I should say and I replied back contact, meaning I
2 am with her.
3 Q. You are using your flashlights as I
4 understand it?
5 A. Through the bottom? Yes. Because the
6 way the house is set up, from my recollection there
7 was a basement floor or the ground floor and it was
8 a bilevel. So you can go up the flight of stairs
9 there is a foyer for the front door. And then you
10 go up another flight of stairs. That's where the
11 living area, I'll say living room, kitchen. So I
12 saw her on the stairwell.
13 Q. Fair to call it a split level house?
14 A. Yeah, bilevel, split level.
15 Q. And when you went up the stairs to the
16 second level were you also using your flashlights?
17 A. As we turned the corner to go down the
18 hallway we still had the flashlights out. I don't
19 recall if I had mine on. I know there was a light
20 on in the living room that illuminated a good
21 portion of the upstairs.
22 Q. When you encountered the mother you
23 asked her if everything was okay?
24 A. I did.
25 Q. And she indicated it was?

1 A. I said are you okay, ma'am, and she
2 said yeah. What are you guys doing here? I
3 replied back we got a call about a disturbance
4 between you and your daughter, are you okay? I am
5 fine. Where is your daughter? She's upstairs in
6 bed. Should be asleep. Can you show us where she
7 is at? Yeah. She brought us upstairs.
8 Q. All right. When you got upstairs it
9 was you and Officer McGowan, right?
10 A. Yes. And Doxey was coming around the
11 back.
12 Q. And Officer Doxey also came in the
13 house?
14 A. Yes.
15 Q. Is it correct that McGowan was in the
16 room with the daughter, you and Doxey went back
17 outside?
18 A. It got to that point. I'm the one who
19 talked to and said hey, you stay here with Officer
20 McGowan. Me and Officer Doxey will go down and get
21 your belongings when it became apparent it would be
22 more of a danger for her to walk down the stairs in
23 her present condition than, you know, us. So stay
24 here with the female officer while we will go
25 downstairs and retrieve your belongings so they

1 that fair?
2 A. They do.
3 Q. And you mentioned when you were at a
4 scene when you are talking with people are you
5 using more than -- are you using all your senses?
6 A. I am. We are constantly trying to see
7 what's going on, if there is a threat, if something
8 seems out of place, if there's a danger to us or a
9 citizen, if there's another crime occurring within
10 a crime, there's no crime at all, to see if the
11 complaint is even founded.
12 Q. And when you are talking with someone
13 are you watching body language and taking verbal
14 clues to see if everything is okay?
15 A. All the time.
16 Q. And in this situation with Rhonda, the
17 mom, when you talked with her did you get any kind
18 of verbal clues or body language that would
19 indicate that she had any kind of problem?
20 A. Nothing.
21 Q. I know it was 10:30 at night. Was she
22 dressed appropriately?
23 A. From what I remember she was in her
24 nightclothes.
25 Q. At any point did you see anything in

1 the house that gave you concern that she couldn't
2 be left alone?
3 A. No.
4 Q. When you went upstairs did you notice
5 any kind of injury to the daughter?
6 A. I looked into the room and I saw a
7 gash, laceration to her left knee. So it appeared
8 to have fresh blood on it. So that's why she was
9 asked and she was even asked do you need medical
10 attention.
11 Q. And while you were in the house, I am
12 sorry, with your interaction when you talked with
13 Rhonda, the mother, when you were leaving did she
14 give any indication that she didn't understand what
15 you were talking about or she had kind of a mental
16 problem?
17 A. No. Like I said, no red flags raised
18 to make it seem she didn't understand what happened
19 or what was going on.
20 Q. At any point while you were in the
21 house or in this whole situation did the daughter,
22 Parker Meyer, ever tell you that her mother had
23 dementia?
24 A. Not that I can recall.
25 Q. Did she, the daughter, tell you that

1 her mother couldn't be left alone?
2 A. No.
3 Q. Did the daughter tell you that she
4 couldn't care for herself?
5 A. No.
6 Q. Let me ask you this: I know you and
7 Doxey went back outside to get the possessions.
8 Which one of you was it that retrieved the purse?
9 A. I did.
10 Q. And how did you pick it up? I know
11 there was some blood on it.
12 A. I picked it up by the handles.
13 Q. And I heard on dispatch I heard -- was
14 it you and Doxey giving the license number?
15 A. That was Officer Doxey giving the
16 license number.
17 Q. And how did he have her license?
18 A. I retrieved it out of the purse.
19 Q. Out of what purse?
20 A. The purse I picked up off the ground.
21 Q. You retrieved her license out of the
22 green bag that you found in the backyard with blood
23 on it?
24 A. I did.
25 Q. Just one minute.

1 A. No, because I stayed up there and
2 talked to the mom.
3 Q. So it seems less likely that it would
4 be you because you stayed behind to talk with the
5 mother and give her information?
6 A. Yes.
7 Q. Understood. Now, you contend that the
8 driver's license was in the green bag?
9 A. I pulled it out.
10 Q. What else was in there?
11 A. I believe a wallet I pulled out. Like
12 I said, I remember pulling it out, dropping
13 everything and left. There's no -- we are in a
14 house where it's family members. There is no point
15 in taking all her property to the jail to have
16 everything put in that has to be put back out.
17 Q. Does any part of your training give you
18 a protocol to run through since you have just made
19 warrantless entry to a house you should document
20 with photographs the basis for the warrantless
21 entry?
22 A. No, there is nothing in there that we
23 need to do that.
24 Q. It is correct you had a cell phone that
25 night?

1 A. I did.
2 Q. And was it capable of taking pictures?
3 A. It was.
4 Q. Was it capable of taking video?
5 A. It was.
6 Q. There was nothing in your training that
7 suggested to you I should take a picture of this
8 bag because that's why we went into the house?
9 A. Actually no, we don't. We are told not
10 to use our personal cell phones to document that
11 stuff because if I do, for this case in particular
12 if I take a picture of a domestic violence victim
13 first of all, I have then photographs of that
14 female, say her breasts are hurt. Well, now I have
15 pictures of her breast on my personal phone.
16 So that could be subpoenaed at any time
17 for any case. So I have pictures of that on my
18 phone you can take my phone so we don't use our
19 personal property to document that stuff.
20 Q. So was there any training that Doxey
21 should take a picture since he had a phone issued
22 by North Charleston?
23 A. Again, I don't know. There's nothing
24 saying we need to use that and if we do need
25 pictures we call the crime scene out.

1 dementia, but what kind of training do you have in
2 dealing with the general public, people?
3 A. We have received mental illness
4 training. The VA has come in due to all the wars
5 to help people with problems, but common sense,
6 age, I am not 21. I have been around a couple
7 days, so just dealing with people, that's why I am
8 still on patrol. I have been on patrol 12 years,
9 the whole time I have been at the department
10 because I like dealing with people. And figuring
11 out sometimes what makes them tick, how we can help
12 them, so a lot of on the street dealing with all
13 kinds of people.
14 Q. If you have any concern in your mind
15 that someone is not safe or there's a chance they
16 could get hurt or not safe to leave them alone
17 would you leave them alone?
18 A. I would not. That's our first concern,
19 is after somebody, even if they are under arrest,
20 our concern is to take care of them. Then we will
21 turn our attention to whoever. We would never
22 leave somebody that we knew was alone by
23 themselves. I would contact my supervisor because
24 usually they like the supervisor to work with DSS
25 or the office of aging. So we would have him

1 there, but I just didn't see any signs and we would
2 never do that.
3 Q. Would your -- your entire time there
4 were there any red flags you saw that would give
5 you concern that Rhonda had dementia or couldn't be
6 left by herself?
7 A. None that I could determine.
8 Q. And at any point did Parker, the
9 daughter, tell you that her mom had dementia or
10 couldn't be left by herself?
11 A. I had very little, if any, interaction
12 with her so no, sir.
13 Q. Just one minute.
14 (Off-the-record conference.)
15 BY MR. DORSEL:
16 Q. You were there because of a family
17 disturbance, right, domestic dispute?
18 A. I believe it came out as a family
19 disturbance.
20 Q. Did you or did you ever hear any of
21 your fellow officers ever tell anyone that Rhonda
22 called the police to report abuse?
23 A. I never heard that, no, sir.
24 Q. And did you have -- would you have had
25 any reason to say that at that time?

1 STATE OF SOUTH CAROLINA COURT OF COMMON PLEAS

2 COUNTY OF CHARLESTON CASE NO.

3 2014-CP-10-04591

4

5

6 JANE DOE 202,)
)
7 PLAINTIFF,) TRANSCRIPT OF RECORD
)
8 VS.)
)
9) OCTOBER 6, 2017
CITY OF NORTH) CHARLESTON, SC
10 CHARLESTON, ET AL,) VOLUME 5
)
11 DEFENDANTS.)

12

13 B E F O R E:

14 HONORABLE DEADRA JEFFERSON, JUDGE, AND A
JURY.

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23 Ruth C. Weese, RDR
Official Court Reporter
24 Ninth Judicial Circuit

25

1 A. Rent Charleston gave me a title. I was
2 director of media and marketing, but what I was
3 really doing was building their media portfolio for
4 them. Whenever they would have a house they would
5 have a rental contract. I would go out and take
6 pictures and then put them on their website so I
7 would work from home. I was subcontracted by them
8 so I was my own company and I mostly went to a lot
9 of empty houses, mom could go with me. We could
10 hang out and have lunch. I would be in North
11 Charleston a lot. My requirements with Rent
12 Charleston was that I had to take keys back to them
13 on Wentworth Street often and I had to go to staff
14 meetings once a week. But I was mainly in my car
15 driving around shooting houses.
16 Q. And able to go back and forth?
17 A. Yes. And it was a great job to be able
18 to take care of my mom and still make a living.
19 Q. For how many years were you in charge
20 of media and marketing for Rent Charleston?
21 A. Three years.
22 Q. And during the time you ran their
23 marketing how did the company do in terms of
24 revenue?
25 A. They doubled in size. They weren't

1 even at the top of Google when I got home and the
2 owner of Rent Charleston and I have known him since
3 we were in high school and so we were friends and
4 he said get me to the top of Google. What does it
5 take. So I started shooting video for them, little
6 office videos and people saying how great it was to
7 rent from them and it worked. It went to the top
8 of Google.
9 Q. You arrived in November of 2012 and you
10 could tell your mom is having some difficulties.
11 Describe for the jury what you undertook just as a
12 process to try to figure out what was going on with
13 her.
14 A. Well, when I arrived in 2012 like I
15 said it was -- we were going into the holidays and
16 we just -- so we Christmas shopped and decorated
17 not one but two Christmas trees that year. And we
18 were hanging out. But by the -- well, by the time
19 June of 2013 came around in that six-month period
20 my mother's language ability had diminished
21 severely and she had a very bad stutter which I
22 know now is called aphasia. She also, her motor
23 skills I mean she knew me and she knew all of our
24 stories and we were having fun. She could still
25 tell me jokes. My mom was always ready with a

1 joke. Woman walks into a hardware store, that kind
2 of thing and she was still funny, but her motor
3 skills and her stuttering -- she would miss her
4 mouth with a fork that would go like way over here
5 and it was really strange. So I was convinced she
6 had a brain tumor. This has got to be a tumor
7 because your sister had a brain tumor.
8 So we went through a series of -- you
9 have to get from one doctor to the next to be able
10 to see a neurosurgeon to determine whether it's a
11 brain tumor or not. So I just started exploring
12 what was wrong with my mom and we took her to MUSC,
13 did a bunch of specialists in neuropsychology. We
14 had MRI and brain scans. I am sorry. I don't know
15 all the medical terms for everything that we did.
16 About six doctors appointments later between the
17 spring and the midsummer of 2013 a neurologist
18 walked into the room and he said it's Alzheimer's.
19 Stop looking. It's Alzheimer's. It's Alzheimer's.
20 It's Alzheimer's. That's what he said. So --
21 Q. Now, let's just pause right there and
22 talk about at that time what your mother's
23 limitations were. You just were talking about how
24 she would be way off just trying to get the fork in
25 her mouth. I take it she could no longer drive.

1 Q. It was what she wanted to do?
2 A. What she wanted to do.
3 Q. All right. Now, you mentioned seeing
4 Dr. Siri and Dr. Thomas kind of informally in
5 December of 2013?
6 A. Yes.
7 Q. Have there been any doctor visits since
8 December 2103, informal visits with those two
9 doctors before March 27th?
10 A. No. Mom didn't see a doctor January,
11 February or March.
12 Q. And was that a time period that you
13 were -- how would you control the schedule in terms
14 of checking in to see if she needed to go?
15 A. What do you mean?
16 Q. I am sorry. Dr. Broadway defined this
17 period up to a year.
18 A. Yes.
19 Q. Where you can go to a doctor?
20 A. Yes.
21 Q. And I know you are going to get a lot a
22 questions about this.
23 A. I know.
24 Q. The time period of nine months where
25 there was no doctor visits besides the informal?

1 A. Yes. Okay.
2 Q. So the question is how would you check
3 to see if when -- how was your mom doing in this
4 span?
5 A. Okay.
6 Q. And how would you check with doctors to
7 see if you needed to take her in?
8 A. Well, I mean I have got mom surrounded
9 by family. How she was doing is qualitative to us.
10 I mean I don't understand the question.
11 Q. I am trying to get you to address how
12 her condition was.
13 A. Happy. Doesn't eat much, but she's
14 dancing at the party.
15 Q. So in terms of quality of her life how
16 was she doing in this time period?
17 A. She is doing well. She was just -- in
18 January of 2014 she would have been in Virginia
19 with her grandkids because she went back -- my
20 brother has twin daughters and my momma's
21 granddaughters are pretty cherry to her. So after
22 Christmas -- they are college students. They had
23 the rest of the month off and mom went back to
24 Virginia with the girls. Call them girls. And so
25 she had been in Virginia with Mark and her family

1 the sliding glass door just has the leaves inside,
2 outside, I don't know how grandmother dealt with
3 it. I asked her what about the leaves that come in
4 the house. But so I keep a lot of the garden tools
5 right there inside the sliding glass door and then
6 the garden shed had like the bigger tools like the
7 lawn mower, stuff like that and I use the carport
8 for like potting and stuff like that. And I was
9 sanding at the table and my green bag is my tool
10 bag. It's a utility bag that has baling wire and
11 screwdrivers and I have a screw gun for screwing in
12 trellis and stuff like that. Because I have a rose
13 garden. I have things that require rose gardening
14 and a hand sander.
15 Q. How old is the bag?
16 A. I bought it in 2004. I bought it on
17 King Street in 2004. It's --
18 Q. Have you ever cleaned it?
19 A. No.
20 Q. Has it ever served as your purse?
21 A. No, it hasn't.
22 Q. Has it ever contained your purse --
23 actual purse and wallet and things like that?
24 A. No. I wanted it because it was green,
25 was bright green, my garden bag.

1 Q. So garden items and tools is what you
2 keep in there?
3 A. Yes, sir.
4 Q. And is it sometimes outside?
5 A. Yes, sir.
6 Q. And do you know if it was outside on
7 March 27th?
8 A. I don't know where it was on
9 March 27th. But I had been sanding a table so it
10 could have been outside, but I don't know where it
11 was.
12 Q. And the table you were sanding if it
13 was part of that work it was under that carport?
14 A. It was under the carport, correct.
15 Q. So if the officers reported seeing it
16 under that carport is that entirely possible?
17 A. That's entirely possible.
18 Q. All right. On March 27th were you even
19 near that bag in connection with any part of the
20 day that you have described, preparing for the
21 party or preparing your mom or going to the shower?
22 A. No, sir. I was in the kitchen that
23 day. It was all catering and sandwich making
24 and --
25 Q. Had you hurt yourself at all that day?

1 A. No, I had not.
2 Q. Did you have any kind of injury that
3 was bleeding?
4 A. No, sir.
5 Q. Do you have any explanation for the
6 claim that there was fresh blood on that bag in the
7 -- at 10:00 at night or 10:30?
8 A. No, sir.
9 Q. All right. Now, you've gotten us to
10 where you returned home at a little after nine you
11 say?
12 A. Correct.
13 Q. And walk us through what you do when
14 you get home?
15 A. I had been driving my grandaddy's --
16 how far should I go back? The car -- I parked the
17 car -- my driveway goes up to the front of the home
18 and then curves around to the left. Came home and
19 I put the car, the tailgate would be more
20 accessible to the sidewalk to go in the house
21 because I had stuff that I had to unload that night
22 from the party. But the first thing I did, I
23 jumped out of the car and I got open the hatchback
24 and I grabbed the bottle of wine, the open wine.
25 My camera -- not my camera -- which is why I had to

1 A. Lock, yes.
2 Q. So you do that and then what do you do?
3 You and your mom do what?
4 A. Well, I turned mom's TV off. I went
5 back to my bed and went to sleep. I fell asleep.
6 I am pretty sure I turned the television program, I
7 started Justified again but I fell asleep and I was
8 in the dark and nestled in my bed and I nodded off
9 and I watched television.
10 Q. When you were outside grabbing your
11 camera case did you fall down?
12 A. No, sir.
13 Q. In what condition were your knees when
14 you got back in the house?
15 A. I'm a grown woman. I'm not a 12
16 year-old. I know what injuries I have dealt to
17 myself in the past 15 years. I have been made to
18 think about them. I know when I have bled. I can
19 describe my injuries in the last 15 years, but it
20 wasn't that night.
21 Q. All right. You go back to sleep?
22 A. Yes.
23 Q. And what is the next thing -- oh, let
24 me pause. My friend Ms. Senn is going to claim
25 that you urinated and defecated in your front yard?

1 A. I know. I have been threatened with
2 this for three years. I'm --
3 Q. Describe if any of that happened.
4 A. Of course not. God. I think it's
5 perverted that it has even entered this
6 conversation.
7 Q. Now, was there any dispute going on
8 between you and your mother?
9 A. God, no.
10 Q. Was there any argument going on?
11 A. No. I felt like a dumbass for locking
12 myself out of the house, but that was about it.
13 Q. Was your mom having any disturbances
14 from her Alzheimer's that night?
15 A. No.
16 Q. So you go back to sleep in your room?
17 A. Yes.
18 Q. What is the next thing you recall that
19 wakes you up?
20 A. This is difficult. Someone -- when I
21 am coming awake someone was asking me how much I
22 had had to drink that night and I can see a large
23 figure in my room and I started yelling get out of
24 my house, get out of my house, get out of my house.
25 And I was flipped out of my bed and I landed on the

1 floor with my head in the door jamb and --
2 Q. With respect to just your knee --
3 A. I tried to get under my bed.
4 Q. What happened to your knee when you
5 were trying to do that?
6 A. I got a rug burn from the carpeting
7 that was underneath my bed trying to get -- I could
8 see my momma's feet and somebody was on me and when
9 I realized I couldn't get underneath my bed because
10 there was a handcuff around -- I was jammed up and
11 you get under my bed and the person picked me up
12 and put me back over my bed like this (indicating)
13 and handcuffed me on top of my bed.
14 Q. Let me ask you to identify --
15 MS. SENN: No objection.
16 THE COURT: How many were there?
17 MR. MEYERS: Five.
18 THE COURT: 35 through 39 without
19 objection.
20 (PLF. EXH. 35-39, photos, were marked
21 for identification.)
22 (PLF. EXH. 35-39 in evidence.)
23 MR. MEYERS: May I publish?
24 THE COURT: You may proceed.
25 BY MR. MEYERS:

1 Q. Parker, let me put on the screen what's
2 marked as Exhibit 35. Can you tell me what that
3 is?
4 A. It's a rug burn.
5 Q. This is your right knee?
6 A. Yes, sir.
7 Q. And let me show you exhibit -- that's
8 35. Here is 36. Just another perspective on the
9 same?
10 A. Yeah. It's my aunt's photo.
11 Q. How big is this? That's your kneecap?
12 A. Yes. It's -- (indicating).
13 Q. Now, what is this photograph?
14 A. That's the smear from my bed from
15 being --
16 Q. When you were removed from it as you
17 were describing?
18 A. Yes.
19 Q. And what is this photograph?
20 A. That's a camera lens I was trying to --
21 I'm a photographer. So I gave -- that's a camera
22 lens from my camera that's about that big around.
23 Q. That's Exhibit 38. It shows some
24 perspective on the smear. This is 39 kind of
25 closeup of the smear itself, right?

1 A. (Indicating.)
2 Q. But that is the perspective on the
3 smear a few inches long. All right. Now, you have
4 been handcuffed. You have been placed face down on
5 your bed?
6 A. Yes.
7 Q. How far away was your mom when all this
8 happened?
9 A. When I was down on the floor I could
10 see her feet and she was inside the door jamb and I
11 started shouting stay out of this, stay out of
12 this. I was shouting at her stay out of it. I
13 thought I was about to be raped. (Indicating.)
14 You can't break in women's houses when they are
15 there by themselves and it just sucks. (Crying.)
16 I am sorry. But it sucks.
17 Q. Let me ask you to take a moment.
18 A. Okay.
19 Q. What happened next? You weren't
20 assaulted sexually?
21 A. No, I wasn't.
22 Q. What happened?
23 A. I was passed to somebody on the
24 staircase at the top of the stairs. I was passed
25 to another person.

1 Q. At any point did you even have the
2 ability to take a swing at Officer McGowan?
3 A. God, no. I mean when she's grabbing me
4 I know (indicating) she had flung me out of the bed
5 with the cuff on me. I mean I now know who it was.
6 At the time I didn't know who the hell it was.
7 Q. When you were taken outside do you know
8 who took you outside?
9 A. It was a man.
10 Q. And you were handed to another man?
11 A. I was handed to another man.
12 Q. What conversation did you overhear
13 between those two men?
14 A. Domestic, it was domestic dispute call.
15 They were talking about it being a domestic violent
16 call or something like that, but I was sitting in
17 the back of the police car for a long time by
18 myself. I was barefoot and the back of the police
19 car had all this dirt and sand in it and I just was
20 in the back of it feeling the sand on my feet
21 and --
22 Q. What information did you hear about
23 that was attributed to the person who made the
24 call?
25 A. I now know his name. His name is

1 Kouris, but when he took me away from the house I
2 was begging him to let me have a phone call and I
3 said I needed to call somebody for my mom and he
4 told me that mom was the one who called the cops on
5 me.
6 Q. Is that true?
7 A. It wasn't true, but I didn't know it
8 wasn't true until like June until we could get
9 discovery for my criminal charges. (Crying.) I am
10 sorry.
11 Q. What was your mother's ability to dial
12 the telephone on March 27th?
13 A. She couldn't dial a phone. I mean it
14 didn't start making sense until the next the day
15 when Sammy and I were talking going mom couldn't
16 have made that phone call. Mom couldn't have made
17 the phone call. She can't make the phone call. I
18 didn't know what was going on.
19 Q. You had been asleep in your bed?
20 A. Yes.
21 Q. And you were taken to the jail?
22 A. I was taken to the jail.
23 Q. I want you to tell the jury how you
24 behaved at the jail for the first three hours you
25 were there?

1 A. I was horrible. I was the worst I have
2 ever been in my life. I was horrible. I was
3 horrible to everybody at the jail. (Crying.) I
4 called everybody names. I assaulted everyone. I
5 called people horrible things that I have had to
6 apologize for since then. And then all the fight
7 was out of me at 3:00 in the morning because
8 something happened. I was taught a lesson at the
9 jail and I stopped doing what I was doing after the
10 -- at 2:00 in the morning I complied, did
11 everything I was supposed to do after that.
12 Q. Now, when you got to the jail and you
13 were being horrible what in your estimation is the
14 worst thing you did?
15 A. I called everybody names. I spewed
16 insults. I insulted LGB, I insulted race and I
17 insulted gender and I used the N word. (Crying.)
18 I am so sorry. I am so sorry I did, but it didn't
19 help. It didn't get me anywhere.
20 Q. What were you trying to get at the
21 jail?
22 A. A phone call. I wanted a phone call.
23 (Crying.)
24 Q. After 2:00 after the first three hours
25 and the fight was out of you were you able to get a

1 phone call?
2 A. No, they didn't let me make a phone
3 call for another 10 to 12 hours.
4 Q. What time of day was it that you were
5 finally able to make your first phone call after
6 arriving at the jail at 11:00 p.m. roughly, 10:45,
7 when did you get your first phone call?
8 A. I think it was 2:00 in the afternoon.
9 Q. If I recall correctly your uncle
10 thought it was a little after noon?
11 A. Okay.
12 Q. Would you defer to that?
13 A. Of course.
14 Q. And how long did it take to get out of
15 the jail?
16 A. I don't know. Couple more hours.
17 Q. And who picked you up from the jail?
18 A. Sammy, my uncle sitting right there.
19 Q. And where did he take you?
20 A. Back home to my momma.
21 Q. All right. You get home a little after
22 4:00. Now you have got a criminal charge of
23 assaulting a police officer?
24 A. Which I think is a felony. I think
25 it's a felony. I just -- I have a felony charge on

1 me. I have never done anything wrong. (Crying.)
2 I was so sorry. (Crying.) I don't want to be
3 here.
4 Q. When you get home what did you do for
5 your mother?
6 A. I have to clean her up and me up. We
7 both had diapers at this point.
8 Q. At what point in the night did your
9 underwear become soiled?
10 A. At 2:00 in the morning.
11 Q. And your uncle was able get you about
12 4:00 in the afternoon the next day?
13 A. Next day.
14 Q. So more than 12 hours, 14 hours?
15 A. Um-hmm.
16 Q. You clean up yourself, you clean up
17 your mother. Are you able to change her diaper?
18 A. (Indicating.)
19 Q. In what condition was her diaper? Had
20 she had a bowel movement?
21 A. (Indicating.)
22 Q. Give me an audible answer.
23 A. Yes.
24 Q. You have got a criminal charge against
25 you. After you've stabilized your mother what is

1 that -- well, talk about what your mother's
2 reaction was to seeing you?
3 A. She sees me. I am just my mom's
4 security blanket. Even if she didn't have
5 Alzheimer's I was her security blanket. I mean she
6 was very happy to see me. I had to go see a
7 lawyer.
8 Q. So after you got your mom stabilized
9 your uncle takes you to see a lawyer?
10 A. Yeah. I mean Sammy was a bit alarmed.
11 I have been charged with a felony and what happened
12 to me, and I was injured and he thought it was a
13 good idea we get somebody before they close at 5:00
14 on Friday. So we just went to the very first
15 lawyer that was next to the house.
16 Q. Is there anybody besides the police
17 officers who removed you from your house that were
18 aware your mother was alone?
19 A. I am sorry? Nobody knew. Nobody knew
20 that mom was alone, no, not until the jail called
21 Sammy.
22 Q. And you have talked about the things
23 your mother could and couldn't do for herself,
24 couldn't toilet herself. Could she feed herself if
25 there was food?

1 A. No.
2 Q. Couldn't prepare food but she could
3 eat?
4 A. I opened a snack for her before I left
5 at 5:00 the day before. So I mean --
6 Q. She hadn't eaten for about 24 hours.
7 Well, I mean until your uncle got over there?
8 A. Yes.
9 Q. He testified about how he went there
10 first?
11 A. Okay.
12 Q. All right. And when your mom saw you
13 she hugged you I think is what you were showing
14 with your hands? Is that fair?
15 A. (Indicating.)
16 Q. Is that a yes?
17 A. Yes. Sorry.
18 Q. And generally what did you observe
19 about what her -- she was relieved to see you. Was
20 she concerned about you being gone?
21 A. Well, Sammy and I were pretending like
22 I hadn't been gone, like nothing had happened. We
23 were just -- I went in -- I mean God, I was so
24 tired.
25 Q. When the police took you away did

1 anyone make any inquiry of you?
2 A. No, they didn't.
3 Q. They said well, she never told us.
4 A. They never talked to me either. I was
5 in the back of the car by myself until Kouris
6 started shackling me by the feet.
7 Q. Did officers -- did you talk to anybody
8 besides Officer Kouris?
9 A. I did not.
10 Q. All right. And so you get back home.
11 You go see the lawyer. And did you later go get
12 your own injuries looked at?
13 A. I did.
14 Q. Describe what you did to try to get
15 your mom looked at the next day which would have
16 been Saturday.
17 A. That night I wanted to go to bed.
18 Criminal attorney that I went to wanted me to go to
19 the hospital that night. I told him I can't. I
20 have to go home and calm my momma down. So when we
21 woke up the next morning I cooked my mom some
22 scrambled eggs and we went across Montague to where
23 Tanger Mall is. There's a Roper Hospital express
24 emergency room on the corner where Starbucks is and
25 I took mom and I there. And I said I wanted to

1 have my mom and I checked out. And I told her that
2 mom had Alzheimer's and that I had been assaulted
3 the day before and the doctor asked me if I could
4 -- I guess doctor -- I never -- there was never any
5 paperwork because he asked me to step behind the
6 door so the waiting room wouldn't hear what we were
7 saying because I think he was kind of horrified
8 what I was saying so he stepped behind the door.
9 He said this is too big for this facility. You
10 need to go to a real emergency room.
11 Q. So were they able to look at your mom?
12 A. No, they didn't look -- mom wasn't
13 happy to be there. She was freaking out because it
14 was clear we were at a doctor's office so I went
15 back home. I took us both back home. That's when
16 my dad got involved. My dad came over to the
17 house. He wanted to take me to the emergency room.
18 Q. So your dad comes over and this is
19 about what time in the afternoon?
20 A. I think I must have gotten to the house
21 about two.
22 Q. And you and your dad leave your mom?
23 A. Yes, but we called Sammy. We are never
24 out of touch with Sammy and Brenda and mom
25 throughout the course of this weekend.

1 Q. They know you're heading to the
2 hospital with your dad?
3 A. With my dad.
4 Q. And your mom is going to be at the
5 house?
6 A. Yes. I started to get a black eye. Am
7 I allowed to talk?
8 Q. When you were at the hospital how long
9 would you say you were there?
10 A. Was a while. My dad says it was about
11 four hours.
12 Q. So puts it about 6:00?
13 A. Yes, 6:00, 7:00, yes, sir.
14 Q. And when you come back from the
15 hospital you have got checked out. They have
16 documented what they found. And describe what you
17 see when you pull up to your house?
18 A. When dad and I was coming down my
19 street there's a police cruiser at my house. They
20 were pulling away and it's the police. They are
21 back at my house. And I made my dad pull over on
22 the side of the road. I am afraid to go to the
23 house because I don't know what's going on and we
24 called Sammy. Sammy came right over and this is
25 where Sammy's testimony takes over because I was

1 just cowering in my dad's car until EMS got there.
2 I couldn't believe the police were back at my house
3 again.
4 Q. When EMS came who was it they took to
5 the hospital?
6 A. They took my momma to a hospital.
7 Q. And do you know what kind of state your
8 mom was in? Were you still in the car?
9 A. I was still in the car. Mom came out
10 of the house with Gidget and Gidget was twisted all
11 around her feet and stuff and so I had to get out
12 of the car with my dad, get Gidget out being
13 wrapped around mama. Mom mas very -- she was
14 clinging to me and we were all tied up and the EMS
15 was there. I am sorry. What was the question?
16 Q. What you observed of your mom's
17 condition?
18 A. She was frenzied. Frenetic.
19 Q. Had you ever seen that before?
20 A. No. But she had probably never seen me
21 like I was before either. I was pretty frenzied
22 and frenetic now and Sammy took control of the
23 situation.
24 Q. Where did your mom -- where was she
25 taken by EMS that night?

1 A. She was taken to MUSC emergency.
2 Q. And how long was she gone?
3 A. She was gone for 18 days. She was
4 hospitalized for 18, so I think she spent three in
5 the ER so I don't know -- about three weeks. She
6 was gone for three weeks.
7 Q. During her hospitalization were you
8 allowed to visit her?
9 A. Not at first, no.
10 Q. For what reason?
11 A. Because we felt that we had to tell the
12 hospital that I had been -- that mom had had me
13 arrested because that's what I was told and just
14 seemed essential that we tell them that information
15 and so they thought I couldn't visit her for two
16 days until it got sorted out that I wasn't abusing
17 my mother. The whole thing was fabricated.
18 Q. During your mother's stay at the
19 hospital describe for the jury the period of time
20 in April when you got a phone call about her
21 health?
22 A. I am sorry?
23 Q. Describe for the jury the phone call
24 you got alerting you that your mom was not doing
25 well?

STATE OF SOUTH CAROLINA)
) THE COURT OF COMMON PLEAS
COUNTY OF CHARLESTON)
) DOCKET NO. 2014-CP-10-4591

JANE DOE 202, through JOHN DOE MM and JOHN DOE HS, each of who holds Power of Attorney for JANE DOE

Plaintiff

vs.

CITY OF NORTH CHARLESTON, LEIGH ANNE MCGOWAN, individually, CHARLES FRANCES WHOLLEB, individually, and ANTHONY M. DOXEY, individually

Defendants

TRANSCRIPT OF RECORD

October 9, 2017
Charleston, South Carolina

VOLUME 6 (of 10)

B E F O R E:

THE HONORABLE DEADRA L. JEFFERSON, JUDGE

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

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SANDRA J. SENN, ESQ.
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Attorneys for the Defendants

JOYCE C. RUEGER, CVR-M
Circuit Court Reporter

1 THE COURT: Of what year, please?
2 MS. SENN: It would have been '14.
3 THE COURT: I just need that to be clear for the
4 record.
5 Q. [Ms. Senn] Ma'am, is it true that in, and I'll let
6 you take a look at these if you want, but it appears that
7 in June of 2014 you had 16 calls that you blacked out
8 indicating that it was related to counsel.
9 A. Yes, ma'am.
10 Q. 7/14/14, so July 14, 2014, 59 calls related to
11 counsel.
12 A. Okay. Yes, ma'am.
13 Q. 8/14/2014, 125 calls that you have blacked out
14 claiming that you made 125 calls to lawyers ---
15 A. --- that sounds like a really ---
16 MR. MEYERS: --- could we approach, Your Honor ---
17 A. --- it does sound like an awful high number of phone
18 calls for one month.
19 [Whereupon, an off the record bench conference is
20 held]
21 THE COURT: Proceed.
22 Q. [Ms. Senn] And on 9/14 ---
23 MR. MEYERS: --- I would ask that she be given the
24 documents so she can -- it was two years ago.
25 Q. [Ms. Senn] In the month of September 14, 2014, 171

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON)

THE COURT OF COMMON PLEAS

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Plaintiff

vs.

CITY OF NORTH CHARLESTON, LEIGH ANNE MCGOWAN, individually, CHARLES FRANCES WHOLLEB, individually, and ANTHONY M. DOXEY, individually

Defendants

TRANSCRIPT OF RECORD

October 10, 2017
Charleston, South Carolina

VOLUME 7 (of 10)

B E F O R E:

THE HONORABLE DEADRA L. JEFFERSON, JUDGE

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Circuit Court Reporter

1 MOTION FOR DIRECTED VERDICT
2 MR. DORSEL: Yes, Your Honor. The defendants
3 would move for a directed verdict on this matter.
4 THE COURT: Are you going to be more specific than
5 that or are you just making a general motion?
6 MR. DORSEL: Yes.
7 THE COURT: You need to state all your grounds in
8 totality.
9 MR. DORSEL: Okay. Your Honor, we'd move for a
10 directed verdict on this case in both the federal claims
11 and the state claims. And what I would like to do is
12 break up is the individual federal claims, the claims
13 against the municipality; those are the two federal areas
14 and then the state involvement.
15 Starting with the individual claims against Officers
16 Wholleb, Doxey, and McGowan these are 1983 claims and the
17 defendants are entitled to qualified immunity. And
18 qualified immunity the case law states that it protects
19 officers for conduct that does not violate clearly
20 established statutory or constitutional rights of which a
21 reasonable person would have known.
22 This is a fairly high standard and apparently high
23 level protection. And the courts have explained that
24 qualified immunity protects law enforcement officers from
25 liability for bad guesses in grey areas and ensures that

1 steps that the plaintiff would have to get to to prove
2 deliberate indifference. And this is where qualified
3 immunity comes in. Unless you cross a bright
4 constitutional line then you're entitled to qualified
5 immunity. The plaintiff cannot prove that here.
6 Now another theory that plaintiff has put forward is
7 the state created danger doctrine. And what that
8 doctrine is basically the due process clause of the 4th
9 Amendment that clause itself does not require the state
10 to protect the life, liberty, and property of the
11 citizens against invasion by private actors. There is no
12 affirmative duty on the state to protect people from
13 private actors. There were two exceptions somewhat
14 carved out and the first one is when someone is in
15 custody and then there can be of course you are charged
16 with the duty to keep that person safe when they are in
17 your custody.
18 And the second one which is very nebulous and very
19 not often used is the state created danger doctrine. But
20 what the Supreme Court has said is the defendants created
21 or increased the risk of private danger and did so
22 through affirmative acts and not merely through an
23 action. All the cases that I have researched and I will
24 hand up the memo to you have shown that this private
25 danger or private harm involves examples of you know DSS

1 putting a child back with the father who then abuses the
2 son. So it's the third party, the father. It's an
3 officer saying I'm going to arrest your abusive husband
4 and put him in jail and so you can go to work. But then
5 the officer doesn't put him in jail and then the officer
6 [sic] comes back and hurts the kids. So in all of these
7 cases it's a private actor that they are talking of;
8 private harm.
9 Here we have no private danger and here we have no
10 specific harm like all these other cases contemplate. I
11 mean most of these cases are incredibly sad cases but
12 they deal with someone getting killed or someone getting
13 seriously beaten or injured. And here what we have is
14 basically a potential that could harm her but according
15 to her own doctors there is no medical proof that it
16 actually did harm her. So just on the constitutional
17 grounds the plaintiff hasn't met their burden of proving
18 that.
19 But the state created danger doctrine is perfect for
20 qualified immunity because in addition to protecting them
21 for bad guesses what qualified immunity requires is that
22 the law has to be established at the time so if you have
23 -- if an officer has to cross clear lines then
24 necessarily that clear line has to be established. And
25 here I quoted a case in my memo of a South Carolina

1 federal judge in 2015 so a year ---
2 THE COURT: --- has that been subject to scrutiny
3 by the 4th Circuit?
4 MR. DORSEL: Well it discusses the ---
5 THE COURT: --- has it been subject to scrutiny by
6 the 4th Circuit?
7 MR. DORSEL: No, it has not. But ---
8 THE COURT: --- then I cannot rely on it for
9 precedent. If there are cases on point that's what you
10 need to that have been subject to appellate scrutiny --
11 if there are no cases then I can look to them for
12 guidance but it is rare that you would do that. They are
13 district court judges and they are in a different arena
14 than we are ---
15 MR. DORSEL: --- so there are plenty of other cases
16 in there from the Supreme Court and the 4th Circuit ---
17 THE COURT: --- there are ---
18 MR. DORSEL: --- that talk about this. But what I
19 was getting at is there has to be a clear line
20 established. What the plaintiff is saying here is that
21 going into a home and arresting someone for assaulting a
22 daughter -- for assaulting a police officer and taking
23 that person out created some kind of danger.
24 A view of the case law does not support any finding
25 that this instance is subject to the state created danger

1 doctrine. And courts have said there is -- the leading
2 case is the Ducheney [phonetic] Supreme Court case. And
3 they really just implied in that case that the exception
4 existed but didn't define it. And courts after that
5 really haven't given any further definition to it.
6 So if the plaintiff argues this and they cannot be
7 successful the officers are entitled to qualified
8 immunity because this standard, this nebulous state
9 created danger exception implication has not been clearly
10 defined in any case law. And so that doesn't meet a
11 constitutional violation in the second step which is to
12 prove that it was clearly established at the time of this
13 incident. So therefore the officers should be entitled
14 to qualified immunity on that claim.
15 So that ends my arguments with regard to the
16 individuals. I think the evidence that has come out at
17 trial has not shown that plaintiff has met their burden
18 of proof of proving there was a constitutional violation
19 but for each one of those warrantless entry, deliberate
20 indifference, state created danger the officers should be
21 entitled to qualified immunity.
22 Now moving onto the entity claims, the municipal
23 claims. A municipal actor, here in the City of North
24 Charleston, is not liable under section 1983 except if a
25 plaintiff can prove that the injuries stem from

1 With regard to the state created danger claim in this
2 case what he is talking about is there was a possible
3 increase in the risk and that's what he is basing it on.
4 There is not a single case I can find that says that
5 officers coming in and it potentially could have
6 increased the risk but really nothing major happened.
7 No one was killed, no one was seriously injured that
8 that would qualify under the state created danger
9 doctrine. And that's why I said that qualified immunity
10 under that theory is perfect for this case because there
11 is no case similar to this and there is no bright line
12 rule about whether about whether or not this would
13 qualify as a state created danger.
14 With regard to the failure to train Mr. Meyers has
15 talked about and he even said it there is a national
16 academy that has additional training and they didn't do
17 it. That's exactly why it is not basis for failure to
18 train that more or better could have been done. Mr.
19 Meyers cannot get around the fact that they were trained.
20 We had the expert from the academy who has taught
21 for the last ten years who says they are trained on
22 dealing with this. And additionally they are trained on
23 dealing with mental illness. And despite plaintiff's
24 expert saying that dementia is not a mental illness, it
25 is and they are trained to deal with these kinds of

1 That is the medical testimony to a reasonable degree.
2 Mr. Meyers is trying to argue this damages claim based on
3 it could have. It could have. Well, there are a lot of
4 things that could have. Her age, the fact that she has
5 dementia; all those things -- and the fact that she is
6 female all those things increase the risk. So that is
7 not enough in this case and plaintiff has not proven
8 damages to meet any element of any of the federal or
9 state causes of action.
10 THE COURT: I'm going to take the matter under
11 advisement. Is the State [sic] ready to proceed -- the
12 defense ready? I keep saying the State; I apologize.
13 MS. SENN: Yes, ma'am.
14 MR. DORSEL: Could I have a restroom break?
15 THE COURT: We're going to take one. I think
16 everybody needs one. We'll be at ease for a few moments.
17 [Whereupon, court is in recess from 11:13 a.m. until
18 11:29 a.m.]
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1 necessarily that I thought it was a problem. I just
2 thought that compared to day one when I met her it was
3 quite a bit of change over the months.
4 Q. Okay. So then if you would, go ahead and bring us
5 to the day in question. Tell me what happened that
6 called your attention to what was going on over next door
7 and then I'd like for you to tell the jury -- just tell
8 the story of what happened.
9 A. So my wife and I -- we had decided to, which is
10 normal for us, but to re-do our bedroom. So we had taken
11 a lot of stuff out and taken trim out and then we put our
12 bed in another room. It was like a T.V. room that we had
13 and we were sleeping in there. So I remember where I
14 was.
15 She was laying -- we were sleeping and I tend to
16 kind of stay up and will be on my phone or something but
17 she was trying to sleep. And it was probably, I don't
18 remember the times but tenish I think at night.
19 And actually the T.V. was on and then I remember
20 feeling or hearing some vibration and some noise to the
21 point where Sarah kind of looked at me and I said what is
22 that. We turned and heard it kind of again.
23 We turned the T.V. off and heard it again. And Sarah
24 said let's look and see what that is. So I got up,
25 looked out our front door, our front door is an old door

1 that has, it's a newer door that is modeled after an old
2 style that has rectangular lights; a small one on top and
3 bottom and a bigger one in the middle. So I looked out
4 the door and directly across the street is their house.
5 And I saw Parker kind of up against the door banging
6 on the door yelling like Mom or Rhonda or something; it
7 kind of sounded the same to me but Mom or Rhonda and
8 banging and yelling.
9 And immediately I was thinking and thought back to
10 Rhonda coming over and being a little bit concerned and
11 don't tell Parker and so I was a little bit defensive of
12 Rhonda not knowing Parker's state at the time and some
13 random assumptions that maybe she is not -- maybe she had
14 been drinking. It was later at night and the lights were
15 on in the car.
16 The driver's door I remember was open and she had
17 some stuff. She had some shoes like on the sidewalk or
18 just in the grass to the side and like a bag there.
19 There was just kind of some stuff in the yard; it just
20 seemed like a mess and the lights were on. I think the
21 headlights were on shining at the house but maybe it was
22 the light inside the car.
23 But anyway you can tell she had gotten out of her
24 car and was banging on the door. I kind of watched for a
25 second to see what was going on. Then I went and talked

1 to my wife and said I don't know what's going on out
2 there and then we kind of made a decision hey, we need to
3 call the authorities to make sure Rhonda is okay; this
4 does not seem normal especially what we knew about Rhonda
5 being fairly fearful.
6 So I went to the front door again and I don't know
7 whether it was as I was calling but I remember seeing
8 Parker squatted down in the front yard with her dress --
9 she had a dress on like a knee length dress, and she was
10 squatted like a girl would sit to urinate in the front
11 yard. And she had her dress pulled up she was getting up
12 and scooting her skirt down. I remember thinking this is
13 definitely not normal.
14 I actually searched for a number to call the police
15 so that there wouldn't ideally be a bunch of sirens at
16 the front door. I already was a little uneasy about
17 Parker just because my wife is you know the pregnancy I
18 am not the most trustful person anyway; I've very
19 cautious and a pessimist I guess you could say in some
20 ways.
21 But anyway I just was very leery of too much
22 interaction. And Parker had kind of wanted some more
23 interaction and I had heard stories of my friends would
24 come over and she'd run over with a bottle of wine and
25 like let's hang out. She was nice but she was definitely

1 seeking some interaction so I was a little careful about
2 too much interaction with a close neighbor. And so I
3 kind of was already a little bit concerned with some
4 things with her so that kind of put me over the edge and
5 I said, I think Sarah and both decided let's call the
6 police.
7 We called the non-emergency number to try not to
8 make a scene or cause anybody any embarrassment over this
9 situation but definitely wanted somebody if Rhonda wasn't
10 in the best place for someone to look at that or talk to
11 her.
12 Q. And so you called the non-emergency number and we've
13 already heard the dispatch tape. Can you just tell us
14 please what you were observing with your own eyes? Were
15 you asked to go get some information like the address or
16 what is the person doing now.
17 And were you doing that in real time like when the
18 phone gets put down were you actually looking out the
19 window and relaying it in real time?
20 A. Yes. I called the number and talked to dispatch.
21 Dispatch said they would send somebody. They said what's
22 the address? I said I don't know but here's my address
23 just don't come to my door. I don't want to be related
24 to this situation. I just want somebody to check. Then
25 dispatch called me a few minutes later after -- I was

1 going back to the door to kind of look out the front and
2 see what was going on and a police car pulled up and they
3 were kind of using a flashlight around the front yard and
4 I was thinking oh, gosh here we go; they're coming to my
5 address.
6 I just stayed in the house. I didn't do anything
7 and I think the police officer went over to the other
8 house as well but I can't remember. And then dispatch
9 called me. I saw the same number pop up. They said hey,
10 would you be willing to step outside and talk to the
11 police officer. I said -- I think I said I'd rather not,
12 but okay if I need to.
13 So I stepped out on the front porch; we had like a
14 little stoop with a few steps. And I stepped right onto
15 the step and she, the police officer was there. And we
16 talked for 30 seconds or a minute maybe.
17 The police officer asked where is this person? Is
18 this the house across the street? Yes. We don't see
19 this person anymore, do you know where she might have
20 gone. I think she had knocked on the door or gone around
21 the house. I said I don't know.
22 I remember discussing the potential that she could
23 be in the large garage kind of to the side of the house;
24 a larger garage because I didn't know where -- I had seen
25 the house in such disarray I didn't even know where

1 Parker was living necessarily. So I said, yes she could
2 be over there; I don't know. But basically the officer
3 was trying to figure out where to go to find the person
4 that we had called about and no one was answering the
5 door I think.
6 So I told her that that was the house and the
7 officer left and went back across the street and I
8 periodically went back to the window to check on things.
9 Q. Can you tell me please whether you observed Parker
10 just staying at that front door or did she move around?
11 A. When I saw her prior or during the phone call in
12 that time that I made the initial call to police she was
13 walking around.
14 I think she was maybe kind of checking a window and
15 walking -- you could tell she -- the fence I think was
16 open on the side and she had walked around the side. I
17 had seen her kind of trying to find a way in.
18 Q. Okay. And you told the officer that?
19 A. I believe so, yes.
20 Q. And we've all listened to the dispatch tape and you
21 do tell the person on the tape that you thought that Ms.
22 Rhonda may have some dementia or the lady may have some
23 dementia but you don't have any recollection of telling
24 the officer that when she came to your stoop?
25 A. I don't remember. I probably answered the questions

STATE OF SOUTH CAROLINA	)	THE COURT OF COMMON PLEAS
COUNTY OF CHARLESTON	)	DOCKET NO. 2014-CP-10-4591
JANE DOE 202, through JOHN DOE MM and JOHN DOE HS, each of who holds Power of Attorney for JANE DOE	)	
Plaintiff	)	
vs.	)	
CITY OF NORTH CHARLESTON, LEIGH ANNE MCGOWAN, individually, CHARLES FRANCES WHOLLEB, individually, and ANTHONY M. DOXEY, individually	)	
Defendants	)	TRANSCRIPT OF RECORD

October 11, 2017
Charleston, South Carolina

VOLUME 8 (of 10)

B E F O R E:

THE HONORABLE DEADRA L. JEFFERSON, JUDGE

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

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Circuit Court Reporter

1 some checking statements attached; that's it. And now
2 yesterday he says there were four and yesterday is the
3 first time I even heard of an undue hardship petition.
4 He says he doesn't have an outcome for it. So if there
5 is no outcome she shouldn't be spending the lady's money.
6 THE COURT: Whether she should be -- it's a fine
7 line. Whether she should be spending her mother's money
8 or not is not the issue. Whether she had money to spend
9 for her mother's care is the issue. One involves her
10 character, one does not. Be very careful ---
11 MS. SENN: --- but they intertwine ---
12 THE COURT: --- because this has gotten very
13 acrimonious. And again I've not inserted myself into it.
14 I'm not going to allow anybody's character to be assailed
15 in this courtroom. It is below the decorum of what we do.
16 The jury expects more than that. You can advocate
17 without it getting personal.
18 And I'm not going to -- and I anticipate that is the
19 last time I'm going to have say that because we've been
20 tiptoeing on that line for like the last three days
21 starting last week going into this week and I've been
22 very tolerant but again I don't anticipate having to
23 repeat that directive. And it goes to both sides. Now
24 mitigation is an issue in this case. You can explore
25 mitigation without it getting personal.

1 A. -- yes, sir.
2 Q. So in the IOP are there multiple units?
3 A. Yes, sir.
4 Q. And you said you worked in the senior care part of
5 it?
6 A. Yes.
7 Q. How long have you been a social worker?
8 A. Almost 37 years.
9 Q. And how long have you been with MUSC?
10 A. Since February of 2013.
11 Q. And tell us a little bit about the senior care unit
12 at IOP.
13 A. It is a 26 bed locked unit. The first floor the
14 Institute of Psychiatry we have two full time geriatric
15 psychiatrists on staff as well as -- so the unit is
16 divided into two treatment teams.
17 Our patients are probably 70 percent dementia with
18 behavioral disturbances in other words -- and the other
19 are people with mental illness.
20 Q. So with regard to the dementia patients let me ask
21 you this, let me start by asking you this. Is the senior
22 care unit at the IOP it is a nursing home?
23 A. No.
24 Q. Is it a long-term care facility?
25 A. No, we are a short term acute care psychiatric

1 facility.
2 Q. And you say the work acute, short term acute, what
3 does that mean?
4 A. Short term meaning average length of stay for people
5 on our unit is two to four weeks. The acute meaning they
6 have to have an acute reason to be there.
7 We're not a chronic versus being long term acute.
8 Something has to be going on; a change in behavior, a
9 change in mental status.
10 Q. So when you say acute you mean someone is doing fine
11 and then they start getting worse and worse and then
12 there is maybe some really bizarre behavior and that
13 would be the acute difference that MUSC would treat?
14 A. A major change in behavior, yes sir.
15 Q. So did you say that the average stay in the senior
16 care unit is about two to four weeks?
17 A. Yes, sir.
18 Q. And how long did Rhonda Meyer stay?
19 A. She was admitted March -- the first or second time?
20 Q. The second time.
21 A. March 31st of 2015 and discharged June 1st of 2017;
22 798 days.
23 Q. So more than -- almost two and a half years?
24 A. Yes, sir.
25 Q. Okay. Now let me ask you this. You have experience

1 releases to the family they needed to sign so I could
2 submit the Passar [phonetic] to the State. I sent to Ms.
3 -- to Rhonda's brother Sammy Huggins, the patient's son
4 Mark Meyer has not returned my phone calls or messages to
5 him.
6 I spoke with Sammy today and he verified that he had
7 forwarded the forms to her son asking him to sign. He
8 spoke with Mark yesterday and verified that Mark did not
9 want to sign them without Gregg Meyers' approval and that
10 he was waiting to hear from Gregg.
11 I told the patient's brother Sammy that MUSC may
12 have to pursue guardianship of Rhonda if the family will
13 not cooperate with requests to move forward to
14 discharging the patient.
15 His reply is that he would talk to the patient's son
16 Mark about my request. The family did not sign the
17 release for Medicaid that Doctor Ward [phonetic] had
18 requested and emailed to them previously.
19 Q. So what this note shows is that you were trying to
20 get the family to sign documents so that you could move
21 Rhonda to a more appropriate facility?
22 A. Yes, sir.
23 Q. And the response you received was we got to run it
24 by our attorney?
25 A. Yes, sir.

1 Q. And you spoke with them about MUSC pursuing
2 guardianship of Rhonda?
3 A. Yes, sir.
4 Q. Now what does that mean pursuing guardianship, MUSC
5 will pursue guardianship, what does that mean?
6 A. When we have patients that don't have anyone to act
7 in their behalf we have had to get a guardian appointed
8 through the court system, the Probate Court system to act
9 in the patient's best interest. After Rhonda being --
10 this was dated in September of 2016 Rhonda had been there
11 approximately a year and a half.
12 After multiple attempts to work with the family to
13 have her go to a lower care facility I began to have
14 discussions with my administrators and with legal about
15 having even though Rhonda had family to get a guardian
16 appointed for her; someone who would act in her best
17 interest.
18 Q. Now I'm sure that kind of thing happens all the
19 time, right?
20 A. No.
21 Q. How often does that happen?
22 A. Rhonda's was the first. Most of the time when I
23 have pursued or had to talk about guardianship it's
24 became someone just has no family or does not have anyone
25 -- they have no children, they have no siblings; there is

1 no there that can this for them.
2 Q. And in this case this is a year and a half into her
3 stay she does have a guardian, she does have powers of
4 attorney and yet you are recommending that MUSC take over
5 from them to look after Rhonda's interest, is that fair
6 to say?
7 A. Yes, sir.
8 Q. And that is completely uncommon in your experience?
9 A. It's the only time it's ever happened to my
10 knowledge.
11 Q. And so this was September 13 of 2016 did you receive
12 any response?
13 A. I received -- I was notified that patient had
14 hospital Medicaid and I attempted to find out if long
15 term care Medicaid had been approved. When a patient---
16 Q. --- actually, let me show you this. This is exhibit
17 84.
18 [Whereupon, the witness is shown exhibit]
19 Q. Was there any decision made on whether or not or
20 MUSC to ask the court to let them be the guardian for
21 Rhonda?
22 A. Legal had decided to pursue guardianship of the
23 patient if the family will not consent to placement.
24 Doctor Ward [phonetic] is the physician that works with
25 us and case management. He is going to be the petitioner

1 on the petition that was being filed on Friday, September
2 30th, 2016.
3 Q. Okay. And was that petition filed?
4 A. Yes.
5 Q. And did the Probate Court eventually actually
6 appoint a guardian that wasn't a family member?
7 A. No.
8 Q. Okay. And did the -- but y'all continued to work
9 with the family trying to get her placed, correct?
10 A. Yes.
11 Q. Okay. Now let me show you exhibit 85.
12 [Whereupon, the witness is shown exhibit]
13 Q. And this is dated it looks like October 31st of
14 2016. Does this document indicate that the family feels
15 that they cannot care for Rhonda at her home?
16 A. Yes.
17 Q. And this is October of 2016 so basically a year ago.
18 And the family is working with a lawyer to figure out
19 funding?
20 A. Yes.
21 Q. Okay. And then what it says since she had been --
22 read that for us.
23 A. I'm sorry, I don't understand.
24 Q. I'm sorry, here read with me. It says since she has
25 been getting paid her social security income check while

1 MR. DORSEL: With regard to the warrantless entry,
2 first of all I'd like to incorporate all the arguments I
3 made in support of my motion for a directed verdict as
4 opposition to plaintiff's motion for directed verdict at
5 this stage of the case.
6 But plaintiff's arguments that there is no evidence
7 of blood on the purse is incorrect and not accurately
8 reflected in the record as there is an audio recording,
9 written in the CAD report and also in the incident
10 report. So there is evidence of that that a jury could
11 consider, which would defeat his directed verdict motion.
12 The state created danger again, Your Honor if it is
13 clearly established, which we assert that it's not, it
14 talks about private harm, protecting people from private
15 harm, which necessarily means that it's something other
16 than just leaving someone alone. In opposition to my
17 motion for directed verdict in his memo the plaintiff
18 says that it doesn't require a third party and that's not
19 required at all.
20 In the case he cites first of all is a Ninth Circuit
21 case, it's not a Fourth Circuit case. And in that case
22 the police officers left a female without transportation
23 in an area, and she was unfortunately a victim of rape.
24 So for the plaintiff to assert that case as a proposition
25 that a third party is not necessary there is a third

1 party in that case. So the state created danger doctrine
2 should be just completely out of this case for two
3 reasons. One being that there is no third party -- no
4 one else came in and hurt Rhonda. And then the second
5 reason is it is just not clearly established that would
6 put an officer on notice that they were violating the
7 state created danger doctrine. Like I said it is really
8 nebulous and there is no clear definition of what it is.
9 But there certainly is no other case that I could
10 find that is remotely similar to our facts where they go
11 in and they arrest individual A and take her out of the
12 house and somehow cause a danger to the other party. All
13 the cases deal with someone getting hurt directly. So
14 anyway I think that there is no cause -- I mean no basis
15 for the state created danger doctrine and definitely no
16 basis for directed verdict in favor of the plaintiff on
17 that.
18 The invasion of privacy I do not think plaintiff has
19 proven that it is shocking, that there was serious
20 physical or emotional injury that it was humiliation; all
21 those things that are required to prove an invasion of
22 privacy claim the plaintiff just simply has not proven
23 that. But certainly has not proven it enough to get to a
24 directed verdict on that matter. With regard to failure
25 to train there is a requirement of a pattern or a

1 practice in order to prove that claim. There is no
2 pattern or practice that has been even set forth or
3 mentioned or insinuated -- there is just -- all they're
4 saying and their expert said is prospectively. You know
5 now that this happened this could happen again.
6 Well, that's not what failure to train basis is. It
7 has to -- the City has to be on notice and the plaintiff
8 simply has provided absolutely no proof that any
9 situation like this had happened before. And both of
10 their experts said they have no proof of any kind of
11 pattern or practice.
12 So we feel like we should -- we deserve a directed
13 verdict on that issue but certainly the plaintiff has not
14 met the necessary standard to get a directed verdict on
15 that issues.
16 THE COURT: Anything further, Mr. Meyers?
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1 MR. MEYERS: Only to say, Your Honor that this
2 failure to train case is not a pattern case. It is not
3 City policy. And City policy leaves such enormous holes
4 in it on both warrantless entry and not asking for actual
5 evidence to justify warrantless entry and I'd asked that
6 each officer to provide at least a statement about it and
7 in ---
8 THE COURT: --- their policy does require a
9 statement. They have to do a report don't they?
10 MR. MEYERS: I'm sorry?
11 THE COURT: I think that's a misstatement of their
12 SOP. They are required to document what they have done.
13 MR. MEYERS: Well, one officer was required, but
14 they did not require each officer who entered the house
15 to even articulate what the basis was for their entry.
16 And the City policy that leaves it to the officer simply
17 to not have evidence but say they had evidence lends
18 itself exactly to this kind of circumstance where they
19 claimed there was an emergency but there seems to be no
20 evidence to back it up.
21 So this is not a pattern case; it's a policy case.
22 And on that basis I think the failure to train claim both
23 remains and is undisputable.
24 THE COURT: Do you concede Mr. Dorsel's argument
25 that this is not a -- that South Carolina at least not

1 that I can discern has ever recognized state created
2 danger doctrine?
3 MR. MEYERS: No, it's a federal creation; not a
4 state creation.
5 THE COURT: I understand that but none of our
6 jurisdictions have under these -- maybe I was
7 inarticulate in the way I said that. This fact pattern
8 does not fit that element of that.
9 MR. MEYERS: I would say it does because
10 affirmative action was taken by removing -- entering the
11 house and removing the daughter and then the risk to the
12 mother was increased by the daughter's absence.
13 THE COURT: Why doesn't that come within the
14 failure to train? The way I read your pleadings that
15 this was a warrantless entry case which is a violation of
16 the Fourth Amendment and a failure to train case.
17 MR. MEYERS: Well ---
18 THE COURT: --- and that's how it has been tried.
19 Your theory is that at least according to what your
20 expert testified, is that they have failed to give
21 specific training on the vulnerable adult statute and
22 they didn't have a checklist and thereby they violated
23 her rights and created a danger for her by leaving her in
24 the house because they did not have sufficient training
25 to have evaluated her situation and -- well, your first

1 theory is they didn't have any right to go in the house
2 and that they traumatized her by doing that. And then
3 you've articulated that there was a failure to train the
4 officers which led to her being left in the house alone.
5 So I'm trying to figure out other than a failure to -- I
6 have been listening to what I have perceived as a failure
7 to train case and a warrantless entry case.
8 MR. MEYERS: And I would contend it is also a state
9 created danger case because of the time delay that -- the
10 failure to train ends when they leave the house. They
11 have failed to be trained to do more than they did. They
12 leave the house and now the increased danger begins. And
13 Mom is alone for a much longer period than she had ever
14 been alone for quite some time.
15 And given the circumstances where she couldn't
16 change herself causes complications for her. So those 17
17 hours is what we say is the period of increased risk both
18 as to her nutrition and her mental state and her bodily
19 integrity because of her inability to change herself. So
20 I hope I've addressed what the court was...
21 THE COURT: That's not the type case you pled was
22 it?
23 MR. MEYERS: Well, I was would suggest to Your
24 Honor that is has been; but it's been all three. It's
25 been the failure to train as to vulnerable adults. It's

1 been warrantless entry and it's been the state created
2 danger because the time period that she was left alone
3 after affirmative acts by the North Charleston Police
4 Department.
5 THE COURT: Yes, however the hole in that theory is
6 that under the cases that I've read on state created
7 danger the police can't be held accountable for a danger
8 that already existed. So how -- that's why I'm a little
9 confused.
10 MR. MEYERS: The police can't be held accountable
11 for?
12 THE COURT: They can't be held accountable for a
13 danger that already existed. She was an incompetent
14 adult according to your theory and the danger was already
15 there. So they can't be held accountable for that.
16 MR. MEYERS: They can't be held accountable for her
17 condition.
18 THE COURT: And they can't be held accountable for
19 having creating her dementia.
20 MR. MEYERS: No, but they created her isolation.
21 That is the danger I'm referring to Your Honor; not her
22 condition. That's the given and that's what they failed
23 to detect and therefore they overestimate how safe she
24 will be alone. And they have no idea how long she will
25 be alone.

1 THE COURT: Your theory is that they made no
2 assessment at all so I don't know where you get to leap
3 from what you're talking about now because that's never
4 been your theory. Your theory is that they made no
5 assessment.
6 So how can they be held accountable for something
7 that was not foreseeable that they did not discern and
8 that's where I'm lost because if they say she was fine,
9 there were no red flags, she did not appear incompetent
10 to them. The type danger you're talking about is when
11 somebody notices something and they fail to act on it.
12 And that's not what happened; factually that's not how
13 this developed.
14 MR. MEYERS: Well, it depends on whether you look
15 at the evidence in the light most favorable to the
16 plaintiff ---
17 THE COURT: --- no, the type cases that are here is
18 where no danger existed at all and it was created and
19 enhanced by something the police did or did not do. And
20 that's factually that's just not how this case was
21 developed. And I'm trying to figure out how it fits into
22 those line of cases that articulate what the elements of
23 this cause of action are and really why it's even
24 necessary because your argument is they failed to train
25 the police thereby failing to notice what the

1 circumstances were thereby causing harm to her.
2 MR. MEYERS: Well, I do believe they go hand in
3 hand and they are complimentary.
4 THE COURT: Except that's not how the case law is
5 written and that's not how the cases developed. They are
6 two separate theories.
7 MR. MEYERS: Well, I appreciate Your Honor's
8 distinctions. I view them as ---
9 THE COURT: --- no, it's the case law's distinction
10 and it's how the facts are articulated by the court who
11 wrote the opinions.
12 MR. MEYERS: Well, I'm not trying to be difficult,
13 Your Honor, I'm saying you're pointing out a distinction
14 that as I read the cases I thought well if you take
15 affirmative acts and you increase the risk to someone ---
16 THE COURT: --- but that's ---
17 MR. MEYERS: --- whether or not you appreciate it
18 doesn't matter. You have increased the risk. So the
19 officer lets the woman -- insists that she get out of her
20 car and she's in a bad area well he's not consciously
21 thinking I'm increasing the risk to her ---
22 THE COURT: --- oh yes, he is. A police officer is
23 astute enough to know when they dropping somebody off in
24 a dangerous area ---
25 MR. MEYERS: --- well, he ought to know certainly.

1 As they ought to have known here because they should have
2 been trained better to make that inquiry; given that they
3 are the ones changing the status quo. I've always viewed
4 these two things as kind of two parts of a whole but both
5 of them existing independently.
6 THE COURT: Anything further?
7 MR. MEYERS: No, Your Honor.
8 THE COURT: The plaintiffs have rested their case.
9 Are there any further motions? Well, actually they
10 rested because they didn't call any rebuttal witnesses.
11 So do you have any further -- does the defense have any
12 further motions?
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1 on any type of punitive damages now we're going back to a
2 failure to supervise and you've got to have multiple
3 instances of misconduct. It's got to be basically
4 attributed to them because they should have known. And
5 then it still has to be to the entity. There is a long
6 line of cases on that, Your Honor if you -- I know City
7 of Newport News v Fact Concert [phonetic]. Give me a
8 second and I'll get some more.
9 [Whereupon, Ms. Senn reviews documents]
10 MR. MEYERS: Your Honor, could I just give you ---
11 THE COURT: --- no, one second. I need to read.
12 [Whereupon, the court reviews documents]
13 THE COURT: Yes. It's only applicable to an
14 individual defendant. I'm not aware of any case law that
15 would make it applicable to the municipality. In the
16 1983 constructions that I've appropriated or borrowed
17 from my colleagues indicate that it is only applicable,
18 and the case law that I've read indicates it's only
19 applicable to the individual defendants; not to the
20 municipality.
21 MR. MEYERS: I've been able to check, Your Honor
22 and I think that is correct.
23 THE COURT: All right. So it's a non-issue then.
24 MR. MEYERS: I concede your point.
25 THE COURT: Now, I'm directing a verdict on the

1 invasion of privacy cause of action. I do not -- and I'm
2 going to ask Mr. Dorsel if you can, I know you probably
3 already got enough on your plate, but I need you to draft
4 an order for me in that regard.
5 MR. DORSEL: Yes, Your Honor.
6 THE COURT: Just because I think it is in the
7 interest of time it saves us time without me going
8 through every element but I think I've been pretty
9 specific about what my observations are regarding it.
10 And if you would cite any applicable law as well as I
11 will give you leave to make any additional findings of
12 fact consistent with the record.
13 But in a nutshell under Mr. Meyer's theory, which is
14 the third prong of invasion of privacy based on the
15 evidence as it has been adduced I just do not -- it is
16 not my perception that the current case law was designed
17 for this type of cause of action.
18 It is -- again the cases that deal with this talk
19 about watching, spying, prying, besetting, overhearing or
20 other similar conduct. And it does not -- I don't think
21 it was ever created for this type situation. If it were
22 it would completely circumvent the Tort Claims Act.
23 And in addition to that there is a remedy for the
24 type of action that you're alleging; it's called a 1983
25 action, which is a warrantless entry. And your whole

1 premise on your invasion of privacy claim is the
2 warrantless entry. And I just don't think case law in
3 South Carolina was ever crafted for this type particular
4 factual circumstance so I am directing a verdict on the
5 invasion of privacy claim and we'll await the proposed
6 order.
7 And if you will provide Mr. Meyers with a copy of
8 that order at the same time that you sent it to me, Mr.
9 Dorsel. And you don't have to do it before the
10 conclusion of trial because I have time to wrap up the
11 record. But if you could, send it to
12 djeffersonsc@sccourts.org and that's my secretary.
13 I have everything go through her. That's the best
14 way I can make sure nothing falls through the cracks. I
15 have a checks and balance system. It comes in to one
16 person, it goes to another; it comes to three people so
17 it can never fall through the cracks. Everybody knows it
18 came because you know we love to believe email is
19 infallible; it is not. You know you hit send and you
20 assume it is going to get where it's going; it don't
21 always get where it's going so if could accommodate me in
22 that regard I would appreciate it.
23 Also as it regards the state created danger doctrine
24 I do not believe there are any facts that have been
25 produced that would support that theory. That of course

1 does not preclude Mr. Meyers from arguing under the ambit
2 of his theory of failure to train, which I'm still going
3 to think about a little bit more but clearly the line of
4 cases that deal with state created danger the type of
5 facts that have been articulated in those cases simply do
6 not in my estimation do not mirror the facts of this
7 case. Each case of course is factually different but I
8 don't think that this doctrine was created for these type
9 facts.
10 Again, all of this arises out of the warrantless
11 entry as alleged by the plaintiff into the home which
12 resulted in Ms. Parker Meyer being removed from the
13 residence and then Mr. Meyer's theory is that and that of
14 his expert is that the City failed to adequately train
15 ifs officers on one, warrantless entries as well as how
16 to deal with vulnerable adults and assessing vulnerable
17 adults and that as a result of that there was damage;
18 that being that Ms. Doe was left alone in the residence
19 and as a result of that she developed a urinary tract
20 infection and as a result of that she was left at the
21 Medical University for an extended period of time.
22 And that really is in a nutshell what he has argued.
23 But I just don't think state created danger that that
24 doctrine -- it wasn't pled first of all. It hasn't been
25 tried that way; it's been tried as a failure to train

1 case and a warrantless entry case and so I will not be
2 instructing that. Although the state [sic] I assume -- I
3 keep calling you state; I apologize. The defense
4 presented its request to instruct number 6, which is
5 state created danger. I assume you were anticipating
6 that he was going argue that and in the event I charged
7 it you wanted me to use your instruction?
8 MR. DORSEL: Correct.
9 THE COURT: But you still are of the position that
10 it should not be?
11 MR. DORSEL: Correct.
12 THE COURT: Okay. And I agree. So number 6 I'll
13 put it back in order -- well, I already have all your
14 stuff in order; I didn't take it out of order. We'll
15 leave that as it is. Now when I go through your
16 instructions and I say the topic is covered that means
17 that the substance of it is covered; it doesn't mean that
18 I use your exact instruction. And I'll go over my
19 instructions with you momentarily.
20 The plaintiff submitted proposed instructions one,
21 which is depravation of civil rights; two, color of law;
22 three, constitutional protection; four, warrantless
23 entry; five, state's responsibility to justify
24 warrantless entry -- I'll use my standard instruction,
25 seven is fabricating evidence. I perceive that to be an

1 inappropriate comment on the facts. There has been no
2 evidence in this case of spoliation and I would not
3 instruct it. That is when evidence has been deliberately
4 destroyed. I have not heard evidence of fabrication of
5 evidence.
6 There is a difference in opinion as to what took
7 place. And I think you all can argue that but for me to
8 instruct that the police somehow fabricated evidence I
9 think would be an inappropriate comment on the facts and
10 I am not going to instruct that. In addition, I just
11 don't think it is factually applicable to this case.
12 Number eight and nine, which are similar statements on
13 exigent circumstances I will use my standard instruction.
14 Eleven, 12, 13 and 14 deal with warrantless entry.
15 I will use my standard instruction. I've already ruled
16 that state created danger is not applicable. Failure to
17 train I'll use my standard instruction; that's 18, 19,
18 20, 21, 22, 23, 24, 25. 26 invasion of privacy is no
19 longer applicable; I've directed a verdict on that cause
20 of action. 28, I'll use my standard instruction on
21 aggravation of an existing condition. I'll use my
22 standard instruction on the life expectancy table, which
23 is 29. I'll use my standard instruction on damages which
24 is 31, 32, 33, 34, 35, 36. I'll use the standard
25 instruction on punitive damages which is 37 and 38. Now

STATE OF SOUTH CAROLINA	)	THE COURT OF COMMON PLEAS
COUNTY OF CHARLESTON	)	DOCKET NO. 2014-CP-10-4591
JANE DOE 202, through JOHN DOE MM and JOHN DOE HS, each of who holds Power of Attorney for JANE DOE	)	
Plaintiff	)	
vs.	)	
CITY OF NORTH CHARLESTON, LEIGH ANNE MCGOWAN, individually, CHARLES FRANCES WHOLLEB, individually, and ANTHONY M. DOXEY, individually	)	
Defendants	)	TRANSCRIPT OF RECORD

October 12, 2017
Charleston, South Carolina

VOLUME 9 (of 10)

B E F O R E:

THE HONORABLE DEADRA L. JEFFERSON, JUDGE

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

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Attorneys for the Defendants

JOYCE C. RUEGER, CVR-M
Circuit Court Reporter

1 PROCEEDINGS
2 THE COURT: Do we have all the exhibits?
3 MR. MEYERS: Almost, Your Honor.
4 [Off the record momentarily]
5 THE COURT: Okay. Now as I understand it you all
6 have agreed to the forms of the verdict, is that correct
7 from the plaintiff?
8 MR. MEYERS: Yes, Your Honor.
9 THE COURT: And from the defense?
10 MS. SENN: I assume so. I don't know. I'll have
11 to look ---
12 THE COURT: --- Mr. Dorsel told me earlier off the
13 record.
14 MS. SENN: -- he stepped out.
15 THE COURT: I'll wait until he gets back. We're
16 still missing a juror. We were able to reach her and she
17 says she is on the way; she's running late. She didn't
18 give us any further details so I assume maybe she just --
19 I don't know. I don't want to speculate; I'll just be
20 pleased when she arrives.
21 [Off the record momentarily]
22 THE COURT: Now as I understand it you all have
23 agreed on the forms of the verdict that you submitted to
24 the court this morning. Is that correct from the
25 plaintiff?

1 MR. MEYERS: Yes, Your Honor.
2 THE COURT: From the defense?
3 MR. DORSEL: Yes, Your Honor.
4 THE COURT: Have you all gone through all of the
5 evidence?
6 MR. DORSEL: Yes, Your Honor.
7 MR. MEYERS: There are some issues about the
8 exhibits.
9 THE COURT: I need to know what those issues are.
10 MR. DORSEL: One issue, Your Honor, is the
11 introduction of the medical summaries.
12 THE COURT: Which medical summaries are those?
13 MR. DORSEL: Exhibit 11 is the MUSC medical
14 summary.
15 THE COURT: Is that the one that you all couldn't
16 agree on that he says have inaccuracies in it?
17 MR. MEYERS: Yes, all the summaries have that.
18 THE COURT: Which all summaries? I'm only aware of
19 one summary that had an issue and that was the one with
20 Amedysys.
21 MR. MEYERS: Yes, but there are three others they
22 are trying to now introduce that were...
23 THE COURT: Did you ever move to admit them
24 originally?
25 MR. DORSEL: We had agreed to admit all the medical

1 JURY CHARGE
2 BY THE COURT:
3 Ladies and gentlemen I hope you had a pleasant
4 lunch. I will now instruct you regarding the law
5 applicable to this case. Ladies and gentlemen of the
6 jury you've heard the evidence and the argument of both
7 parties. You have heard the arguments -- the evidence
8 and the arguments of both parties. I will now explain to
9 you the law which applies to this case.
10 Rhonda Doe by her representatives, the plaintiffs,
11 claim that she has been injured by the actions of the
12 City of North Charleston and officers Leigh Anne McGowan,
13 Charles Frances Wholleb, and Anthony M. Doxey. In
14 bringing this action the plaintiff claims that the
15 defendant should compensate her for her injuries.
16 Under our Constitution and Code of Laws only you,
17 the jury, can make the findings of fact in this case. I
18 am not permitted to indicate how I might feel about the
19 testimony and evidence presented. And throughout this
20 trial it has been my intention to be fair and impartial
21 toward each of the parties involved as well as their
22 attorneys. Please do not infer anything that I have said
23 during the progress of this trial in ruling upon the
24 admissibility of evidence or otherwise that I have any
25 opinion about the facts. The Constitution of our state

1 does not allow a trial judge to have an opinion about the
2 facts in a case that is pending before a trial jury. The
3 same Constitution and laws ladies and gentlemen which
4 designate and make you the finders of the facts as I have
5 just explained also make me the instructor of the law.
6 You must accept the law as I instruct it.
7 If I am wrong there is another place and time for
8 that error to be corrected. But for this case you must
9 apply the law as I instruct it and this means that you
10 should not be concerned with what you may think the law
11 should be or ought to be but only with what I instruct
12 you the law actually is.
13 This case ladies and gentlemen should be considered
14 and decided by you as a dispute between persons and
15 institutions of equal standing in the community of equal
16 worth and holding the same or similar stations in life.
17 All persons and institutions stand equal before the law
18 and are to be treated as equals in this court.
19 To determine the facts in this case ladies and
20 gentlemen you will have to evaluate the creditability,
21 which again is simply a legal term meaning the
22 believability of each witness who has testified in this
23 case. Some of the things you may consider as you decide
24 whether or not to believe a witness's testimony about a
25 particular matter include what was the manner and

1 appearance of the witness who testified? Was he or she
2 straight forward or hesitate in answering? Was the
3 testimony of a witness consistent or inconsistent? How
4 did the witness come to know the facts that he or she
5 testified to or what were his or her ability to know
6 these facts? Is there some reason a witness would want
7 to give testimony which would help or hurt one side or
8 the other? In other words was the witness biased or
9 prejudiced. And was the testimony of a witness
10 strengthened or weakened by other testimony or evidence.
11 As I've instructed you can believe as much or as
12 little of each witness's testimony as you think proper.
13 It becomes your duty then ladies and gentlemen as jurors
14 to analyze and to evaluate the evidence and determine
15 that evidence which convinces you of its truth.
16 In determining the believability or creditability of
17 witnesses who have testified you may believe one witness
18 over several witnesses or several witnesses over one
19 witness. If you have a good and sound reason you may
20 believe part of the testimony of a witness and reject the
21 remaining part of the testimony of that same witness.
22 You may believe the testimony of a witness in its
23 entirety or reject the testimony of a witness in it's
24 entirely. You may also consider the appearance and
25 manner of a witness from the witness stand; what we

1 commonly refer to as their demeanor. Again ladies and
2 gentlemen, you are the sole judges of the facts in this
3 case and that includes the creditability of each witness
4 who has testified in this matter.
5 Of course there is no way to weigh evidence except
6 through the exercise of your good common sense and
7 judgment. It is entirely a mental process. And the
8 evidence you should give the most weight to is that which
9 convinces you of its truth regardless from whom or what
10 source it has come.
11 During the course of this trial you have heard
12 testimony by deposition. And as I explained earlier a
13 deposition is a written document or a video containing
14 sworn testimony given by a witness outside of court in
15 the presence of counsel for each party who may ask
16 questions of the witness.
17 This testimony is entitled to the same consideration
18 and is to be judged as to creditability and weighed by
19 you in the same way as if the witness were here present
20 and testified. It is then for you, the jury, to
21 determine the effect, value, weight, and truth of the
22 testimony given in the deposition.
23 Our rules of evidence ordinarily do not permit
24 witnesses to testify to opinions or conclusions. An
25 exception to this rule exists for what we call expert

1 witnesses. Expert witnesses; a witness who by their
2 education, training, and experience has become an expert
3 in some art, science or profession may give an opinion as
4 to the subject the witness claims to be an expert in and
5 may also give the reasons for the opinion.
6 You should consider any expert opinion given by a
7 witness like any other evidence; give it the weight you
8 think it deserves. If you decide that an expert
9 witness's opinion is not based on sufficient education,
10 training, and experience or if you decide that the
11 reasons given in support of the opinion are not sound or
12 that the opinion is outweighed by other evidence you may
13 disregard the opinion entirely.
14 An expert witness's testimony is to be given no
15 greater weight that that of other witnesses simply
16 because the witness is an expert. And you do not have to
17 accept an expert's opinion even though it is
18 uncontradicted.
19 Ladies and gentlemen the plaintiff has the burden of
20 proving her claims in this case. She must meet this
21 burden by proving her claims by the greater weight or the
22 preponderance of the evidence. Again, using my earlier
23 example which was a traditional set of scales when a case
24 begins the scales are even. After all of the evidence
25 has been presented if the scales should remain evenly

1 balanced or if they should tip even slightly in favor of
2 the defendants then the plaintiff would have failed to
3 have met her burden of proof and your verdict would be
4 for the defendants.
5 If on the other hand the scales should tip even
6 slightly in favor of the plaintiff then she will have met
7 her burden of proof and your verdict would be for the
8 plaintiff. When we describe a preponderance of the
9 evidence that means evidence which as a whole shows that
10 the fact or facts sought to be proven are more probable
11 than not.
12 The plaintiff in this case asserts claims pursuant
13 to 42 United States Code Section 1983 against the
14 defendants claiming that by entering her home without a
15 warrant the defendants violated her 4th Amendment rights
16 under the United States Constitution to be free from
17 unreasonable seizures.
18 As I have instructed this case is what is called a
19 1983 action. Section 1983 of Title 42 of the U.S. Code
20 provides that any citizen may file a civil action seeking
21 damages against any person who under color of state law
22 deprives that citizen of any rights, privileges, or
23 immunities secured or protected by the Constitution or
24 laws of the United States. In order to prove her claims
25 the plaintiff must establish by the greater weight or the

1 preponderance of the evidence the following three
2 elements: First, that the defendants committed an act
3 which operated to deprive the plaintiff of her rights
4 secured by the U.S. Constitution. Next, the defendants
5 acted under color of state law. And last, that the
6 defendants actions were the proximate cause of the
7 plaintiff's damages.
8 Each of these three elements must be established
9 separately for the plaintiff to prevail on her claim. If
10 the plaintiff proves all of these elements by the greater
11 weight or the preponderance of the evidence for her claim
12 then you must return a verdict in favor of the plaintiff
13 on that claim.
14 If however she fails to prove any of these elements
15 for her particular claim you must return a verdict for
16 the defendants on that claim. Because the individual
17 defendants were officers of the City of North Charleston
18 at the relevant time I instruct you that they were acting
19 under color of state law.
20 In other words the second element of the plaintiff's
21 claim is not in dispute by the parties and you must find
22 this element has been established. I will now instruct
23 you on the first element which is an act that deprives a
24 person of his or her rights under the Constitution for
25 the plaintiff's 4th Amendment a warrantless entry claim I

1 will then instruct you on the third element proximity
2 causation of damages. The plaintiff, Rhonda Doe, alleges
3 that the defendants violated her rights under the 4th
4 Amendment of the United States Constitution to be
5 protected from unreasonable seizures by entering her home
6 on March 27th of 2014 without a warrant.
7 I instruct you ladies and gentlemen that a
8 warrantless entry is per se unreasonable and thus
9 violates the 4th Amendment unless the search or entry
10 falls within one of the exceptions to the exclusionary
11 rule. The burden rests on the defendants to establish
12 the existence of such an exception to the warrant
13 requirement.
14 The exigent circumstances doctrine allows
15 warrantless entry by law enforcement officials when there
16 is a compelling need for official action and no time to
17 secure a warrant. Police may enter a home without a
18 warrant when they have an objectively reasonable basis to
19 believe an occupant is seriously injured or imminently
20 threatened with serious injury.
21 This exemption requires only an objectively
22 reasonable basis for believing that a person within the
23 house is in need of immediate aid. The existence of an
24 exigency is determined based on the information available
25 to the officer at the time of the warrantless entry. All

1 the evidence within the officer's knowledge may be
2 considered including the details they observed while
3 responding to information provided to them. Exceptions
4 to the warrant requirement include the need to protect or
5 preserve life or avoid serious injury. An action is
6 reasonable under the 4th Amendment regardless of the
7 individual officer's state of mind as long as the
8 circumstances viewed objectively justify the action.
9 A fairly perceived need to act on the spot may
10 justify entry under the exigent circumstances exception
11 to the warrant requirement. Protecting the safety of
12 police officers has also been held an exigent
13 circumstance. A warrantless entry where there is risk of
14 danger to police or others inside or outside of dwelling
15 is justified under the exigent circumstances doctrine.
16 In such circumstances a protective sweep of the premises
17 may be permitted.
18 In reviewing the justification for a warrantless
19 entry under the exigency exception it is appropriate to
20 look to the totality of the circumstances to determine
21 whether the officer's actions were reasonable and
22 justified. To determine whether the officers had an
23 objectively reasonable basis reasonableness must be
24 judged from the perspective of a reasonable officer on
25 the scene rather with the 20/20 vision of hindsight. And

1 the calculus of reasonableness must embody allowance for
2 the fact that police officers are often forced to make
3 split second judgments in circumstances that are tense,
4 uncertain, and rapidly evolving.
5 I further instruct you that a police officer has the
6 authority to arrest a person without a warrant for a
7 misdemeanor committed in his or her presence. You must
8 decide ladies and gentlemen whether the defendants have
9 proven by the greater weight or the preponderance of the
10 evidence that the defendants had an objectively
11 reasonable basis under the exigency exception to enter
12 the residence without a warrant.
13 To determine whether an exigency existed you should
14 consider whether the facts and circumstances available to
15 the defendants would cause a prudent officer to believe
16 their entry under the exception of exigent circumstances
17 was warranted. The defendant's actual motivation is
18 irrelevant. Even if you determine his or her motive was
19 improper.
20 And officer's improper motive is irrelevant to the
21 question of whether the objective facts available to the
22 officer at the time constituted an objectively reasonable
23 basis to enter the residence. What matters is whether
24 the defendant's acts were objectively reasonable in light
25 of the facts and circumstances confronting the

1 defendants. To establish the third element the plaintiff
2 must prove by the greater weight or preponderance of the
3 evidence that the constitutional violation was the
4 proximate cause of her injuries.
5 To establish proximate cause the plaintiff must
6 establish both causation in fact and legal costs.
7 Causation in fact is proven by establishing that the
8 plaintiff's injury would not have occurred but for the
9 constitutional violation. Legal cause is proven by
10 establishing that the injury was foreseeable meaning that
11 the injury was the natural and probable consequence of
12 the constitutional violation.
13 To find that an act of the defendants caused an
14 injury to the plaintiff you need not find that the
15 defendants act was the nearest cause either in time or
16 space of that injury. However, if the plaintiff's injury
17 was caused by a later independent event that intervened
18 between the defendant's acts and the plaintiff's injury
19 then defendants are not liable unless the injury was
20 reasonably foreseeable by the defendants.
21 The plaintiff must prove that some injury from the
22 defendant's negligence was foreseeable but does not have
23 to prove that the particular injury that occurred was
24 foreseeable. However, the defendants cannot be held
25 responsible for things which could not have been expected

1 to happen. The plaintiff has also alleged an action
2 under 1983 for a failure to train. The inadequacy of
3 police training may serve as a basis for a 1983 cause of
4 action where the failure to train amounts to deliberate
5 indifference to the rights with whom the police come into
6 contact.
7 The defendant City of North Charleston may not be
8 held liable for their alleged failure to train the
9 defendant officers as no actual claim against the
10 supervisor can exist without a constitutional violation
11 committed by an employee. I further instruct you that a
12 section 1983 failure to train claim cannot be maintained
13 against an governmental employer in a case where there is
14 no underlying constitutional violation by the employee.
15 To allege a claim for failure to train the plaintiff
16 must prove deliberate indifference by the defendant, City
17 of North Charleston. Deliberate indifference may be
18 found where the need for more or different training is so
19 obvious and the failure to train is likely to result in
20 the violation of constitutional rights.
21 To impose supervisory liability under 1983 for
22 failure to train its officers the plaintiff must plead
23 and prove by the greater weight or preponderance of the
24 evidence the following things: First, that the officers
25 actually violated the plaintiff's constitutional or

1 statutory rights. Next, that the officers acted under
2 the color of state law; and as I have explained this
3 element is agreed to and has already been established by
4 and between the parties. Next, that the City of North
5 Charleston failed to train properly its officers thus
6 illustrating a deliberate indifference to the rights of
7 the persons with whom the officers come into contact.
8 And last that the failure to train actually caused
9 the officers to violate the plaintiff's rights and is so
10 closely related to the deprivation of the plaintiff's
11 rights as to be the moving force that caused the ultimate
12 injury. Again, as I've explained a 1983 failure to train
13 claim cannot be maintained against a governmental
14 employer, that being the City of North Charleston in this
15 case, where there is no underlying constitutional
16 violation by its employees; those being the police
17 officers.
18 I further instruct you that deliberate indifference
19 is defined as the conscious choice to disregard the
20 consequences of one's acts or omissions. The plaintiff
21 may prove deliberate indifference in this case by showing
22 that the defendant, City of North Charleston knew its
23 failure to train adequately made it highly predictable
24 that it's police officers would engage in conduct that
25 would deprive persons such as the plaintiff of her

1 rights. I further instruct you that deliberate
2 indifference is a stringent standard of fault requiring
3 proof that a municipal actor, that being the City of
4 North Charleston disregarded a known or obvious
5 consequence of its actions.
6 Thus the plaintiff must prove the City of North
7 Charleston had actual or constructive notice that a
8 particular omission in their training program causes
9 officers to violate the citizen's constitutional rights.
10 If this element is proven by the defendant the City may
11 be deemed deliberately indifferent if the policy makers
12 chose to retain that program.
13 Municipal liability under 1983 also attaches where
14 and only where a deliberate choice to follow a course of
15 action is made from among various alternatives by the
16 relevant officials.
17 I further instruct you that when a plaintiff alleges
18 a failure to train they must prove by a greater weight or
19 the preponderance of the evidence a pattern of similar
20 constitutional violations by untrained employees which is
21 ordinarily necessary to demonstrate deliberate
22 indifference for purposes of a failure to train -- to
23 meet the failure to train element of deliberate
24 indifference. I further instruct you that when municipal
25 liability is premised on omissions in training law

1 enforcement officers a plaintiff must show that the
2 municipal officials were at least deliberately
3 indifferent to the constitutional rights of the citizenry
4 in their failure to train. Allegations of mere
5 negligence are insufficient to state a claim.
6 The fact that more or better training could have
7 been instituted is not enough by itself to establish a
8 claim for deliberate indifference. It is recognized even
9 adequately trained officers occasionally make mistakes
10 and those mistakes say little about the training program.
11 A sufficiently close causal link must be shown between
12 the potentially inculpating training deficiency or
13 deficiencies and the specific violation alleged.
14 This requires first that a specific deficiency
15 rather than general laxness or ineffectiveness in
16 training be shown. It then requires that the deficiency
17 or deficiencies be such given the manifest exigencies of
18 police work at to make occurrence of the specific
19 violation a reasonable probability rather than a mere
20 possibility.
21 The specific deficiency or deficiencies must be such
22 as to make the specific violation almost bound to happen
23 sooner or later rather than merely likely to happen in
24 the long run. I have explained to you ladies and
25 gentlemen the required elements of proof of the

1 plaintiff's section 1983 claims. If you find for the
2 plaintiff on one of her 1983 claims it will then be
3 necessary for you to address the issue of damages. On
4 the other hand if you decide for the defendants on all
5 section 1983 claims then it will not be necessary for you
6 to address the issue of damages.
7 The fact that I have instructed you or that I am
8 going to instruct you on the proper measure of damages
9 should not be considered as an indication of any view of
10 this court as to which party is entitled to a verdict in
11 this case. Instructions as to the measure of damages are
12 given only for your guidance in the event that should you
13 find in favor of the plaintiff on one of her claims.
14 The plaintiff has the burden of proving her damages
15 by the greater weight or the preponderance of the
16 evidence. Damages must be proven with a reasonable
17 degree of certainty. Recover cannot be based on damages
18 that are purely speculative. You must not base your
19 determination of the plaintiff's damages, if any, on
20 speculation, conjecture or guesswork.
21 The plaintiff is not required to prove the amount of
22 damages alleged to a mathematical certainty. The fact
23 that the exact amount of damages may be difficult to
24 ascertain or that damages cannot be measured by a
25 pecuniary standard is no reason for denying an award of

1 damages. Although damages need not be established to a
2 mathematical certainty they must be established to a
3 reasonable certainty and they should be a reasonably
4 close estimate to the plaintiffs alleged losses in the
5 case.
6 And as I've explained ladies and gentlemen it does
7 not have to be proven to a mathematical certainty.
8 However, the evidence put forth by the plaintiff should
9 be such as to enable you, the jury, to determine what
10 amount of damages, if any, is fair, just and reasonable.
11 For a plaintiff's claims you may consider an award
12 of actual damages. Actual damages are properly called
13 compensatory damages meaning to compensate the plaintiff
14 to make an injured party whole, to put him or her in as
15 close to the same position that they were in prior to the
16 injury or loss insofar as a money judgment can do this.
17 In other words actual or compensatory damages
18 include compensation for all injuries or losses that were
19 the natural and proximate result of the alleged wrongful
20 conduct of the defendants. Damages are never presumed
21 and the burden is on the plaintiffs to present evidence
22 that supports the assessment of damages. The assessment
23 must be ascertainable from the evidence and sufficient to
24 enable you, the jury, to make a fair and reasonable
25 determination of damages, if any. Without adequate proof

1 by a preponderance of the evidence there can be no award
2 of damages. You may consider the following types or
3 elements of damages if they are established by the
4 greater weight or the preponderance of the evidence:
5 Bodily injury, physical and mental pain and
6 suffering, mental anguish, expenses incurred for
7 necessary medical treatment, and the loss of enjoyment of
8 life suffered as a result of the injury and any other
9 losses reflected by the character of the injury.
10 Pain and suffering damages compensate the plaintiff
11 for physical discomfort and emotional response to the
12 sensation of pain caused by the injury itself. In making
13 an estimate of damages if any to be awarded for pain and
14 suffering you may consider the nature and extent of the
15 injuries and the suffering occasioned by them and their
16 duration.
17 The amount of damages, if any, to be awarded for
18 pain and suffering must be left to your judgment. There
19 is no definite standard by which to compensate an injured
20 party for pain and suffering. You and you alone have the
21 authority to determine the amount, if any, to be allowed
22 for pain and suffering and the law requires that you use
23 calm and reasonable judgment to ensure that the damages
24 are just and reasonable in light of the testimony and
25 evidence presented in the case. Ladies and gentlemen if

1 you award compensatory or actual damages for physical
2 injuries to a plaintiff you may also consider damages for
3 mental or emotional injury to that plaintiff. The term
4 mental anguish includes both the results of mental
5 sensation of pain and also the accompanying feelings of
6 distress, fright, and anxiety. That is mental anguish
7 covers not only the pain associated with the injury but
8 also the mental reaction to that pain and to the possible
9 consequences of that injury.
10 Mental anguish is more than mere disappointment,
11 anger, worry, resentment or embarrassment though it may
12 include all of these. And it includes mental sensation
13 of pain resulting from such painful emotions as grief,
14 severe disappointment, indignation, wounded pride, shame,
15 despair and humiliation.
16 Mental anguish can be composed of fright,
17 nervousness, grief, anxiety, worry, mortification,
18 humiliation, embarrassment or ordeal where it is the
19 natural and proximate consequence of the wrong in light
20 of the testimony and evidence presented in the case.
21 The amount of damages, if any, for mental suffering
22 cannot be exactly measured and to that end compensatory
23 damages may include not only out of pocket loss and other
24 monetary harms but also such injuries as impairment of
25 reputation, personal humiliation, pain and suffering,

1 mental anguish and suffering. The injured party may also
2 recover for such future damages as it is reasonably
3 certain will of necessity result from the injuries. The
4 principal underlying compensation for future damages is
5 that only one action can be brought and therefore only
6 one recovery had. It is proper to include in the
7 estimate of future damages compensation for pain and
8 suffering as will with reasonable certainty result.
9 Ladies and gentlemen if you return a verdict for the
10 plaintiff on a section 1983 claim but the plaintiff has
11 failed to prove actual or compensatory damages for her
12 claim then you must award nominal damages of one dollar
13 for that claim.
14 A person whose federal rights were violated is
15 entitled to a recognition of that violation even if he or
16 she suffered no actual injury. Nominal damages such as
17 one dollar are designed to acknowledge the depravation of
18 a federal right even where you find no actual injury
19 occurred.
20 However, if you find actual injury you must award
21 compensatory damages, if any, as I've instructed rather
22 than nominal damages. I further instruct you ladies and
23 gentlemen that if you find the plaintiff was permanently
24 injured as a result of the defendant's actions you must
25 then decide how if at all that injury will affect the

1 rest of the plaintiff's life. A person's life expectancy
2 is determined by a life expectancy table, which is part
3 of the laws of the state of South Carolina. The life
4 expectancy table is only an estimate of the probable
5 average remaining length of life of all persons in our
6 state of a given age.
7 The plaintiff is a 69 year old female with a life
8 expectancy of 17.12 years according to the life
9 expectancy tables of our state. This fact is to be
10 considered by you along with any other facts and
11 circumstances in evidence bearing on the plaintiff's life
12 expectancy including occupation, habits and health at the
13 time of injury in deciding the amount of damages, if any,
14 to be awarded to the plaintiff.
15 As I've explained ladies and gentlemen the plaintiff
16 has the burden of proving her damages by the greater
17 weight or the preponderance of the evidence. But this
18 does not mean that she must prove them to a mathematical
19 certainty or produce evidence of the precise amount of
20 damages she claims to have suffered rather the evidence
21 put forth by the plaintiff should be such as to enable
22 you the jury to determine what amount of damages, if any,
23 is fair just and reasonable.
24 The defendant claims that at the time of this
25 incident the plaintiff was suffering from an existing

1 physical defect. Even if you should find this to be true
2 the mere fact of an existing defect would not prevent the
3 plaintiff from recovering damages from the defendant.
4 The defendant takes the plaintiff as he or she is found
5 and the plaintiff is entitled to recover damages
6 resulting from the aggravation of a preexisting condition
7 as well as for any new or additional injuries sustained
8 in the subsequent incident provided of course such
9 aggravation or new injuries are the natural and proximate
10 result of the act or omissions of the defendant.
11 Under our laws a person who injures another is
12 responsible for all the effects which are related to the
13 incident and this is true no matter what the plaintiff's
14 physical condition was when the incident occurred. It
15 may seem that if the plaintiff had been in good health
16 the injury would not have happened or that it would have
17 been easier to cure. That would in no way affect the
18 defendant's liability.
19 If the presence of a disease or an existing physical
20 condition aggravates and prolongs the injury which in
21 turn increases the amount of damages then the plaintiff
22 is entitled to recover the increased amount. If you find
23 however that the plaintiff had an existing physical
24 impairment before the incident the amount you award for
25 actual damages, if any, should not include damages for

1 the existing impairment. Ladies and gentlemen once a
2 plaintiff is injured or damaged by the wrongful act of
3 another person it is the duty of the plaintiff to
4 reasonably try to avoid and lessen their damages.
5 Those damages which may be avoided by the use of
6 reasonable efforts, care and prudence by the plaintiff
7 cannot be the proximate result of the defendant's alleged
8 wrongful act. Therefore, the plaintiff cannot recover
9 for damages which reasonably might have been avoided.
10 The efforts required by the plaintiff must be
11 determined by the rules of common sense and fair dealing
12 and what a person of ordinary reason and prudence would
13 do under the same or similar circumstances. The
14 plaintiff is not required to use unreasonable efforts or
15 great expense to avoid and lessen the damages. The
16 defendant has the burden of proving a failure to lessen
17 damages on the part of the plaintiff by the preponderance
18 or greater eight of the evidence.
19 I further instruct you that the plaintiff is
20 required to use reasonable care and diligence to reduce
21 the seriousness of the injuries caused or alleged to have
22 been caused by the defendant. This duty includes making
23 a reasonable attempt to see a doctor or to take part in
24 any type of therapy program. If you find that the
25 plaintiff has failed to do this the plaintiff may recover

1 damages, if any, for the injures themselves but not
2 damages for the aggravation of the injuries. In addition
3 to actual damages the plaintiff has asked for an award of
4 punitive damages, which are also called exemplary
5 damages. If you find ladies and gentlemen that the
6 plaintiff is entitled to actual or nominal damages under
7 42 U.S.C 1983 then you may consider whether the plaintiff
8 is entitled to punitive damages.
9 Punitive damages are imposed as punishment. They
10 are not intended to compensate. Punitive damages are
11 allowed in the interest of society in the nature of
12 punishment and as a warning, an example to deter the
13 wrongdoer and others from committing like offenses in the
14 future.
15 Moreover they serve to vindicate a private right by
16 requiring the wrongdoer to pay money to the injured
17 party. The plaintiff has the burden of proving that
18 punitive damages should be awarded by clear and
19 convincing evidence.
20 To support an award of punitive damages the
21 plaintiff must prove by clear and convincing evidence
22 that the conduct complained of included a consciousness
23 of wrongdoing at the time of the conduct. Clear and
24 convincing is a legal term meaning more than just the
25 greater weight or the preponderance of the evidence.

1 Clear and convincing proof leaves no substantial doubt in
2 your mind. It is proof that establishes in your mind not
3 only that the proposition at issue is probable but that
4 it is highly probable.
5 Punitive damages may only be awarded against an
6 individual defendant in an action pursuant to 42 U.S.C
7 section 1983 where the individual's conduct is shown to
8 be motivated by evil motive or intent or where it
9 involves reckless or callous indifference to the
10 federally protective rights of others.
11 The word reckless is used to describe a conscious
12 failure to use reasonable care. The term reckless means
13 not only that a person is acting carelessly but also they
14 are aware that in their actions a deliberate -- that they
15 are deliberately being careless. In other words, that
16 they are also aware that they are being careless.
17 You can consider the following factors if you deem
18 an award of punitive damages to be proper: The
19 defendants degree of culpability, the duration of the
20 conduct, the defendants awareness or concealment of the
21 conduct, the existence of similar past conduct, the
22 likelihood the award will deter the defendants or others
23 from like conduct, whether the award is reasonably
24 related to the harm likely to result from such conduct,
25 and the defendants ability to pay. I further instruct

1 you ladies and gentlemen that the defendants in this case
2 have asserted the affirmative defense of qualified
3 immunity. I instruct you that under the theory of
4 qualified immunity or that affirmative defense
5 governmental officials performing discretionary functions
6 generally are shielded from liability for civil damages
7 insofar as their conduct does not violate clearly
8 established statutory on constitutional rights of which a
9 reasonable person would have known.
10 I instruct you that government officials who are
11 performing discretionary functions should be shielded
12 from civil liability through qualified immunity since
13 that defense protects all but the plainly incompetent or
14 those who knowingly violate the law.
15 This accommodation exists because officials should
16 not err always on the side of caution because they fear
17 being sued. Where this rule is applicable officials can
18 know that they will not be held personally responsible --
19 personally liable as long as their actions are reasonable
20 in light of current American law.
21 One reason for the defense of qualified immunity is
22 that if reasonable mistakes would always be resolved in
23 favor of an action then effective law enforcement would
24 be lost. The qualified immunity inquiry must be filtered
25 through the lens of the officer's perceptions at the time

1 of the incident in question. Limit second guessing to
2 reasonableness of actions with the benefit of 20/20
3 hindsight and limits the need for decision-makers to sort
4 through conflicting versions of actual facts and allows
5 them to focus instead on what the police officer
6 reasonably perceived.
7 I further instruct you that there are certain
8 exemptions from liability for governmental entities such
9 as the defendants in this case. One such exemption says
10 that a governmental entity is not liable for a loss
11 resulting from the exercise of discretion or judgment by
12 the governmental entity or employee or the performance or
13 failure to perform any act or service which is in the
14 discretion or judgment of the governmental entity or
15 employee. A governmental entity is entitled to immunity
16 if it shows that when faced with alternatives it weighed
17 competing considerations and made a conscious choice that
18 it used accepted professional standards to make that
19 choice.
20 Mr. Foreman, ladies and gentlemen in reaching your
21 verdict in this case you should not consider whether any
22 party was or was not covered by insurance. The law does
23 not allow the parties to present any evidence about
24 insurance, the lack of insurance, or the amount of
25 insurance coverage. More importantly I instruct you that

1 insurance or lack of insurance has no bearing on whether
2 any party is responsible for their actions in this matter
3 or the amount of actual damages, if any, in your fact
4 finding province you believe are proper in this case.
5 Ladies and gentlemen you have been selected as fair
6 and impartial jurors sworn to impartially try the facts
7 of this case and when you comply with your oath to do so
8 then you will have fulfilled your duty and discharged
9 your duty as jurors in this case.
10 You should not be influenced by opinions or
11 expressions of opinions which you may have heard outside
12 of the evidence of this case. But you are to decide this
13 case according to the sworn testimony that you have heard
14 and the other evidence that has been introduced.
15 Ladies and gentlemen in reaching a verdict in this
16 case you must be unanimous which means all 12 of you must
17 agree in order to reach a verdict. I'm going to go over
18 the verdict forms with you and they are done in a way
19 that we call special interrogatories which is just a
20 fancy legal term that means questions.
21 There will be a series of questions that you need to
22 answer on each verdict form and the Foreperson will be
23 responsible for filling out the verdict form, signing and
24 dating the form and knocking on the door and advising the
25 bailiffs that the jury has reached a unanimous verdict on

1 each verdict form that is presented to you. There is no
2 significance whatsoever to the order in which I will go
3 over the verdicts; it is simply that one must be stated
4 first. As I've explained your verdict must be unanimous
5 which means all 12 of you must agree in order to reach a
6 verdict.
7 Ladies and gentlemen I instruct you that your
8 verdict cannot be based on sympathy, passion, prejudice,
9 emotion, or some other consideration that is not found in
10 the evidence of this case. And you don't have to try to
11 write any of this down because the verdict forms go into
12 the jury room with you.
13 And as to the plaintiffs claims against the
14 defendant City of North Charleston the questions are as
15 follows: One, do you find that the plaintiff has proven
16 by a preponderance of the evidence that the City of North
17 Charleston violated Rhonda Doe's constitutional rights by
18 being deliberately indifferent with regard to training
19 its officers. If you answer yes, you go to question two
20 if you answer no you stop and deliberate no further.
21 Question two, if you answered yes to question one do
22 you find that the plaintiff has proven by a preponderance
23 of the evidence that any such constitutional violation by
24 the City of North Charleston proximately caused damage to
25 Rhonda Doe. If you answer yes you go to question three,

1 if you answer no you stop and deliberate no further.
2 Question three, if the answers to questions one and two
3 are yes please state the amount of damages that should be
4 awarded to plaintiff for the allegation that the City of
5 North Charleston was deliberately indifferent with regard
6 to training its officers. And there is a line for you to
7 write in a numerical award and also a line for the
8 Foreperson to sign and date the verdict form.
9 Now the verdict forms for the individual officers,
10 that being Leigh Anne McGowan, Charles Frances Wholleb,
11 and Anthony M. Doxey all read the same so I'm only going
12 to go over one of those because they all are duplicate
13 except with the different names on each of the verdict
14 form. And again these are fairly self explanatory.
15 As to the plaintiff's claims against defendant Leigh
16 Anne McGowan or the next will read Charles Frances
17 Wholleb and the last will read Anthony M. Doxey and the
18 questions are as follows: Question one, do you find that
19 the plaintiff has proven by a preponderance of the
20 evidence that Leigh Anne McGowan violated Rhonda Doe's
21 constitutional rights by making a warrantless entry into
22 Rhonda Doe's residence on the night of March 27th, 2014.
23 If you answer yes you go to question two, if you answer
24 no you stop and deliberate no further. Question two, if
25 you answered yes to question one do you find that Leigh

1 Anne McGowan is entitled to qualified immunity. If you
2 answer yes you stop and deliberate no further, if you
3 answer no you go to question three.
4 If you answered yes to question one and no to
5 question two do you find that the plaintiff has proven by
6 a preponderance of the evidence that the constitutional
7 violation proximately caused damages to Rhonda Doe. If
8 you answer yes you go to question four, if you answer no
9 you stop and deliberate no further.
10 Question four, if your answer to both questions one
11 and three is yes and the answer to question two is no
12 please state the amount of actual damages that should be
13 awarded to plaintiff for the allegation that Leigh Anne
14 McGowan violated Rhonda Doe's constitutional rights. And
15 there is a line for the amount of damages to be inserted.
16 Question five, if you answered question four do you
17 find that the plaintiff has proven through clear and
18 convincing evidence that punitive damages should be
19 awarded against Leigh Anne McGowan. If you answer yes
20 you go to question six, if you answer no you stop and
21 deliberate no further.
22 If the answer to question five is yes please state
23 the amount of punitive damages that should be awarded to
24 plaintiff for the allegation that Leigh Anne McGowan
25 violated Rhonda Doe's constitutional rights. Again, with

1 a line for you to write in any numerical amount of
2 damages you feel is proper in answering that question and
3 again a place for the Foreperson to sign and date the
4 verdict form. And each of those verdict forms read the
5 same for Officer Wholleb and Officer Doxey so I will not
6 read each of those in the interest of time.
7 Again, ladies and gentlemen your verdict must be a
8 unanimous one which means all 12 of you must agree in
9 order to reach a verdict in this case. Mr. Foreman, once
10 the jury has reached a unanimous verdict it will be your
11 responsibility to fill out each verdict form to sign and
12 date the forms and knock on the door and advise the
13 bailiff that the jury has reached a unanimous verdict.
14 If the jury has any questions during deliberations it is
15 also your responsibility to write out those questions to
16 sign and date the note and knock on the door and advise
17 the bailiffs that the jury has a question.
18 Ladies and gentlemen if you have any questions
19 during deliberations please know that there will be a
20 delay because there is a process that we have to follow
21 when answering your questions. So if you have a question
22 please don't think we're ignoring you; just know that we
23 are following that procedure. Mr. Foreman, any notes
24 provided to the court should never provide a numerical
25 breakdown of the jury or disclose any of the jury's

1 deliberations as those should always be kept
2 confidential. Ladies and gentlemen as I explained
3 initially your Foreperson is an administrative function.
4 He does not have any greater vote or voice than you do.
5 We just need to have somebody fill out the verdict form
6 and communicate any questions you may have during the
7 deliberation process. Again ladies and gentlemen your
8 verdict must be unanimous which means all 12 of you must
9 agree in order to reach a verdict in this case.
10 I'm going to ask that you return to your jury room
11 but do not yet begin your deliberations. I have some
12 matters of law to take up with counsel that may require
13 further instruction or clarification of an instruction.
14 If there is no further instruction we will send in the
15 verdict forms, the evidence and we should have a clean
16 laptop for you already in that room, but if not we will
17 bring one to you in the event that you need to play any
18 of the evidence and also your notepads and at that time
19 you will be allowed to begin your deliberations.
20 Also, I will tell you in advance that as we reach
21 the dinner hour I will send the Deputy Clerk to determine
22 if you all want to go home and resume your deliberations
23 in the morning. I do not have any way of procuring
24 dinner for you so if it goes beyond about 5:30 or 6:00
25 I'm going to need to send you home because we just have

1 anything to feed you. I think the best thing we got is
2 pizza. And it's always tourist season in Charleston and
3 after about 5 o'clock it would probably take two hours to
4 get it so I figure it's just better to let you go home
5 and eat something you find appealing.
6 So we will send the Clerk in to see what your
7 desires are and whatever they are we will accommodate
8 you. I just didn't want you to think you're held hostage
9 here all night because you're not. We have the ability
10 to break and allow you to go home for dinner.
11 If you will go with the bailiffs please and do not
12 yet begin your deliberations. And actually if you will
13 stack your notepads up on the banister for us that will
14 make it a little easier to bring them in to you.
15 [Whereupon, the jury exits at 2:43 p.m.]
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1 THE COURT: Any exceptions to the charge from the
2 plaintiff?
3 MR. MEYERS: None, Your Honor.
4 THE COURT: From the defense?
5 MR. DORSEL: Yes, Your Honor.
6 THE COURT: I'm listening.
7 MR. DORSEL: I thought and I may have heard this
8 wrong ---
9 THE COURT: --- it was long so it's possible.
10 MR. DORSEL: When you were talking about proximate
11 cause with regard to the warrantless entry I thought I
12 heard that the plaintiff must prove injury was caused by
13 the defendant's negligence.
14 THE COURT: I didn't say negligence.
15 MR. DORSEL: Is there any way to check to see.
16 THE COURT: I don't think I said negligence. I
17 don't have negligence written anywhere in my
18 instructions. If I did I will correct it. Ms. Joy, can
19 you go back -- it was the proximate cause portion of it?
20 MR. DORSEL: I believe so, the warrantless entry
21 part.
22 THE COURT: Let me look back.
23 MR. DORSEL: I was just going to request that we
24 give that charge number nine.
25 THE COURT: I'm not taking up anything I've already