

ORIGINAL

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THE STATE OF SOUTH CAROLINA
In the Court of Appeals
Appellant Case Number 2012-212219

APPEAL FROM LEXINGTON COUNTY
Court of Common Pleas

William P. Keesley, Circuit Court Judge

Case # 2009-CP-32-5708

MICHAEL MAULDIN.....Respondent

v.

CAROL VANDER HEIDE, MURRAY
MITCHELL, PAMELA WEISS, ELAINE
KORPITA, KARL WERDUNN, DEBRA
WERDUNN, AND MARK KOSOBUCKI,

of whom MURRAY MITCHELL and PAMELA WEISS are Appellants

RECORD ON APPEAL

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Julius W. Babb, IV

RECEIVED

MAY 15 2013

SC Court of Appeals

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SC Court of Appeals

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ORIGINAL

STATE OF SOUTH CAROLINA)
COUNTY OF LEXINGTON)

IN THE COURT OF COMMON PLEAS

MICHAEL MAULDIN,

Plaintiff,

vs.

CAROL VANDER HEIDE, ET AL.,

Defendants.

)
)
) ORDER ON MOTION TO DISMISS
)
)

Case No.: 2009-CP-32-05708

FILED
200 DEC 15 P 1:56
CLERK OF COURT
LEXINGTON, SC

WMA
#1

The defendant Eileen Korpita, acting in a self-represented capacity, seeks to dismiss this case under Rule 12(b)(6), SCRCP, claiming a failure to state a cause of action. Because of the strict standards that apply to these types of motions (set forth in the quotation below), the court is required to deny the motion at this stage. The defendant certainly may reassert the attempt to obtain dismissal of the case at some later point and/or attempt to pursue remedies based on her allegation that the lawsuit is frivolous or done in an abusive fashion.

The American Civil Liberties Union of South Carolina (ACLU-SC) requested leave to have the court consider a brief submitted as Amicus Curiae. Since the brief was contained in the file, the court has reviewed it. However, the court knows of no procedure in the circuit court for allowing submission of such briefs and declines to grant the request. Even if the argument were allowed, the result of the ruling on this motion would not be different.

The standard mandated for the circuit court in considering a motion under Rule 12(b)(6), SCRPC is very clear and extremely narrow. As set forth in Doc v. Marion, et al., 373 S.C. 390, 645 S.E.2d 245 (2007).

In considering a motion to dismiss a complaint based on a failure to state facts sufficient to constitute a cause of action, the trial court must base its ruling solely on allegations set forth in the complaint. Spence v. Spence, 368 S.C. 106, 116, 628 S.E.2d 869, 874 (2006). If the facts alleged and inferences reasonably deducible therefrom, viewed in the light most favorable to the plaintiff, would entitle the plaintiff to relief on any theory, then dismissal under Rule 12(b)(6) is improper. Baird v. Charleston County, 333 S.C. 519, 511 S.E.2d 69 (1999); Stiles v. Onorato, 318 S.C. 297, 457 S.E.2d 601 (1995). "The question is whether, in the light most favorable to the plaintiff **248 and with every doubt resolved in his behalf, the complaint states any claim for relief." Gentry v. Yonce, 337 S.C. 1, 522 S.E.2d 137 (1999). The complaint should not be dismissed merely because the court doubts the plaintiff will prevail in the action. Toussaint v. Ham, 292 S.C. 415, 357 S.E.2d 8 (1987).

WAC
#2
As the court briefly stated during the hearing, the allowable review is often said to be limited to the 4-corners of the complaint. The court has to take all the allegations of the plaintiff as being true, even if it has reason to doubt their validity. As the quotation above explicitly establishes, the ability to obtain dismissal under Rule 12(b)(6) is extremely limited.

The defendant is asking the court to look beyond the complaint. The court is being asked to evaluate statements, not all of which are in the complaint, and to determine that they are protected speech under the First Amendment to the United States Constitution, or to determine that they are privileged communications because they were made to the proper persons in the proper manner in the proper forum. While all of those things may be completely true, the court would have to go beyond the complaint to determine those issues. The court is not permitted to do so.

Further, the recitations of the complaint refer to letters and communications not before the court that may have been made by a particular defendant, but not another. There would have to be further discovery on who said what to whom and in what context.

The complaint states two causes of action. There is a cause of action for interference with contract and one for defamation. They are properly pleaded. Under these circumstances, the court must deny the motion to dismiss the complaint at this stage.

AND IT IS SO ORDERED.

April 23, 2010


William P. Keesley
Judge

#3

ORIGINAL

STATE OF SOUTH CAROLINA)
COUNTY OF LEXINGTON)

FILED

IN THE COURT OF COMMON PLEAS

MICHAEL MAULDIN,

2011 OCT 14 P 3:30

Plaintiff,

BETH A. CARRIGS
CLERK OF COURT
LEXINGTON SC

ORDER ON PLAINTIFF'S MOTION
TO DISMISS and DEFENDANTS'
SUMMARY JUDGMENT MOTION

vs.

CAROL VANDER HEIDE, ET AL.,

Case No.: 2009-CP-32-05708

Defendants.

The plaintiff has asked the court to be allowed to dismiss the case, with prejudice.

The motion is granted. The summary judgment motion filed by the defendants is moot.

WMC #1
Plaintiff's counsel has requested for some time now that his client's case be dismissed. The sticking point has been the plaintiff's request that the dismissal be granted with the stipulation that each party be responsible for bearing his or her own costs. Two defendants, Mr. Murray Mitchell and his wife, Pamela Weiss, each acting in a self-represented capacity, agree to allow the case to be dismissed; but, they have maintained throughout this litigation that the lawsuit is frivolous and that they are entitled to sanctions. So, they object to the language that has each party bearing his or her own costs. The plaintiff emphatically denies that the lawsuit is frivolous and that the defendants are entitled to sanctions.

When it became apparent that there was not an agreement to the stipulation, the court asked whether plaintiff's counsel desired to dismiss the case without the stipulation about costs. Counsel indicated that he did. The defendants will have to decide whether

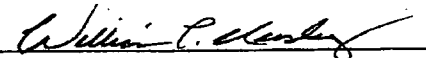
#16 on 10/10/11 Roster.

and in what manner they desire to pursue any claim for sanctions. The motion is granted and the dismissal is without prejudice pursuant to Rule 41, SCRCP.

#2
There is a pending motion for summary judgment filed by the defendants. It was heard months ago, but the court has withheld ruling because of the back-and-forth that has occurred concerning whether there was agreement to dismiss. The parties understand that the motion for summary judgment is now rendered moot and that there will not be a ruling issued on it. The plaintiff's attorney was specifically asked if he wanted to dismiss the case prior to receiving a ruling on the summary judgment motion. This was done because, prior to the adoption of "reasonable attorney" standard, the court believes that precedent established that survival of a summary judgment motion meant that a lawsuit would not be deemed frivolous. The court is not sure what impact a summary judgment ruling would have upon this case, but wanted to make sure that there was an understanding that the ruling would not be issued after the case was dismissed.

AND IT IS SO ORDERED.

October 10, 2011


William P. Keesley
Judge

STATE OF SOUTH CAROLINA
COUNTY OF LEXINGTON

IN THE COURT OF COMMON PLEAS
FOR THE ELEVENTH JUDICIAL CIRCUIT
CASE NO. 2009-CP-32-05708

Michael Mauldin,

Plaintiff,

vs.

Carol Vander Heide, Et Al.

Defendants.

ORDER

2012 FEB -2 AM 11:03
JUDICIAL CIRCUIT
CLERK OF COURT
LEXINGTON SC

FILED

This matter comes before the Court on a Motion for Sanctions filed by two of the defendants under South Carolina Rule of Civil Procedure 11 and S.C Code Ann. § 15-36-10. The motion is denied.

WPK
#1
The plaintiff filed suit against the defendants for Interference with Contractual Relations and Defamation on December 21, 2009. The plaintiff, a high school soccer coach prior to filing this action, alleged that the individual defendants maliciously spread falsehoods about the propriety of the plaintiff's interactions with students, some of which suggested that the plaintiff was guilty of sexual harassment. The plaintiff asserted that such actions resulted in his being defamed and his contract for employment with the District ended. The plaintiff dismissed his lawsuit after settling with several of the defendants and prior to obtaining a ruling from the court on the defendants' motion for summary judgment. The attorneys for the plaintiff were in the early stages of discovery when the case was settled with all but two of the defendants. The remaining individual defendants, Murray Mitchell and Pamela Weiss, have now made this motion.

The defendants have the burden of proof in this proceeding. It seems clear that the court would have benefitted by knowing information that would have been gained by additional discovery; but, it is equally clear that the discovery that was contemplated was extremely extensive and would have been very expensive. The plaintiff attempted to dismiss the lawsuit earlier rather than go through that discovery. Plaintiff's counsel stated at a hearing on a motion for Summary Judgment filed by the defendants that he was willing to dismiss the lawsuit against the defendants who are pursuing this motion, with prejudice. These defendants were and are proceeding in a self-represented capacity, and they wanted additional time to consider the matter. It is true that the Plaintiff's attorney changed positions, then did agree again to dismiss the action; and, it is true that he did so before a ruling was made on the defense's motion for Summary Judgment. Had the ruling been issued, the questions related to the motion for sanctions would have been more clearly defined. However, at least some of the delay was attributable to the failure to accept the earlier proposal by plaintiff's counsel to dismiss the case.

WAC
#2

While there is a strong argument in the defendants' favor, and while the court expressed frustration about the absence of discovery when the dispositive motions were being considered, the court finds that it is put in a position of being required to accept as a given that the discovery would have uncovered no evidence or reasonable inference supporting the plaintiff's beliefs about the defendants' conduct. The defendants are convinced that no such evidence exists, which is why they believe the lawsuit was abandoned. But, at a minimum, it appears from the facts that would have been known to the plaintiff prior to the initiation of the lawsuit that there was a legitimate purpose in securing discovery through litigation. The court does not feel that it has been proven that there was nothing to be discovered to support the plaintiff's beliefs about the defendants' conduct.

The defendants are stating that the attorney failed to conduct a reasonable investigation prior to filing the lawsuit. In viewing what was reasonable for the plaintiff and his attorney to believe at the time of filing, it seems that there could have been a legitimate view that there had been complaints made to school officials and, when the officials did not respond to the degree that the defendants thought they should, there was a complaint made to federal officials. The defendants state that they never used the phrase "sexual harassment" in their complaint, and they believe that all they did was state facts which those officials interpreted as supporting an assertion against the plaintiff related to sexual harassment of young girls he was coaching. The claim of sexual harassment was lodged against the plaintiff. He lost his job under pressure. He did, apparently, have little delay in securing a comparable job elsewhere, as the defendants point out. However, the defendants have failed to meet their burden of proof that the filing or maintaining of this action was frivolous. It is equally plausible that a reasonable attorney or litigant, at a minimum, would have sufficient reasons to initiate a lawsuit for discovery purposes. It is a reasonable interpretation that the plaintiff, after getting into the lawsuit, reassessed the situation and decided to abandon the claims. The magnitude of the discovery being proposed, when viewed in light of the perceived actual damages and the settlements that had been reached, were sufficient reasonable grounds to decide to dismiss the claims, without conceding any lack of merit.

WAL
#3

SCRCP Rule 11 Sanctions

A trial court may impose sanctions on a party, a party's attorney, or both for filing a frivolous pleading, motion, or other paper to cause delay or when no good grounds exist to support the filing. SCRCP Rule 11: *Runyon v. Wright*, 322 S.C. 15, 19, 471 S.E.2d 160, 162

(S.C. 1996). A trial judge has discretion to apply Rule 11(a) where a finding has been made that the rule has been violated. *See, Culbertson v. Clemens*, 322 S.C. 20, 24, 471 S.E.2d 163, 165 (1996) ("A trial court's ruling on sanctions will not be disturbed absent a clear abuse of discretion.") Further, a party moving for sanctions under Rule 11 must demonstrate that the pleading complained of was filed in bad faith. (emphasis added) SCRCF Rule 11(a). Discovery in this case was incomplete at the time when the case was settled. While not determinative in and of itself, discovery being in early stages is a factor which the Court considers in its ruling. *See, Runyon*, 322 S.C. at 19, 471 S.E.2d at 162. The defendants here have not carried their burden of proving that plaintiff or plaintiff's counsel brought the plaintiff's claim without grounds and in bad faith. Sanctions under Rule 11(a) are not warranted.

The South Carolina Frivolous Civil Proceedings Sanction Act

WPK
#4
Section 15-36-10 (2005) of the South Carolina Code imposes a "reasonable attorney" standard for the frivolous proceedings test. S.C. Code Ann. §15-36-10 (2005); *see also, Southeastern Site Prep, LLC v. Atlantic Coast Builders and Contractors, LLC*, 394 S.C. 97, 713 S.E.2d 650 (Ct. App. 2011). Section 15-36-10 provides that an attorney may be sanctioned for filing a frivolous pleading, for making frivolous arguments a reasonable attorney would believe were not reasonably supported by the facts, or for making frivolous arguments that a reasonable attorney would believe were not warranted under the existing law or through a good faith argument for extending, modifying, or reversing the existing law. S.C. Code Ann. §15-26-10(4)(a)-(c) (2005). Section (4)(a) delineates circumstances where sanctions may be imposed for filing a frivolous pleading as follows: (i) the person has not read the frivolous pleading, motion, or document; (ii) 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; (iii) a reasonable attorney presented with the same circumstances would believe that the procurement, initiation, continuation, or defense of a civil cause was intended merely to harass or injure the other party; or (iv) a reasonable attorney . . . would believe the pleading, motion, or document is frivolous, interposed for merely delay, or merely brought for any purpose other than securing proper discovery, joinder of parties, or adjudication of the claim or defense upon which the proceedings are based. *Id.*

WML
#5 The party moving for sanctions under Section §15-36-10 has the burden of proving, by a preponderance of the evidence, that (1) the other party has procured, initiated, continued, or defended the civil proceedings against him; (2) the proceedings were terminated in his favor; (3) the primary purpose for which the proceedings were procured, initiated, continued, or defended was not that of securing the proper discovery, joinder of parties, or adjudication of the civil proceedings; (4) the aggrieved person has incurred attorney's fees and court costs; and (5) the amount of the fees and costs set forth in item. *Rutland v. Holler, et al.*, 371 S.C. 91, 97, 637 S.E.2d 316, 320 (Ct. App. 2006). These defendants have failed to prove the third element.

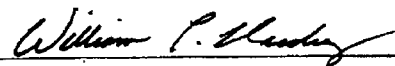
Although the defendants' first amendment rights are substantial and are a serious consideration, those rights must be evaluated in this context against the plaintiff's right to access the courts. The existing legal framework for the tort of defamation and interference with contractual relations recognizes this balance and affords defendants speech protections through defenses including truth and privilege. *See, Swinton Creek Nursery v. Edisto Farm Credit*, 334 S.C. 469, 484, 514 S.E.2d 126, 134 (S.C. 1999). Applying the preponderance of the evidence standard which governs §15-36-10 to the facts in the present case, the Court finds that the defendants have failed to meet their burden of showing that no reasonable plaintiff or plaintiff's attorney would

have initiated the plaintiff's claim against the moving defendants. As such sanctions under the South Carolina Frivolous Civil Proceedings Sanctions Act are inappropriate here.

CONCLUSION

FOR THE FOREGOING REASONS, the defendants have failed to prove that either the plaintiff or his attorney should be sanctioned under SCRCP Rule 11(a) or S.C. Code Ann § 15-36-10. The motion is denied.

AND IT IS SO ORDERED.



William P. Keesley
Circuit Court Judge
Eleventh Judicial Circuit

May 7, 2012

#6

FILED

2012 MAY -3 AM 11:03
CLERK OF COURT
LEXINGTON SC

STATE OF SOUTH CAROLINA)
COUNTY OF LEXINGTON)

IN THE COURT OF COMMON PLEAS

Michael Mauldin,)

Plaintiff,)

vs.)

Carol Vander Heide, Murray)

Mitchell, Pamela Weiss, Eileen)

Korpita, Karl Werdunn, Debra)

Werdunn, and Mark E. Kosobucki,)

Defendants.)

COMPLAINT
Jury Trial Demanded

2009CP3205708

The plaintiff, complaining of the defendants, would respectfully allege as follows:

1. The plaintiff is a citizen and resident of Columbia, South Carolina.
2. The defendants are all, upon information and belief, citizens and residents of Lexington County, South Carolina.
3. Prior to December of 2009, the plaintiff served as the girl's soccer coach at Irmo High School and a teacher in Lexington County School District 5. The plaintiff has been active in coaching and athletics for many years and has achieved an excellent reputation in his field.
4. As coach of the girls' soccer team at Irmo High School, the plaintiff had fostered and maintained a good relationship with his students and players, as well as the administration of the school and school district and the faculty of Irmo High School. He also felt that he was respected and appreciated by the parents of his players.
5. Suddenly, in June of 2009, complaints and charges were made against the plaintiff by some of the defendants later followed by a ruthless campaign of vilification, false and pretextual reports and accounts, as well as other contacts with school officials for the purpose of removing

the plaintiff as coach of the girls' soccer team.

6. In June of 2009 and continuing through the end of the summer and the first part of the school year, there were a series of letters written by several of the defendants and a bullet point list of complaints presented by all of the defendants accusing the plaintiff of sexual harassment toward his players, unprofessional activities and unfitness to serve as a high school coach. A copy of this list of complaints is attached hereto as Exhibit A to this Complaint.

7. None of the charges had any substantial basis and most of the charges were absolutely false and based upon second and third-hand anonymous sources which were totally lacking in credibility.

8. After a thorough and comprehensive review of the charges made, the principal of Irmo High School, the Superintendent and Human Resources Director for the school district came to the conclusion that they lacked any basis and dismissed the same.

9. Notwithstanding that fact, the defendants have pursued these false and frivolous charges, filing complaints with the Office of Civil Rights with the United States Department of Education and continuing scheme, meet and conspire to have the plaintiff removed from his position at Irmo High School.

FOR A FIRST CAUSE OF ACTION
AGAINST THE DEFENDANTS
(Interference with Contractual Relations)

10. The plaintiff realleges paragraphs 1 through 9 aforesaid.

11. The malicious and ruthless agenda pursued by the defendants amounts to an unwarranted interference with the plaintiff's contractual relations and has proximately caused him to lose his position as soccer coach at Irmo High School and to pursue his coaching abilities

elsewhere. This has resulted in a loss of earning capacity and more importantly a loss of reputation, embarrassment, humiliation and mental anguish for which these defendants are liable.

12. In addition to the damages set forth which were proximately caused by the conduct of the defendants, the plaintiff is also entitled to an award of punitive damages to punish and deter the defendants for their intentional and malicious conduct.

FOR A SECOND AND SEPARATE CAUSE OF ACTION
AGAINST THE DEFENDANTS
(Defamation)

13. The plaintiff realleges paragraphs 1 through 12 aforesaid.

14. The charges made against the plaintiff were false, known to be false and made with reckless disregard for the truth. The charges carried the insinuation that the plaintiff was guilty of sexual harassment and was unfit for his professional position, both of which are defamatory *per se*. The plaintiff believes that some of the publications were disseminated thru the State of South Carolina computer system.

15. As a direct and proximate result of the false and malicious defamation and the publications, utterances and communications as set forth herein, the plaintiff has sustained the loss of his position as soccer coach and possible future employment as a teacher, a loss of earning capacity and more importantly has sustained loss of reputation, embarrassment, humiliation, mental anguish and emotional distress for which the defendants are liable. The defendants are further liable to the plaintiff for punitive damages from the defendants for the malicious, willful and intentional actions as set forth herein to deter and punish them for the same.

WHEREFORE, the plaintiff prays for judgment against the defendants in the sum of \$1,000,000 actual damages and \$1,000,000 punitive damages and for the costs of this action.

CROMER & MABRY

BY: J. Lewis Cromer

J. Lewis Cromer (#1470)

Tandi D. Ross (#76623)

Julius W. Babb, IV (#77216)

1522 Lady Street

Post Office Box 11675

Columbia, South Carolina 29211

Phone 803-799-9530

Fax 803-799-9533

Attorneys for Plaintiff

December 21, 2009

Concerns Regarding Inappropriate Behavior by Coach Mike Mauldin

- Repeatedly called students up to his desk during study hall, in front of others, to discuss their soccer behavior or that of other players on the team, and then told them, "If you repeat this, I will deny it."
- Texted kids on their cell phones during the school day about a wide range of issues—some soccer, and some personal.
- Accused a student – in front of others – of "losing the game" for the team because of her negative attitude and he was sick of it (although the player sat on the bench all season due to injury); The player was reduced to tears during school hours.
- Called an adolescent girl up to his desk in class to identify that in a game when the girls were wearing (see through) white shorts, he saw her "numbered underwear;" he then repeated the story weeks later to remind her not to wear the "numbered underwear" at a next game.
- Has repeatedly called students up in class (in front of others) to ask, "Should so & so make the team or not?" or to say, "So & so will not make the team" for this reason or that (even before tryouts took place).
- Asked one student if (about two siblings in the program), which one was more "mature" than the other, and as a result, who should make the varsity team next year.
- Called a student up in study hall to identify (in front of others) that a certain parent had emailed him about activities on the team and accusing that parent of being a "coward" for hiding behind his computer (knowing perfectly well that the student knew it was her own father, and indeed, supported his actions). Later, he told this same child that it was her mom who had put an end to the years of "rookie" day (hazing) activities, as if that was a bad thing.
- Called several first-year players up to his desk to ask them, in front of others, "Do you feel like you are *treated like a slave* by upper classman?" placing them in an awkward position.
- Has discussed the "punishment" of certain players in front of others on the team, including whether they would be dismissed from school, or, ever be permitted to play soccer again based on contracts they had signed with him.
- Told one student, as she entered class that day in front of everyone in the class, that she made the Palmetto (2nd level) CUFC United "club" team— not the first level team as she had hoped - even though the official team list was not to be posted online until the next day (and even then, it was to be listed by player "number" to protect privacy of names). He then told her the name of a girl who *did* make the first-level team. This reduced the student to tears and caused her to be upset the rest of the day. This was not only confidential information, of which he was privy to only because he helped with tryouts, but also served no useful purpose other than hurting the child's feelings.
- Said, "I'm down with that," when a girl in his class said she was going to make out with her boyfriend.
- Routinely asked kids about their relationships with their boyfriends.
- One day during school, he asked a player if she had lost weight and she said, "No." He then said, "Well you look good." It was in a tone that made her feel very uncomfortable.
- He told other players that one individual would never be a captain of the team because she was not aggressive in practice. This was repeated to her later.

- Would not put game cancellations over the announcements at school. Instead, he said he would "text" the team captains and the captains were supposed to text the rest of the team. One of the captains checked her phone during school to see if the game was cancelled. She was caught by a teacher and had the phone taken away. Coach Mauldin expected students to use their phone during school when he works at the school and knows it is against the rules. Later, that player's parents told him not to text her. He then stopped texting the captains, but continued to text the rest of the team and expected the captains of the team to find out what is going on with the team.
- Has repeatedly demonstrated inconsistent actions and favoritism about what behavior by players/parents was acceptable, permissible, and at times, rewarded. In one recent example, a player told the coach to "f*** off" in front of other players and marched down to tell the rest of the team she was quitting; showed obvious signs of disrespecting the coach; walked off the field before one game officially ended due to lack of playing time; and her parent later complained to the coach about her child's lack of playing time. The coach responded by allowing that same student to start the game the next game, and she played most of each of the games for the rest of the season.
- Similar behavior by another player who was also accused of disrespecting the coach was punished by throwing the student off the team, insisting that they go into anger management and see a therapist, and making her sign a contract impacting whether she could ever play again in the district. That player was never allowed to return.
- Allowing (and certainly not discouraging or reprimanding) upper classman for putting down and mistreating younger players during practices and in games on a repeated basis; this regularly affected team morale and spirit.
- Permitting upper classman to make "rookies" fetch them water during practices, put soccer balls at their feet, not drink water until they got their water first during actual games, and basically treating younger players as "second-class" citizens.
- During one game, he told two players sitting on the bench that a particular senior should play "right bench" or "left bench" and not be starting, and that he was glad that he only had another month of this girl being on the team before he got rid of her. He then told these two players that if they told anyone then he would deny it.
- For years, allowing and encouraging upper classman to have a "Rookie Day" in which new players had to do whatever the upper classman requested (dress up in outlandish clothes, paint their faces, dye their hair, etc.) and generally suffer whatever embarrassing consequences the upper classman requested throughout the school day, in front of other classmates) – all for "the spirit" of the team. When parents complained about the procedure and asked that it be stopped, they were later ridiculed by the coach for doing so.
- In a similar fashion, Coach Mauldin allowed and encouraged a tradition in which only the upper classman would have a sleepover and then that night, go out and TP, egg, or otherwise mark-up the property, cars, houses, mailboxes, etc. of the "rookies" (much to their parents' dismay). This was a known and accepted practice. When some parents put an end to this practice one year, they were also criticized by the coach (to certain players) for doing so.
- Interestingly, the tables were turned in a recent incident this spring in which some kids on the coach's club and varsity team apparently thought it would be "fun" to TP, egg, or write on the coach's car, mailbox, etc. Only now, this same coach who condoned such behavior of his players in past years, threatened to bring criminal charges against the kids involved, and they were

suspended for a week from school. This would also seem to go to what was "modeled" for them as acceptable behavior.

- One day at practice, Coach Mauldin told the players not to do stupid things. One player then said, "Oh yea, like we're going to get naked?" Coach Mauldin then responded, "I'm down with that."
- During practice Coach Mauldin touched a girl's shoulder. The player said, "Please don't touch my shoulder." He continued to do so even after she asked him 3 or 4 more times to stop.
- Before the season even started, back in September and October, the Coach would approach kids about who was going to make the team. For example, he would discuss player performance with other players disparaging their performance. He would then tell other returning players who would not make the team before tryouts even took place.
- After a game with Chapin one year in which the team lost, the Coach yelled at two of the team captains for "not doing their job of controlling the team," even though he never told them to do anything like that. When they responded that it was not their responsibility to run the team, he broke down and admitted that he was a terrible coach.
- He continually treated all of the players differently and held them to different standards. For example, school policy says that you must have a note signed by a parent not to ride the bus home from away games. These notes had to be turned in before they left for the game. Some players were allowed to turn in the permission slip later and some of the players were not. This created team dissention among some players.
- He would not let some of the players come late to practice because they went for tutoring after school.
- Texting players before school started and in the evenings, on a wide range of topics.
- At the Rockhill tournament during one season in which the players stayed overnight at a hotel, Coach Mauldin was in his room with two players and started talking about another player and her boyfriend. He was saying things such as they are not right for each other and other inappropriate things, when this player overheard the conversation in the hallway. The player was deeply hurt and cried while other players tried to console her.
- Would routinely ask Player A if Player B had problems or bad attitudes. If he was told they did, he would go to Player B and tell her that Player A said you have a problem. Such gossip and mentality seems inappropriate for a teacher/coach.
- Recently called a mandatory parent meeting in which parents were told they would not be allowed to say a word. He then proceeded to scold, reprimand, and lecture the parents for coming to him about their children or about the team, as if he didn't know what he was doing after 31 years as teacher. He accused one parent of being cowardly for hiding behind his computer. He compared himself to Coach Steve Spurrier and Darrin Horn at USC, asking if parents would dare to tell *them* how to do their job. He then said he would accept no further comments from parents for the remainder of the year, and their sole responsibility was to support the program to their kids and never say a bad word about it.

STATE OF SOUTH CAROLINA
COUNTY OF LEXINGTON

IN THE COURT OF COMMON PLEAS
C/A No.: 2009-CP-32-05708

Michael Mauldin,

Plaintiff,

vs.

Carol Vander Heide, Murray
Mitchell, Pamela Weiss, Eileen
Korpita, Karl Werdunn, Debra
Werdunn, and Mark E. Kosobucki,
Defendants.

ANSWER OF THE DEFENDANT
PAMELA WEISS
(Jury Trial)

The Defendant, Pamela Weiss (hereinafter referred to as Defendant Weiss), responding to the Complaint of the Plaintiff, would respectfully show unto this Honorable Court as follows:

FOR A FIRST DEFENSE

1. All allegations contained in the Complaint are hereby denied unless specifically admitted or qualified herein.
2. Upon information and belief, Defendant Weiss admits the allegations contained in paragraphs 1 and 2 of the Complaint.
3. Defendant Weiss admits the allegations contained in paragraph 3 of the Complaint, except that Defendant denies so much of paragraph 3 as alleges that Defendant has achieved an excellent reputation in his field, and she demands strict proof of same.
4. Defendant Weiss denies the allegations contained in paragraph 4 of the Complaint to the extent that Plaintiff alleges or implies that he had a good relationship with all, or that all parents, students, players, faculty and administrators respected and appreciated him.

Defendant demands strict proof of such allegations.

5. Defendant Weiss denies the allegations contained in paragraph 5 of the Complaint and demands strict proof thereof.
6. Defendant Weiss admits the allegations contained in paragraph 6 of the Complaint, with the exception of the allegations that the list of complaints was presented "by all of the defendants accusing the plaintiff of sexual harassment toward his players," and "unfitness to serve as a high school coach", which allegations Defendant Weiss denies.
7. Defendant Weiss denies the allegations contained in paragraph 7 of the Complaint and demands strict proof thereof.
8. Defendant Weiss denies the allegations contained in paragraph 8 of the Complaint that state that there was a "thorough and comprehensive review of the charges made", and demands strict proof thereof. Defendant admits only the allegations contained in paragraph 8 of the Complaint which state that the principal of Irmo High School came to the conclusion that they lacked any basis and dismissed the same. Defendant is without sufficient information to form an opinion or belief as to the remaining allegations contained in paragraph 8, and therefore denies same.
9. Defendant Weiss denies the allegations contained in paragraphs 9, 10, 11, 12, 13, 14 and 15 of the Complaint and demands strict proof thereof.

FOR A SECOND DEFENSE

10. Plaintiff's Complaint fails to state facts sufficient to constitute a cause of action, and thus should be dismissed pursuant to Rule 12 (b)(6) of the South Carolina Rules of Civil Procedure.

FOR A THIRD DEFENSE

11. With respect to Plaintiff's claim for defamation, any and all statements made by Defendant Weiss, whether verbal or written, were in fact true, or she believed them to be true.

FOR A FOURTH DEFENSE

12. Defendant Weiss's statements were privileged because they were made in good faith, they were made for a proper purpose involving an interest of public concern, and the statements were conveyed to proper parties through the procedures established for the purpose of pursuing such complaints.

FOR A FIFTH DEFENSE

13. Plaintiff voluntarily resigned from his position as soccer coach at Irmo High School and was immediately re-employed as a soccer coach in the same school district.

FOR A SIXTH DEFENSE

14. Plaintiff has failed to mitigate the damages he now alleges.

FOR A SEVENTH DEFENSE

15. Defendant Weiss at all times acted reasonably and in good faith toward the Plaintiff, and Defendant has not deprived Plaintiff of any rights specified under the common or statutory laws of the United States or the State of South Carolina.

FOR AN EIGHTH DEFENSE

16. With respect to Plaintiff's claim for interference with contractual relations, Defendant Weiss pleads justification as a complete bar to Plaintiff's claim. All statements made by Defendant, whether verbal or written, were made in raising a matter of public concern on behalf of her daughter and her teammates on the Irmo High School soccer team.

FOR A NINTH DEFENSE

17. Plaintiff's allegations and the filing of this action are frivolous, unreasonable, groundless and without foundation and have been made and asserted in bad faith. Plaintiff's lawsuit was instituted for the purpose of punishing and retaliating against Defendant for filing legitimate complaints through established channels regarding the conduct of a public school coach toward children.

FOR A TENTH DEFENSE

18. Plaintiff's allegations and the filing of this action are frivolous, unreasonable, groundless and without foundation and have been made and asserted in bad faith. Plaintiff instituted this lawsuit to chill the protected speech of parents who had legitimate concerns about the conduct of a public school coach toward their children.

WHEREFORE, having fully answered the Complaint of the Plaintiff, the Defendant prays that this Honorable Court consider the facts herein and grant the Defendant the following relief:

- A. Dismiss the Plaintiff's Complaint;
- B. Order that the Plaintiff pay the Defendant's attorney's fees and costs of defending this action;
- C. Such other and further relief as this Court may deem equitable and proper.

* * *

Respectfully submitted,

BURNETTE & ROTHSTEIN, P.A.

By: S/
M. Malissa Burnette (#1038)
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803-251-0202 (O)
803-251-0222 (Fax)

ATTORNEYS FOR DEFENDANT

Columbia, South Carolina
February 25, 2010

STATE OF SOUTH CAROLINA
COUNTY OF LEXINGTON

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)
)

IN THE COURT OF COMMON PLEAS
ELEVENTH JUDICIAL CIRCUIT
Case # 2009-CP-32-5708

MICHAEL MAULDIN,

)
)
)

Plaintiff,

)
)
)

AMICUS CURIAE MOTION REQUESTING
LEAVE TO FILE A BRIEF IN SUPPORT
OF DEFENDANT KORPITA'S
MOTION TO DISMISS

vs.

)
)
)

CAROL VANDER HEIDE, MURRAY
MITCHELL, PAMELA WEISS, ELAINE
KORPITA, KARL WERDUNN, DEBRA
WERDUNN, AND MARK KOSOBUCKI,

)
)
)

Defendants.

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)

Amicus Curiae American Civil Liberties Union Foundation South Carolina National
Office by and through its undersigned attorney, hereby moves this Court for leave to file a
brief as *amicus curiae* in the above captioned matter for the reasons set forth herein:

The named *amicus curiae* has interests in advocating for the
constitutional rights of all citizens. It has an historical commitment to protecting the rights
establish by the First Amendment. (ACLU-SC) is the office of the American Civil Liberties
Union Foundation that is dedicated to defending and expanding individual rights and personal
freedoms throughout the entire state of South Carolina. It is an office of the American Civil
Liberties Union Foundation, Inc., a New York not-for-profit corporation recognized as exempt
from tax pursuant to Section 501(c)(3) of the Internal Revenue Code. This case raises important
questions about the constitutional rights of citizens to petition the government and parents to

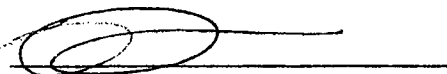
petition the government on behalf of their children, the proper resolution of which is a matter of serious interest to the ACLU-SC and its more than 2000 active members statewide.

The issues raised in this case concern the welfare of children and their parents' rights to petition government actors on their behalf. They need adjudication in a timely fashion. The very continuation of the underlying trial has an immediate chilling effect on this parents and all parents across this state. The *amicus curiae* requests leave to file an *amicus curiae* brief at the trial level as the Court of Common Pleas is the front line in making decisions affect the time-honored constitutional rights of parents and families of this state everyday. That court could benefit from advocacy that specializes in raising legal and policy issues on behalf of all citizens.

WHEREFORE, because a brief of *amicus curiae* is desirable, and for the reasons stated herein, it is respectfully requested that this Court grant the Motion for Leave to File *Amicus Curiae* Brief.

Respectfully submitted,

Dated: April 22, 2010



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IN THE COURT OF COMMON PLEAS
ELEVENTH JUDICIAL CIRCUIT
Case # 2009-CP-32-5708

**MEMORANDUM IN SUPPORT OF THE
AMICUS CURIAE MOTION REQUESTING
LEAVE TO FILE A BRIEF IN SUPPORT
OF DEFENDANT KORPITA'S
MOTION TO DISMISS**

VS.

Defendants.

South Carolina Appellate Court Rule 213 provides that a brief of *amicus curiae* may be filed only by leave of the appellate court granted on motion, or at the request of the appellate court. See, e.g., Clamp v. Hall, 335 S.E.2d 815, 817 (S.C. App. 1985) (noting that Court requested *amicus curiae* brief); Kurtz v. State, 630 S.E.2d 472, 474 (S.C. 2006) (noting that Court granted non-party leave to file *amicus curiae* brief). “The motion for leave shall identify the interest of the applicant and shall state the reasons why a brief of an *amicus curiae* is desirable.” S.C. App. C.R. 213 (2006). Rules are silent as to when an *amicus* brief may be submitted at the trial level. Such a decision, therefore, would be left to the discretion of the trial judge.

Briefs from *amicus curiae* are appropriate and desirable in this case. As stated in detail in the attached motion, the *amicus curiae* is an organization committed to advocating on behalf of all citizens to protect fundamental rights. The *amicus curiae* has a long history of actively promoting close scrutiny of any actions that chill First Amendment rights. This organization represents generations of experience in free speech issues -- the heart of the dispute in this case. The organization and its members have a direct interest in ensuring that South Carolina honors the rights of children and families, and it is desirable for the Court to draw upon their collective experience.

The general attitude of the courts has been to welcome amicus briefs, because "it is for the honor of a court of justice to avoid error." The Protector v. Geering, 145 Eng. Rep. 326 (K.B.1686) (cited in Krislov, *The Amicus Curiae Brief: From Friendship to Advocacy*, 72 Yale L.J. 694, 695, n.5 (1963)). Indeed, the principle holds true today.

WHEREFORE, for the reasons stated herein, it is respectfully requested that this Court grant the Motion of *Amicus Curiae* for Leave to File a Brief.

Submitted on behalf of the Amicus Curiae by:



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April 22, 2010

school district, the Human Resources Officers of the School district and the United States Department of Education Office of Civil Rights concerning actions allegedly taken by the plaintiff who was a public school teacher during the time of all the actions about which the plaintiff now complains.

All of the parents' activity was protected by the First Amendment. United Mine Workers of America v. Illinois State Bar Ass'n, 389 U.S. 217, 222 (1967) and was required by S.C. Code of Laws § 63-7-10 *et seq.*

This suit is clearly relation for parent's who were concerned about their daughters. Even if their concerns were later proven to be meritless, as parents and citizens they have a right to raise the issues to the appropriate investigators. In fact as parents, they may have had a duty to report actions that might have put their daughters at risk. To allow this suit to proceed is to allow the court to be used to punish parents for asking for an investigation and chill their rights, and the rights of other parents of public school students, to free speech and petition the government. The First Amendment clearly protects the political activities that the defendants engaged in, and Mr. Mauldin here alleges no more than lawful conduct of the parents in pursuit of their own legal rights and obligations. To permit the instant lawsuit to stand would set a dangerous precedent not only in the area of constitutional rights but also in the area of parental obligations to report or otherwise correct inappropriate activities that may affect their children.

Plaintiff alleges no publication of any sort to any one other than school or government officials.

III. ARGUMENT

A. Mr. Mauldin's suit was a suit seeking to chill the rights of its political opponents.

The first amendment includes protection for the right to petition the government for a redress of grievances. It is "among the most precious of the liberties safeguarded by the Bill of Rights". *United Mine Workers of America v. Illinois State Bar Association*, 389 U. S. 217, 222 (1967) The right to petition "shares the 'preferred place' accorded to our system of government to the First Amendment freedoms, and has 'a sanctity and a sanction not permitting dubious intrusions' *Thomas v. Collins*, 323 U.S. 516, 530 (1945).

This kind of suit seeks to thwart the citizen's right to petition. The New Hampshire Supreme Court has defined it eloquently:

"Strategic lawsuits against public participation (SLAPPs) are civil lawsuits filed against non-governmental individuals and groups, usually for having communicated with a government body, official, or the electorate, on an issue of some public interest or concern...SLAPPs seek to retaliate against political opposition, attempt to prevent future opposition and intimidate political opponents, and are employed as a strategy to win an underlying economic battle, political fight, or both....The SLAPP plaintiff's goal is not necessarily to "win" the lawsuit, but rather to deter public participation in the democratic process by chilling debate on public and political issues."

Opinion of the Justices (SLAPP Suit Procedure), 138 N.H. 445, 448-449 (1994). See also *Citizens Cannot Be "SLAPPED" for Exercising First Amendment Right to Petition the Government--Hometown Properties, Inc. v. Fleming*, 680 A.2d 56 (R.I. 1996), 31 Suffolk U. L. R. (1998).

A SLAPP suit thus has three stages: "First, a citizen exercises his constitutional rights by publicly addressing the government on an issue of public concern. This is clearly protected speech under the First Amendment petition clause. Inevitably, the citizen's view is opposed by an individual or group of people who are threatened by the speech because they stand to lose some interest, often a monetary interest, because of the petition to governmental action. Second, those threatened by the citizen's activities attempt to thwart further citizen activity by intimidating the citizen with a lawsuit. They file the lawsuit anticipating that the citizen will now be forced to expend time and money in defending his actions instead of pursuing the original activities of petitioning the government for a redress of grievances. Third, the defendant must offer a defense that his original behavior was constitutionally protected under the First Amendment." S.L.A.P.P. Suits: A First Amendment Issue and Beyond, 21 N.C. Cent. L.J. 122, 124 (1995).

Under this analysis, there is no doubt that Mr. Mauldin's lawsuit was a SLAPP suit. The named defendants, the parents, all properly addressed the government on an issue of public concern. "Certainly the right to petition extends to all departments of the Government. The right of access to the courts is indeed but one aspect of the right of petition." California Motor Transport Co. v. Trucking Unlimited, 404 U.S. 508, 510 (1972). The defendants were engaged in classic first amendment activity.

The defendants' speech was opposed by Mr. Mauldin because he stood to lose his job as a coach for the Irmo Soccer District. He had a direct economic interest in the outcome of the investigation and subsequent OCR mediation hearing.

Mr. Mauldin sued the defendants in retaliation for what the defendants had said in the past and also to intimidate them into silence in the future.

In response to SLAPP suits, many states have enacted Anti-SLAPP legislation that place burdens on a petitioner's ability to sue. See, *Tired of being Slapped around: States take action against lawsuits designed to intimidate and harass*, 25 Rutgers L. J. 401 (1994). Although South Carolina courts have yet to legislatively recognize the inevitable chilling of free expression that SLAPP suits cause, the ACLU-SC nonetheless urges this Court to realize the First Amendment concerns at issue in the instant case.

- B. The parents were clearly justified in voicing their concerns to the school district, did not intend to cause a breach of Mr. Mauldin's employment contract, and were not alleged to be the proximate cause of that breach.**

1. The parents were clearly justified in voicing their concerns to the school district.

“To establish intentional interference with a contract one must show the existence of the contract; the other party's knowledge of the existence; the other party's intentional procurement of the breach of the contract; the absence of justification; and resulting damage.” Webb v. Elrod, 308 SC 445, at 447. In Webb, a mortgagee was depending on third party rent payments to keep his mortgage current. The mortgage had become delinquent, however, and the mortgagor had decided to foreclose on the property. As such, the mortgagor told the third parties that she would no longer accept payment on the mortgage, after which the third parties made no further payments to anyone. The mortgagee then sued the mortgagor, asserting that her communication with the third parties regarding the pending foreclosure amounted to an interference with the third party contracts.

The trial court in Webb granted a defense motion for a directed verdict on the interference cause of action, which was affirmed by the Court of Appeals of South Carolina.

The Elrods chose to exercise their legal right to foreclose. The exercise in good faith of a legal right by a party to a contract affords no basis for an action by the second party for intentional interference with a contract even though the consequence of the exercise of the legal right by the first party is to cause a third party not to perform another contract with the second party. See Mac Enterprises Inc. v. Del E. Webb Dev. Co., 132 Ariz. 331, 645 P.2d 1245 (Ariz.Ct.App.1982); 45 Am. Jur.2d *Interference* § 23 (1969 and Supp. 1992); Restatement (Second) of Torts § 773 (1979). The evidence presented by the Webbs does not create the inference that Mrs. Elrod acted in bad faith in contacting the third party purchasers. Nor is there an inference that the purpose of her contacts was to procure the breach of their contracts with the Webbs. We, therefore, hold as a matter of law the communications between Mrs. Elrod and the third party purchasers were justified.

Id at 448.

The parents in the case at hand went to school authorities to voice concerns about their children being abused by an employee of the school district, which is clearly a right of a higher order than the right to foreclose on a note in default, as was the case in Webb. Not only do parents in South Carolina have the right to inquire as to the conditions their children experience in a public school environment, they also have a duty to protect those children from abuse. S.C. Code of Laws § 63-7-10 *et seq.* Viewed in the context of Webb, the parents were plainly justified in exercising their legal right (and properly attending to their legal duty) to protect their children from abuse at the hands of a school coach.

Similarly, the parents in this case intended primarily to discern what, if any, risk their children were in, and to protect their children from retaliation for coming forward in the first place. The procurement of the breach of Mr. Mauldin's employment contract was a quite collateral matter. This is evidenced by the fact that the parents did not originally ask for Mr. Mauldin's resignation, rather, they began the process by simply voicing their concerns and asking the school to investigate. If the parents had been making bad-faith, false accusations for

the express purpose of securing Mr. Mauldin's termination, it seems much more likely that they would have asked for just that; immediate termination, rather than asking for an official investigation into their baseless claims. This did not happen, however. Although the plaintiff's complaint alleges the parents' complaints were made "for the purpose of removing the plaintiff," he pleads no facts to support this contention and, as in Webb, there is no evidence to lend itself to the inferences of bad faith or intentional interference.

C. The parents' communications with the Irmo School District and the Office of Civil Rights should be absolutely privileged.

Privileged communications in the law of libel and slander are either *absolute* or *qualified*. "When the communication is absolutely privileged, no action will lie for its publication, no matter what the circumstances under which it is published. When qualified, however, the plaintiff may recover if he shows that it was actuated by malice." Bell v. Bank of Abbeville, 208 S.C. 490, 38 S.E. (2d) 641. Historically, absolute privilege attached primarily to communications made in the course of legislative or judicial proceedings. However, absolute privilege has expanded significantly from its highly limited original use.

While the court stated in Fulton v. Atlantic Coast Line Railroad Co., 220 S.C. 287, 67 S.E. (2d) 425, that "the class of absolutely privileged communications is narrow, and practically limited to legislative and judicial proceedings and acts of State," our decisions show that application of the absolute privilege has not been so narrowly restricted.

Richardson v. McGill, 273 S.C. 142, 145 (S.C. 1979). The line of decisions referred to above was well examined by Judge Wyche, who found many examples of absolute privilege being applied to situations that were not purely legislative or judicial. Judge Wyche's treatment is then clearly summarized in a passage that is still the law of the land some four decades after it was penned by Judge Russell:

While there has been some tendency in the decisions to narrow the absolute privilege, restricting it generally "to legislative and judicial proceedings and acts of state", the Courts of South Carolina have recognized "occasions other than those comprising strictly legislative or judicial proceedings", where, under considerations of public policy, absolute privilege has been upheld. After stating that, "South Carolina has applied the doctrine of absolute privilege to several occasions other than those comprising strictly legislative or judicial proceedings", Judge Wyche in Johnson v. Independent Life & Accident Ins. Co. (D.C.S.C.1951) 94 F. Supp. 959, 962, reviews in detail the several cases, extending over a period of a century and a half, in which, absent a legislative or judicial occasion, an absolute privilege was extended to publications, i.e., Carver v. Morrow (1948) 213 S.C. 199, 48 S.E.2d 814 (suit against executor personally and as fiduciary for alleged defamation in will filed); State v. Drake (1922) 122 S.C. 350, 115 S.E. 297 (defamation in letter answering charges made before a fraternal organization);

Rodgers v. Wise (1940) 193 S.C. 5, 7 S.E.2d 517 (alleged defamation in letter between counsel in litigation); Reid v. Delorme (1806) 2 Brev. 76 (alleged defamation in petition submitted to the General Assembly.) After such review, Judge Wyche upheld a plea of absolute privilege for publications made to the insurance commission by the district manager of defendant-insurer with reference to the qualifications and conduct of plaintiff as an insurance agent.

Corbin v. Washington Fire & Marine Ins. Co., 278 F. Supp. 393, 395-396 (D.S.C. 1968). Because of this, Judge Russell goes on to say, it is "clear" that absolute privilege attaches not because the proceeding at hand is strictly judicial or legislative, but rather because the privilege is dictated by public policy. Thus, the question becomes whether or not public policy, as represented by judicial attitude towards the efficacy of the proceeding in question, supports the grant of absolute privilege.

In Corbin, the issue at hand was whether or not a private arbitration should be afforded absolute privilege. The analysis turned on the nature of the proceeding and the necessity of the uninhibited flow of information to the proceeding.

[Arbitration] is regarded as quasi-judicial in character and function. Arbitration, even as any judicial hearing, cannot proceed without evidence and the right of the parties to present argument; it cannot operate in a vacuum. It accordingly contemplates and normally requires the receipt of evidence, though not bound strictly in its reception to the rules of evidence. A denial of immunity to one offering such evidence or argument would make it difficult, if not impossible, in many cases for the arbitrators to secure the necessary evidence on which to proceed; it would be a severe limitation on the utility of arbitration in resolving controversies and would thwart that public policy which encourages arbitration. Freedom to develop a relevant record and to present pertinent arguments, without fear of reprisal by way of threatened libel or slander actions, is a necessary prerequisite to the fair resolution of any controversy through arbitration.

Corbin v. Washington Fire & Marine Ins. Co., 278 F. Supp. 393, 396-397 (D.S.C. 1968).

Many, if not all, of the factors Judge Russell listed as relevant to arbitration hearings are equally relevant to the processes and hearings involved in the instant case. Just as an arbitration hearing does, a public school investigation into allegations of sexual harassment of a child at the hands of a teacher cannot properly proceed without evidence, and depends on the parties to present evidence and arguments to the decision-maker. If the decision-maker is to correctly decide the merits of such serious allegations, the free, uninhibited flow of information is crucial, and participants cannot participate in the process with reservations brought on due to a haunting by the specter of defamation liability. As strong an interest as both the state and private actors have in securing their reputations from unwarranted tarnishing, the interest in fairly and accurately resolving complaints of child sexual harassment at the hands of public school employees far outweighs any interest in reputation that may be sacrificed. "If the parties cannot argue their cause or offer testimony before the arbitrators without threat of harassment via libel actions, arbitration becomes a farce and the many expressions of judicial and legislative encouragement of arbitration a snare." Id at 398. Protecting students in public schools from

harassment at the hands of their teachers and coaches is simply too important for South Carolina to allow claims such as the one at issue to punish the petitions of concerned parents.

Submitted on behalf of the Amicus Curiae by:

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April 22, 2010

STATE OF SOUTH CAROLINA

COUNTY OF LEXINGTON

IN THE COURT OF COMMON PLEAS

Case # 2009CP32055708

Michael Mauldin, Plaintiff

DEFENDANTS' MOTION FOR
SUMMARY JUDGMENT

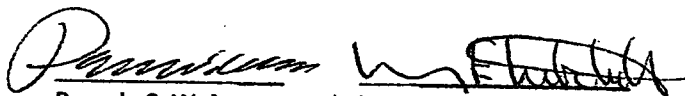
Vs.

Pamela Weiss and Murray Mitchell, Defendants

Defendants Pamela Weiss and Murray Mitchell move this court pursuant to Rule 56 SCRPC for Summary Judgment on the grounds that the complaint does not state a cause of action on which relief can be granted as all speech complained about is protected. There is no dispute with regard to any material facts, and defendants are entitled to judgment in their favor as a matter of law on grounds that any communication undertaken by defendants regarding plaintiff were privileged at common law or protected by the free speech, assembly and petition rights guaranteed by the First and Fourteenth Amendments to the United States Constitution. This motion is supported by the pleadings, responses to interrogatories, affidavit(s) of Defendants Pamela Weiss and Murray Mitchell attached hereto and incorporated herein by reference and such other affidavits as may be filed in advance of the hearing.

Respectfully submitted,

Dated: November 30, 2010



Pamela S. Weiss and Murray F. Mitchell

Pro Se

Pro Se

240 Wood Moor Place

Columbia, South Carolina 29212

803-422-0469

pweiss@mailbox.sc.edu mmitchel@mailbox.sc.edu

Enclosures

cc (by US mail): Robert C. Brown, Esquire
Eileen Korpita
Karl S. Brehmer, Esquire
Ronald B. Diegel, Esquire
Carey Ayers, Esquire
J. Lewis Cromer, Esquire

STATE OF SOUTH CAROLINA)

IN THE COURT OF COMMON PLEAS

COUNTY OF LEXINGTON)

C/A No. 2009-CP-32-05708

Michael Mauldin,)

Plaintiff,)

**AFFIDAVIT OF DEFENDANT WEISS
IN SUPPORT OF MOTION FOR
SUMMARY JUDGMENT**

vs.)

Carol Vander Heide, Murray)

Mitchell, Pamela Weiss, Eileen)

Korpita, Karl Werdunn, Debra)

Werdunn, and Mark E. Kosobucki,)

Defendants.)

I, the undersigned, Pamela Weiss, age 51, of 240 Wood Moor Place, Columbia, S.C., 29212, being duly sworn state:

1. The matters stated by me herein are known by me of my own knowledge.
2. I am a parent of Rachael Mitchell who was a member of the Irmo High School Girls' Varsity Soccer Team during 2007-2008 and 2008-2009 (school years).
3. In Spring 2008 I spoke with Irmo H.S. Girls' Varsity Soccer Coach Michael Mauldin (Mauldin) regarding my concern about mistreatment of younger players by older players and hazing behavior connected with the team's "Rookie Day."
4. Mauldin acknowledged that he was aware of the conduct, but indicated it was outside his power to control it.
5. On April 22, 2009 Mauldin convened a mandatory meeting of the parents of Irmo Girls' Soccer varsity team members, and during the meeting upbraided parents for criticizing his coaching program while prohibiting the parents from speaking.
6. On May 31, 2009 parents of players met for a discussion at which time parents agreed to compile a list of behavior by Mauldin that seemed inappropriate so that it could be submitted collectively to school authorities.
7. I contributed to the list of concerns expressed by the parents.

8. On June 11, 2009 my husband, Murray Mitchell, and I delivered a letter addressed to the Irmo High School principal Eddie Walker and the Athletics Director Robert (Bob) Hanna detailing parents' concerns and requesting a meeting with the principal and athletics director. The letter of June 11, 2009 is attached hereto as "Exhibit A" and incorporated herein by reference.
9. On June 15, 2009 my husband and I met with Irmo H.S. Principal (Mr. Walker), Athletics Director (Mr. Hanna), and Mauldin to discuss parent concerns.
10. I would characterize the concerns expressed by parents as falling into four broad categories: Inappropriate comments to players regarding personal issues and appearance, inappropriate public comments regarding players, inconsistent disciplining of players, and ignoring hazing of younger players by older players.
11. In the June 15, 2009 meeting, Mauldin denied some assertions as factually inaccurate, characterized others assertions as misunderstandings, and described remaining concerns as the fault of the players and not him.
12. The principal (Mr. Walker) and athletics director (Mr. Hanna) dismissed or trivialized many of the concerns and took no action in response to the concerns identified by the parents.
13. On August 7, 2009 I sent an e-mail to District 5 of Lexington and Richland Counties' Human Resources Director Dr. Angela Bain expressing my desire to join with other parents in expressing concern with Mauldin's behavior, and reiterating my husband's and my (as well as many parents') fear of retaliation for coming forward with concerns.
14. The Human Resources Director (Dr. Bain) instructed parents to communicate their concerns (and concerns by any other parents) to her by August 10, 2009 so that she could forward them to the District's superintendent, Dr Herbert Berg. She also assured us that the District has a zero tolerance against retaliation.
15. Neither the District 5 Human Resources Director (Dr. Bain), nor the District 5 Superintendent (Dr. Berg), ever interviewed any of the parents who wrote or called them with concerns about Mauldin, nor did they interview or contact any of the daughters of parents who expressed concerns or any of the other players or parents on the team.
16. Neither the District Human Resources Director (Dr. Bain), nor the District 5 Superintendent (Dr. Berg), ever contacted the parents who sent them concerns with the results of any investigation conducted, nor sent any written report to parents identifying the results of any investigation.
17. On September 14, 2009 I called and left a message, and also sent an email to District 5 HR Director Dr. Bain expressing my disappointment and dismay that the District had refused to respond to parents' repeated requests for clarification on the results of any investigation conducted to date.

18. In late September 2009, after receiving no response from District 5 Superintendent (Dr. Berg) or Human Resources Director (Dr. Bain), I contacted the US (federal) Office for Civil Rights to describe parents' concerns and to seek advice on filing a complaint. I spoke to a representative of the OCR (Betsy Trice) who was later assigned to the case.
19. On October 6, 2009 I filed a complaint with the U.S. Office for Civil Rights (OCR) detailing parents' concerns and reporting the school district's inaction.
20. As part of the Early Complaint Resolution (ECR) process initiated by the OCR, my husband and I participated in a mediation conference on December 4, 2009, involving a representative of the OCR (Kristi Blyer), the School District's Attorney (Andrea White) and the District's Human Resources Director (Dr. Bain).
21. During the Dec. 4, 2009 ECR mediation conference, District 5 Human Resources Director Dr. Bain verbally admitted that the District had not conducted a proper and thorough investigation of parents' concerns, had not interviewed any of the players, and had not provided a written report of the results of any investigation to parents.
22. During the Dec 4, 2009 mediation conference, the attorney for the school district, Ms. White, raised for the first time the possibility of whether parents' OCR complaint against the district would be resolved if the Mauldin was no longer a coach at Irmo High School.
23. On December 4, 2009, I was contacted by the OCR mediator (Ms. Blyer) who reported that the District had called her to determine whether we would withdraw our complaint with the OCR if Mauldin was no longer the coach of the team.
24. On December 14, 2009 the OCR mediator (Ms Blyer) reported to us that the school district had accepted Mauldin's resignation as Irmo High School Girls' Varsity Soccer coach. Ms. Blyer recommended that we dismiss our complaint.
25. My husband and I expressed a major concern to the OCR mediator (Ms. Blyer) about withdrawing our OCR complaint for fear that there would be retaliation against players and parents for going forward with our complaints. Ms. Blyer reported that while the District said they could not control Mauldin's actions, they also reported to her that Mauldin told them he would not do anything to tarnish his reputation in the community.
26. After assurances from the OCR mediator, my husband and I withdrew our OCR complaint.
27. All of my communications in connection with the conduct of the Irmo High School Varsity Girls' soccer program have been limited to parents of team members, parents of former team members, parents whose children were coached by Mauldin, school district officials including the principal and athletics director at Irmo High School and the district's human resources director, and representatives of the Office for Civil Rights.

28. I have made no comments regarding Mauldin to persons other than those who had both a direct and shared common interest in the conduct of the Irmo High School girls' soccer program. Second, with respect to my comments, I stated only what I knew to be true or that which I believed to be true.

29. I made no effort to generate publicity regarding parents' concerns or to publish concerns in the media.

30. I communicated my concerns regarding Mauldin to the parents of team members and school officials solely in an effort to protect my adolescent daughter and other team members from what I believed to be abusive and inappropriate conduct by Mauldin and to request that the appropriate school officials investigate parents' concerns according to the District's own Code of Conduct guidelines.

31. Mauldin was at all times relevant to my discussions as a public employee in a public school setting and my communication with the school district and the OCR were always through Mauldin's supervisors or appropriate district employees and federal officials and made only to persons sharing an appropriate and common interest.

32. Mauldin's allegations regarding my role in bringing my and other parents' concerns to the school district seeks to punish me for engaging in activity that is fully protected by the First and Fourteenth Amendments to the United States Constitution which allow citizens in a democracy to assemble, protest and petition the government on matters of public concern and to seek redress for grievances without fear of retaliation or censorship.

Rame S. Wein

SWORN to before me this 29th day of NOV., 2010

Holly S. Quirk

Notary Public for South Carolina

My commission expires: 6-16-16

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF LEXINGTON	)	C/A No. 2009-CP-32-05708
	)	
Michael Mauldin,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	AFFIDAVIT OF DEFENDANT MITCHELL
	)	IN SUPPORT OF MOTION FOR
	)	SUMMARY JUDGMENT
Carol Vander Heide, Murray	)	
Mitchell, Pamela Weiss, Eileen	)	
Korpita, Karl Werdunn, Debra	)	
Werdunn, and Mark E. Kosobucki,	)	
	)	
Defendants.	)	

I, the undersigned, Murray Mitchell, age 55, of 240 Wood Moor Place, Columbia, S.C., 29212, being duly sworn, state:

1. The matters stated by me herein are known by me of my own knowledge.
2. I am a parent of Rachael Mitchell who was a member of the Irmo High School Girls' Varsity Soccer Team during 2007-2008 and 2008-2009 (school years).
3. On April 19, 2009 I emailed Mauldin to note the difference in camaraderie of the team in the absence of several senior players.
4. On April 20, 2009, Mauldin responded first to express appreciation for my observations and subsequently to state that he would not answer anything from me in the future.
5. On April 22, 2009 Mauldin convened a mandatory meeting of the parents of Irmo Girls' Soccer varsity team members, and during the meeting upbraided parents for criticizing his coaching program while prohibiting the parents from speaking.
6. On May 31, 2009 parents of players met for a discussion at which time parents agreed to compile a list of behavior by Mauldin that seemed inappropriate so that it could be submitted collectively to school authorities.
7. I contributed to the list of concerns expressed by the parents.
8. On June 11, 2009 my wife Pam Weiss and I delivered a letter addressed to the Irmo High School Principal, Mr. Eddie Walker, and the Athletics Director, Mr. Robert (Bob) Hanna, detailing parents' concerns and requesting a meeting with the principal and

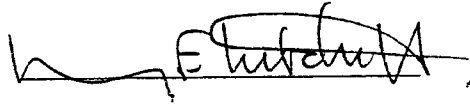
athletics director. The letter of June 11, 2009 is attached hereto as "Exhibit A" and incorporated herein by reference.

9. On June 15, 2009 my wife Pam Weiss and I met with the the Irmo High School Principal, Mr. Eddie Walker, and the Athletics Director, Mr. Robert (Bob) Hanna, and Mauldin to discuss parent concerns.
10. I would characterize the concerns expressed by parents as falling into four broad categories: Inappropriate comments to players regarding personal issues and appearance, inappropriate public comments regarding players, and inconsistent disciplining of players and ignoring hazing of younger players by older players.
11. In the June 15, 2009 meeting, Mauldin denied some assertions as factually inaccurate, characterized other assertions as misunderstandings, and described remaining concerns as the fault of the players and not him.
12. The Irmo High School Principal, Mr. Eddie Walker, and the Athletics Director, Mr. Robert (Bob) Hanna dismissed or trivialized many of the concerns and took no action in response to the concerns identified by the parents.
13. On June 25, 2009, I emailed Principal Walker to inform him that I was moving to the next level in the district to address our concerns.
14. On July 30, 2009, I emailed Human Resources Director Angela Bain, Director of Secondary Education, Ms. Helen Anderson and Superintendent Herbert Berg to inform them of our concerns.
15. On July 30, 2009, I spoke with Human Resources Director, Dr. Angela Bain by telephone to confirm receipt of my emails and was told by Dr. Bain to have any parents with concerns to send their letters, email and/or phone calls to Dr. Bain who would meet with Superintendent Berg to discuss the situation. Dr. Bain identified an August 10, 2009 deadline for ensuring any concerns could be received and shared with Superintendent Berg.
16. On July 31, 2009, I asked Dr. Bain if other parents with concerns and a fear of retaliation could remain anonymous if they came forward.
17. On August 3, 2009, Dr. Bain replied that while she could not guarantee anonymity, the District has a zero tolerance policy against retaliation.
18. On August 5, I shared the response of Dr. Bain regarding anonymity and retaliation with other parents who had supported the notion of having concerns and fear of retaliation.
19. On August 28, 2009 I emailed Human Resources Director Dr. Angela Bain to identify that several weeks had passed and we had received no word regarding the status of the investigation into parent concerns with Mauldin.

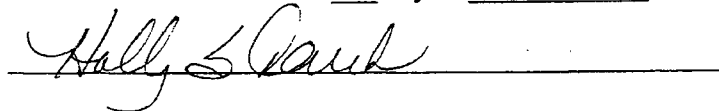
20. On August 31, 2009, Human Resources Director Dr. Angela Bain responded by email to say that: "The District has concluded its investigation in this matter on Friday [August 28, 2009], and because it involves a possible personnel issue, we will not be able to discuss this further with you. The issues have been reviewed with all necessary parties. Thank you for your patience."
21. On August 31, 2009, I emailed to Human Resources Director Dr. Angela Bain to express my confusion with the response, seeking further clarification. There was no response.
22. On September 1, 2009, I followed with a phone call and was unable to reach Human Resources Director Dr. Angela Bain. I left a voice mail to express my appreciation for the timely responses to inquiries to this point and to request clarification to the email on the disposition of the concerns raised. There was no response by email or phone.
23. On September 18, 2009, I emailed Human Resources Director Dr. Angela Bain and copied Director of Secondary Education, Ms. Helen Anderson and Superintendent Herbert Berg, quoting from the Districts Discipline Code of Conduct Booklet regarding how to respond to issues of harassment, intimidation, and bullying. In particular, I tried to draw attention to the phrasing stating that in any investigation of parent concerns, the District "must notify parents of all affected students of their conclusions and corrective actions in writing."
24. In September 2009, I sought advice from colleagues with expertise in school administration about appropriate chains of command in resolving issues with a school district.
25. On October 6, 2009, I emailed several Board Trustees for the School District requesting guidance in dealing with the District's lack of response to parent concerns.
26. In October 2009, Office of Civil Rights (OCR) liaison Betsy Trice spoke with my wife Pam Weiss and me via conference call to explore an Early Complaint Resolution (ECR) process prior to a full investigation by the OCR. We agreed to explore this option.
27. As part of the Early Complaint Resolution (ECR) process initiated by the Office of Civil Rights (OCR), my wife Pam Weiss and I participated in a mediation conference on December 4, 2009, involving a representative of the OCR, Kristi Blyer, the school district's attorney Ms. Andrea White and the district's human resources director, Dr. Angela Bain.
28. During the Dec. 4.2009 ECR mediation conference, the District Human Resources Director, Dr. Angela Bain verbally admitted that the District had not conducted a proper and thorough investigation of parents' concerns, had not interviewed any of the players, and had not provided a written report of the results of any investigation to parents.

29. During the Dec 4, 2009 mediation conference, the attorney for the school district, Ms. Andrea White raised for the first time the possibility of whether parents' OCR complaint against the district would be resolved if Mauldin was no longer a coach at Irmo High school.
30. On December 4, 2009, my wife Pam Weiss and I were contacted by the OCR mediator Kristi Blyer, who reported that the District had called her to determine if my wife and I would withdraw our complaint with the OCR in the event Mauldin was no longer at the school.
31. On December 14, 2009 the OCR mediator reported that the school district had accepted Mauldin's resignation as Irmo High School Girls' Varsity Soccer coach. Ms. Blyer recommended that we dismiss our complaint.
32. My wife and I expressed major concern with withdrawing our OCR complaint to the OCR mediator Kristi Blyer, for fear that Mauldin would retaliate against players and parents for going forward to School Administrators. My wife Pam Weiss and I were told by Kristi Blyer that, although the District could not control Mauldin's actions, she felt confident he would not retaliate so as not to damage his reputation in the community. On this advice, my wife and I withdrew our OCR complaint.
33. All of my communications in connection with the conduct of the Irmo High School Varsity Girls' soccer program have been limited to parents of team members, school district officials including the principal and athletics director at Irmo High School and the district's human resources director, director of secondary education, School Board Trustees, School Board Attorney, representatives of the Office for Civil Rights and school administrative experts.
34. I have made no comments regarding Mauldin to persons other than those who had both a direct and shared common interest in the conduct of the Irmo High School girls' soccer program. Second, with respect to my comments, I stated only what I knew to be true or that which I believed to be true.
35. I made no effort to generate publicity regarding parents' concerns or to publish concerns in the media.
36. I communicated my concerns regarding Mauldin solely in an effort to protect my adolescent daughter and other team members from what I believed to be abusive and inappropriate conduct by Mauldin and to request that the appropriate school officials investigate parents' concerns according to the District's own Code of Conduct guidelines.
37. Mauldin was at all times relevant to my discussions as a public employee in a public school setting and my communications with the school district and the OCR were always through Mauldin's supervisors or appropriate district employees, experts and federal officials and made only to persons sharing an appropriate and common interest.

38. Mauldin's allegations regarding my role in bringing my and other parents' concerns to the school district seeks to punish me for engaging in activity that is fully protected by the First and Fourteenth Amendments to the United States Constitution which allow citizens in a democracy to assemble, protest and petition the government on matters of public concern and to seek redress for grievances without fear of retaliation or censorship.



SWORN to before me this 29th day of NOV., 2010



Notary Public for South Carolina

My commission expires: 6-16-16

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF LEXINGTON	)	C/A No. 2009-CP-32-05708
	)	
Michael Mauldin,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	MOTION TO COMPEL DISCOVERY
	)	
Carol Vander Heide, Murray	)	
Mitchell, Pamela Weiss, Eileen	)	
Korpita, Karl Werdunn, Debra	)	
Werdunn, and Mark E. Kosobucki,	)	
	)	
Defendants.	)	

MOTION TO COMPEL RESPONSES TO DISCOVERY

Pursuant to South Carolina Rules of Civil Procedure, Rule 37, Defendants Pamela Weiss and Murray Mitchell move the Court to be compelled to respond to Discovery based on the following facts:

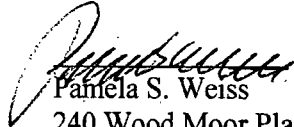
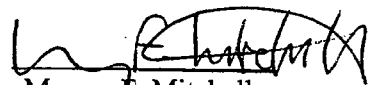
1. Discovery was mailed to the Plaintiff's Counsel, Mr. J. Lewis Cromer, ESQ. and Mr. Julius W. Babb, IV., ESQ. at 1522 Lady Street, Columbia, SC on August 21, 2010 as First Class, Postage paid mail. See Exhibit A.
2. The Plaintiff responded to Pam Weiss' First Requests for Admission, but did not respond to the Defendant Pam Weiss' and Murray Mitchell's Requests for First Set of Written Interrogatories nor their Requests for First Set of Production of Documents, sent on August 21, 2010. Pursuant to Rules 33 and 34 of the South Carolina Rules of Civil Procedure, responses to discovery following written interrogatories are due within 30 days of service hereof. To date, no response has been received.
3. A good faith effort has been made to recover the Plaintiff's Responses. On October 12, 2010, the Defendants respectively requested via email to Plaintiff's counsel that they please submit their response as soon as possible, as the 30-day timeframe to respond had now passed and they had received no response. There was no reply. See Exhibit B.

4. On October 18, 2010, the Defendants requested in writing via first class, postage paid mail to Plaintiff's counsel for a response, noting that the Defendants had not received their Discovery responses, and had not received a request for extension, and requesting that they please produce their responses immediately to avoid Defendants filing a motion to compel. There was again no response. See Exhibit C.
5. The Defendants then called the Plaintiff's counsel at 9:45 am on November 8, 2010. They were cut off at first, and then called back at 9:46 am. When asked to leave their number, they told Mr. Babb's administrator their number, the case they were calling about, and reiterated that they had twice previously written or emailed the Plaintiff's counsel requesting responses to their requests for discovery. They further identified that if they did not get a response now, they would file a motion to compel. No return call was received. See Exhibit D.
6. The Plaintiff has failed to provide responses, has not requested an extension for a deadline to file responses, and has not indicated that he will provide such information.
7. The Defendants, on the other hand, have been responsive to both the initial and supplemental Discovery Requests served upon them by the Plaintiff, and at all times, responded either within the 30 days, or requested and were granted an extension in writing to respond, which they then duly complied with by responding within the scheduled time frame.
8. The Defendants requested very specific sets of interrogatories and very specific requests for production of documents that they feel will support their defense against the Plaintiff's suit. The Plaintiff's failure to provide any responses to Discovery is seriously hampering the Defendants' ability to complete Discovery and has unjustifiably delayed their efforts in support of their defense in the suit filed against them by the Plaintiff on December 21, 2009, which has continued to result in considerable time and expenses incurred by the Defendants.
9. Since the Plaintiff has failed to respond in a timely manner, the Defendants move the court to compel the Plaintiff to respond to their Discovery requests within _____ days, pursuant to Rule 37(a), Motion for Order Compelling Discovery.

10. If the Plaintiff does not respond within ____ days, the Defendants request that the Case be dismissed, and that sanctions be implied according to Rule 37(b)(1). The Defendants further request the Plaintiff to reimburse the Defendants for all reasonable expenses incurred in seeking this motion, and for all expenses and attorney's fees incurred by the Defendants in defending this suit filed by the Plaintiff Mauldin.

Respectfully submitted,

Dated: February 23, 2011

 and 
Pamela S. Weiss and Murray F. Mitchell
240 Wood Moor Place
Columbia, South Carolina 29212
(803) 749-6699

STATE OF SOUTH CAROLINA	)	
	)	IN THE COURT OF COMMON PLEAS
COUNTY OF LEXINGTON	)	
Michael Mauldin,	)	09-CP-32-05708
	)	
Plaintiff,	)	MEMORANDUM IN OPPOSITION TO
	)	DEFENDANT MITCHELL'S AND
vs.	)	DEFENDANT WEISS'S MOTION FOR
	)	SUMMARY JUDGMENT
Carol Vander Heide, Murray	)	
Mitchell, Pamela Weiss, Eileen	)	
Korpita, Karl Werdunn, Debra	)	
Werdunn, and Mark E. Kosobucki,	)	
	)	
Defendants.	)	
	)	

The Plaintiff, by and through undersigned counsel, does hereby submit his Memorandum in Opposition to Defendant Mitchell's and Defendant Weiss's Motion for Summary Judgement as follows:

NATURE OF CASE

The Plaintiff, Michael Mauldin ("Plaintiff"), filed a Complaint alleging interference with contractual relations and defamation against seven individual defendants. The Plaintiff reached a resolution with five of these defendants, leaving only Defendant Weiss and Defendant Mitchell in the case ("Defendants"). On or about November 30, 2010, the Defendants filed their motion for summary judgment. While written discovery was exchanged amongst the parties, no depositions have been taken thus far. Judge Keesley held a status conference on March 21, 2011, whereupon he entered a Scheduling Order for this case. (See Scheduling Order given to counsel at the hearing, attached as Exhibit A).

Ff

The Plaintiff has served in a coaching capacity for over thirty years and maintained an

excellent reputation. (Affidavit of Michael J. Mauldin, hereinafter "Mauldin Aff.", ¶ 2). He served as head girls' soccer coach for Irmo High School ("IHS") prior to December, 2009. (Mauldin Aff. ¶ 2).

In October 2008, Defendant Mitchell, husband to Defendant Weiss, verbally harassed Plaintiff's wife in front of her students, which Plaintiff believes was the beginning of the hostility towards him. (Mauldin Aff. ¶ 21). In April 2009, Defendant Mitchell and Plaintiff exchanged several emails concerning an allegation from Defendant Mitchell that the younger players were being treated as "slaves" by the older players. Plaintiff investigated the matter by speaking with each 9th grade player. Defendant Mitchell sent a "sarcastic response" to Plaintiff, and Plaintiff then informed Defendant Mitchell that he would no longer respond to emails on that topic. (Mauldin Aff. ¶¶ 4-5).

Soon thereafter in April 2009, the Plaintiff held a meeting with parents of the players on the team. He expressed his concerns about parents telling the coaching staff how to run the program and complaining about the amount of playing time their child was receiving. Plaintiff was concerned about certain parents verbally attacking him during the meeting, so he decided to only speak himself. He instructed the parents to meet with him individually if they had any concerns about their child, and he requested that they refrain from negative talk to the players. (Mauldin Aff. ¶ 6).

In May 2009, Plaintiff was informed by a few parents that certain other parents, including Defendants Mitchell and Weiss, were contacting parents in an effort to have the Plaintiff removed. (Mauldin Aff. ¶ 7).

In June 2009, Plaintiff received a bulleted list titled "Concerns Regarding Inappropriate

Behavior by Coach Mauldin”. (Attached as “Exhibit A” to the Affidavits of Pamela Weiss and Murray Mitchell). The alleged concerns contained in the list “have no substantial basis, and many of the charges are false and misleading and are based upon second or third-hand information.” (Mauldin Aff. ¶ 10).

In mid June 2009, Plaintiff meet with Eddie Walker, his principal at the time, Bob Hanna, the athletic director at IHS, and the Defendants. The Defendants made several allegations, which the Plaintiff addressed. After the meeting concluded, Plaintiff believed the matter was settled and he would remain head coach. (Mauldin Aff. ¶¶ 11-12). However, he was then asked to meet with Mr. Walker, Dr. Angela Bain, human resource director of District 5, and Helen Anderson, director of secondary education. On August 21, 2009, they met and discussed certain items on the bulleted list referenced earlier. On August 26, 2009, Plaintiff gave Dr. Bain a written response to address items on the bulleted list that were not addressed at the meeting. (See Response to concerns from parents, attached as Exhibit C). The Plaintiff again felt that this matter had been addressed and was concluded. (Mauldin Aff. ¶¶ 12-14).

In mid to late October 2009, Plaintiff was informed that certain parents had now filed a complaint with the U.S. Office for Civil Rights (“OCR”); alleging a sexual harassment complaint against the Plaintiff. Plaintiff spoke with Dr. Bain in December 2009 concerning the OCR complaint. Dr. Bain repeated assured Plaintiff that he had done nothing wrong, however she informed him that it was becoming too costly and the district would eventually fire him. On or about December 11, 2009, Plaintiff involuntarily resigned from his position as head girls’ soccer coach at IHS. (Mauldin Aff. ¶¶ 15-18). Plaintiff also received a copy of a letter from Dr. Bain dated December 21, 2009. (Letter dated December 21, 2009, attached as Exhibit D).

DISCUSSION

Summary judgment is proper when there is no issue as to any material fact and the moving party is entitled to judgment as a matter of law. Baughman v. American Tel. And Tel. Co., 306 S.C. 101, 410 S.E.2d 537, 545 (1991). In determining whether summary judgment is appropriate, the evidence and its reasonable inferences must be viewed in the light most favorable to the nonmoving party. Id. Furthermore, since it is a drastic remedy, summary judgment should be cautiously invoked to ensure that a litigant is not improperly deprived of a trial on disputed factual issues. Helena Chem. Co. v. Allianz Underwriters Ins. Co., 594 S.E.2d 455 (2004) (citing *Baughman, supra.* at 543).

A. Summary judgment is inappropriate at this time

“Summary judgment is appropriate when it is clear that there is no genuine issue of material fact and that the moving party is entitled to judgment as a matter of law.” *Gadson v. Hembree*, 613 S.E.2d 533, 535 (S.C. 2005). However, “[s]ummary judgment is not appropriate where further inquiry into the facts of the case is desirable to clarify the application of the law.” *Id.* “Further, summary judgment should not be granted even when there is no dispute as to the evidentiary facts, if there is a dispute as to the conclusion to be drawn therefrom.” *Id.* Since it is a drastic remedy, summary judgment “should be cautiously invoked so that no person will be improperly deprived of a trial of the disputed factual issues.” *Baughman v. At&T*, 410 S.E.2d 537, 543-44 (S.C. 1991) [internal citation omitted]. “This means, among other things, that summary judgment must not be granted until the opposing party has had a full and fair opportunity to complete discovery.” *Id.*

Summary Judgment would be inappropriate at this time. Discovery in this case is

ongoing and justice requires that the Plaintiff be allowed a “full and fair opportunity to complete discovery,” *Id.* Most notably, no depositions have been taken in this case and the parties have each identified over 20 witnesses during written discovery. Moreover, Plaintiff believes that the deposition testimony of these witnesses may reveal additional discoverable information or potential witnesses. The Defendant’s Motion should be denied.

B. The Defendants’ communications were NOT privileged

The Defendants’ defamatory communications were not privileged at common law or the First and Fourteenth Amendments of the United States Constitution. As a preliminary matter, additional discovery is necessary before any question of privilege may be addressed. As discussed in Section A, *supra*, this motion for summary judgment is premature and inappropriate at this time. For this reason alone, the Court should deny the Defendants’ motion.

Additionally, the comments that were made are defamatory *per se*; accusing the Plaintiff of unfitness in his profession and a crime of moral turpitude. These comments were false, known to be false, made with reckless disregard for the truth and malicious. This false and malicious defamation is not protected speech and, further, exceeds the scope of any qualified privilege the Defendants may claim. At a minimum, a question of fact exists as to the whether any such privilege applies. Such questions of fact are inappropriate for summary judgment and should be determined by a jury.

[Signature Block on Following Page]

CROMER & MABRY

BY: Julius W. Babb

J. Lewis Cromer (#1470)

Julius W. Babb, IV (#77216)

1522 Lady Street

Post Office Box 11675

Columbia, South Carolina 29211

Phone 803-799-9530

Fax 803-799-9533

Attorneys for Plaintiff

April 12, 2011

STATE OF SOUTH CAROLINA	)	
	)	IN THE COURT OF COMMON PLEAS
COUNTY OF LEXINGTON	)	
Michael Mauldin,	)	09-CP-32-5708
	)	
Plaintiff,	)	
	)	
vs.	)	
	)	
Carol Vander Heide, Murray	)	
Mitchell, Pamela Weiss, Eileen	)	
Korpita, Karl Werdunn, Debra	)	
Werdunn, and Mark E. Kosobucki,	)	
	)	
Defendants.	)	
	)	

AFFIDAVIT OF MICHAEL J. MAULDIN

Affiant, first being duly sworn, deposes and states as follows:

1. I, Michael J. Mauldin, am a resident of Columbia, South Carolina, and I am mentally competent and over the age of eighteen.
2. Prior to December, 2009, I served as the head girls' soccer coach at Irmo High School ("IHS") in District Five of Lexington and Richland Counties. I have served in a coaching capacity for over thirty years and have maintained an excellent employment record.
3. I maintained and continue to maintain an excellent relationship with the players and parents at HIS, as well as the coaching community throughout the state.
4. On April 19, 2009, I received an email from Murray Mitchell, in which he noted that the team played well together the day before. He also mentioned in that email that younger players were treated as "slaves" by the older players. I felt this was an issue that I needed to address.
5. On April 20, 2009, I responded to Mr. Mitchell's email by expressing my thanks for his observations. In an effort to investigate Mitchell's concerns, I asked each 9th grader on

the team if she felt she had been treated like a slave or had any other concerns. Mitchell replied to my email with a sarcastic response concerning my meetings with the 9th graders (even though I conducted these meeting to investigate his "slaves" comment). I informed Mitchell that I would no longer respond to his emails related to this topic.

6. On April 22, 2009, I conducted a meeting with the parents of the players on the team. I calmly expressed my concerns about parents telling the coaching staff how to run the program and complaining about the amount of playing time their child was getting. Because I had concerns that certain parents were going to verbally attack me at the meeting, I decided to only have the coach speak at this meeting. I informed the parents that I would be available to meet with them individually to discuss their child and requested that they refrain from making negatives comments in the home that were detrimental to the team.
7. In May, 2009, a few parents notified me that certain other parents, including Pamela Weiss and Carol Vander Heide, were contacting parents in an effort to have me removed as head girls' soccer coach at IHS.
8. In early June, 2009, Eddie Walker, former Principal at IHS, contacted me regarding an alleged complaint by Mr. Karl Werdunn. Mr. Walker stated that Mr. Werdunn complained that I was texting his daughter on a variety of topics. I informed Mr. Walker that I had texted Mr. Werdunn's daughter on only two occasions. In January, 2009, I texted to ask if she was available to train with several other players. In May, 2009, I texted to ask if she was feeling alright after her surgery.
9. School policy allows me to text the players regarding school or athletic related activities; however, school policy states that the players should not check these texts until after

school has ended for the day. I followed school policy and procedures relating to this matter and never communicated any inappropriate text messages to any players.

10. In June, 2009, I received a bulleted list titled "Concerns Regarding Inappropriate Behavior by Coach Mike Mauldin" (attached as Exhibit A to the Affidavits of Pamela Weiss and Murray Mitchell). The allegations and charges set forth in this list have no substantial basis, and many of the charges are false and misleading and are based upon second or third-hand information.
11. In mid June, 2009, Mr. Walker notified me that Pamela Weiss ("Weiss") and Murray Mitchell ("Mitchell") requested a conference with Bob Hanna, who is the athletic director at IHS, Mr. Walker, and myself. At this meeting, Weiss and Mitchell made several allegations against me, some of which were included in the bulleted list referenced above. I responded to all mentioned allegations and the meeting concluded thereafter.
12. After this meeting, I was told by Mr. Hanna and Mr. Walker that I was to remain as the head girls' soccer coach, and they would relay this information to Dr. Angela Bain, the human resource director of District 5. It was my understanding that this matter was concluded.
13. Then in late August, 2009, I received a call from Mr. Walker requesting a meeting with Dr. Bain, Mr. Walker and Helen Anderson, director of secondary education in District 5 at that time. On August 21, 2009, I met with Dr. Bain, Mr. Walker, Ms. Anderson and Noelle Enoche, my SCEA uniserve representative. During this meeting, I reviewed the list of thirty-three concerns and responded to those that Dr. Bain specifically mentioned. One of the district representatives stated that it was obvious this matter was a witch hunt and we would not be meeting if I was a female. Dr. Bain informed me that she reviewed my employment file and found no issues during my employment with District 5 (1975-

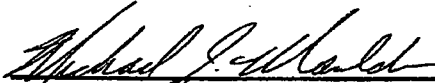
2009). Dr. Bain also suggested some changes in policies and procedures to make my coaching at HIS more effective.

14. On August 26, 2009, I gave Dr. Bain a written response to the bulleted items not specifically addressed during the meeting. At this point, I again felt that this matter was over. I continued to perform my duties as head girls' soccer coach at IHS, including an announced meeting for prospective players that was held on October 14, 2009.
15. In mid to late October, 2009, Mr. Walker informed me that this group of parents had filed a complaint with the U.S. Office for Civil Rights ("OCR"), despite District 5 finding no evidence of wrongdoing on my part. I asked Mr. Walker what OCR is and what was filed. He informed me of what OCR is and that the complaint was sexual harassment. I was shocked and confused by this allegation, and I was uncertain as to the procedures relating to this complaint.
16. On December 4, 2009, Dr. Bain contacted me by telephone. She informed me that OCR had contacted her and stated that one of the parents filed another complaint accusing me of retaliating against the players whose parents filed the original complaint. This allegation is absolutely false. Dr. Bain also clearly stated that the District found no sexual harassment and the allegations were unfounded. Despite these assurances that there was no wrongdoing on my part, she continuously encouraged me to resign. Dr. Bain stated that it would tarnish my record if the District had to fire me, and that the District would not continue to represent me since I was only a part-time employee. Dr. Bain informed me that it was getting costly for the District and eventually they would have to cut their losses. When I asked her if this meant "get rid of me", she replied "yes." After this was said, I asked her if I did have to resign would the OCR complaint be

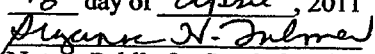
resolved and would the District move me to an open coaching position at Dutch Fork High School. I was not part of any OCR mediation.

17. On December 7, 2009, I met with Mr. Walker to discuss the best way to communicate with the players who missed the October 14, 2009 meeting. He suggested that I have the two team captains distribute the information to all returning varsity players, which they ultimately did.
18. Prior to December 11, 2009, I was contacted by Dr. Bain. She stated that the OCR complaint would be dropped if I resigned. I felt that I had no other choice but to resign from my position or be terminated. I also felt that this was in the best interest of the girls in the program, the program itself, IHS and District 5. On or about December 11, 2009, I tendered my resignation. Dr. Bain and Mr. Walker made calls concerning the Dutch Fork High School coaching position. I ultimately accepted the position of head JV girls' soccer coach and assistant varsity coach at Dutch Fork High School on December 18, 2009.
19. On December 21, 2009, a complaint was filed in the Court of Common Pleas in Lexington County against Carol Vander Heide, Murray Mitchell, Pamela Weiss, Eileen Korpita, Karl Werdunn, Debra Werdunn and Mark Kosobucki.
20. The false and misleading allegations made against me, especially those concerning sexual harassment, have injured my reputation and caused me embarrassment, humiliation, mental anguish and emotional distress.
21. Weiss and Mitchell began a campaign to incite certain parents, defame me and ultimately remove me as head girls' soccer coach for personal and malicious reasons. This campaign began before any involvement from the school or OCR. Back in October 2008,

Mitchell verbally harassed my wife in front of her students, which I believe was the beginning of their campaign against me. I also believe that the April 2009 email exchange and meeting with parents, referenced in paragraphs 4-6 above, angered Mitchell, Weiss and certain other parents, which Mitchell and Weiss used in an effort to encourage parents to attend the May 31, 2009 meeting.


Michael J. Mauldin

Dated: 4-8-11

SWORN to before me this
8 day of April, 2011

Notary Public for South Carolina

My commission expires March 15, 2014

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF LEXINGTON	)	C/A No. 2009-CP-32-05708
	)	
Michael Mauldin,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	
	)	
	)	
Carol Vander Heide, Murray	)	
Mitchell, Pamela Weiss, Eileen	)	
Korpita, Karl Werdunn, Debra	)	
Werdunn, and Mark E. Kosobucki,	)	
	)	
Defendants.	)	

RESPONSE TO AFFIDAVIT OF MICHAEL J. MAULDIN – RECEIVED VIA EMAIL ON

APRIL 11, 2011 AT 7:23 PM

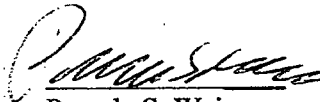
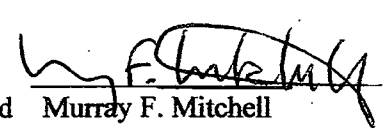
Affiants, first being duly sworn, depose and state as follows:

1. Paragraphs 1, 2, 3, 6, 8, 9, 12, 13, 14, 15, 17 and 19 provide background information but include no issue of material fact relevant to this cause of action.
2. Paragraph 4 describes a communication between defendant Mitchell and plaintiff Mauldin, hence, includes no allegation of any material facts that could be defamatory.
3. Paragraph 5 includes additional background information with no issues of material fact relevant to this cause of action, and a description of further communication between defendant Mitchell and plaintiff Mauldin, hence, no allegation of any material facts that could be defamatory.
4. In Paragraph 7, no parents are specifically identified. A communication is alleged to have happened in May 2009. It is further alleged as having information pertinent to this cause of action. No parents were identified at the time of the original filing and none have been named in the subsequent 16 months of discovery. Hence, no material issue of fact is indicated. Even if the statement is true, a conversation among parents with respect to a public official working with their adolescent daughters does not rise to the level of defamation. This is protected speech.

5. Paragraph 10 provides additional background information with no disputed issue of material fact. The list of concerns referenced was presented by defendant Pamela Weiss and defendant Murray Mitchell through the appropriate channels as is the right and responsibility of parents of adolescents responding to concerns of their children. What is described is protected speech.
6. Paragraph 11 provides additional background information with no disputed issue of material fact. The meeting described represents the efforts of defendant Pamela Weiss and defendant Murray Mitchell to follow the due process of beginning with the coach and then continuing to pursue concerns with the actions of a public official through his supervisors. This is protected speech.
7. Paragraphs 16 and 17 provide additional background information with no disputed issue of material fact. Nothing identified within these paragraphs is within the control of defendant Pamela Weiss or defendant Murray Mitchell. Neither defendant has the authority to control what District Officials may or may not have said or done.
8. Paragraph 20 provides no issue of material fact and no documents have been produced in support of these statements.
9. Paragraph 21 is a completely irrelevant and gratuitous allegation with respect to the current cause of action. There is no issue of material fact in this paragraph.

Respectfully submitted,

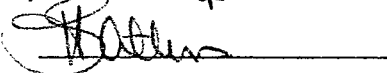
Dated: April 12, 2011

 
Pamela S. Weiss and Murray F. Mitchell

240 Wood Moor Place
Columbia, South Carolina 29212
(803) 749-6699

SWORN to before me this

12 day of April, 2011



Notary Public for South Carolina

My commission expires 08-08-15

STATE OF SOUTH CAROLINA)
COUNTY OF LEXINGTON)

IN THE COURT OF COMMON PLEAS

Michael Mauldin,)

09-CP-32-5708

Plaintiff,)

MOTION FOR DISMISSAL

vs.)

Carol Vander Heide, Murray)

Mitchell, Pamela Weiss, Eileen)

Korpita, Karl Werdunn, Debra)

Werdunn, and Mark E. Kosobucki,)

Defendants.)

The Plaintiff, by and through his undersigned counsel, hereby moves the Court for a dismissal of all claims in the above-captioned action, with prejudice, pursuant to Rule 41(a)(2) of the South Carolina Rules of Civil Procedure.

This motion is based on the following. The parties have conducted written discovery, however no depositions have been taken as of the filing of this motion. The Plaintiff has reached a resolution with Defendants Carol Vander Heide, Karl Werdunn, Debra Werdunn, Mark E. Kosobucki, and Eileen Korpita. The remaining defendants are Murray Mitchell and Pamela Weiss, who are represented *pro se*. The defendants now seek to depose fourteen (14) witnesses with the possibility of additional depositions later on. If this case proceeds, the Plaintiff intends to also depose several witnesses including the remaining defendants. While the Plaintiff feels strongly about his case, the cost of proceeding with this action is very high. The remaining Defendants would not be prejudiced by such a dismissal, and there are no pending counterclaims.

Plaintiff respectfully requests that the Court grant the dismissal of all claims, with prejudice, and that each party is responsible for their own costs. A proposed order will be submitted to the Court following the filing of this motion.

Respectfully submitted,

CROMER & MABRY

BY: 
J. Lewis Cromer (#1470)
Tandi D. Ross (#76623)
Julius W. Babb, IV (#77216)
1522 Lady Street
Post Office Box 11675
Columbia, South Carolina 29211
Phone 803-799-9530
Fax 803-799-9533

Attorneys for Plaintiff

June 21, 2011

STATE OF SOUTH CAROLINA)

COUNTY OF LEXINGTON)

Michael Mauldin,)

Plaintiff,)

vs.)

Carol Vander Heide, Murray)

Mitchell, Pamela Weiss, Eileen)

Korpita, Karl Werdunn, Debra)

Werdunn, and Mark E. Kosobucki,)

Defendants.)

IN THE COURT OF COMMON PLEAS

C/A No. 2009-CP-32-05708

**RESPONSE TO THE PLAINTIFF'S MOTION
TO DISMISS**

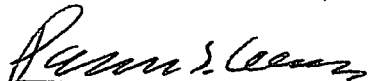
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CLERK OF COURT
LEXINGTON

The Defendants Pamela Weiss and Murray Mitchell agree to the motion submitted by the Plaintiff and his undersigned counsel to dismiss this lawsuit, effective immediately. Defendants Weiss and Mitchell, however, do not agree that the dismissal should require the parties to be responsible for his or her own cost and fees.

The Defendants Weiss and Mitchell request that the court schedule a hearing as to whether Rule 11 sanctions, including but not limited to, an award of cost and fees are in order. Defendants Weiss and Mitchell believe that this case, which retaliated against speech that is constitutionally protected, was brought without complying with the duty of good faith and will have a chilling effect on the exercise of constitutional rights if allowed to be dismissed without consequence. We respectfully request that this hearing take place at your earliest possible convenience.

Respectfully submitted,

Dated: June 29, 2011


Pamela S. Weiss (*pro se*)


and Murray F. Mitchell (*pro se*)

240 Wood Moor Place
Columbia, South Carolina 29212
(803) 749-6699

STATE OF SOUTH CAROLINA)
)
COUNTY OF LEXINGTON)

IN THE COURT OF COMMON PLEAS

Michael Mauldin,)
)
Plaintiff,)

09-CP-32-5708

vs.)

**REPLY TO THE DEFENDANT'S RESPONSE
TO PLAINTIFF'S MOTION FOR DISMISSAL**

Carol Vander Heide, Murray)
Mitchell, Pamela Weiss, Eileen)
Korpita, Karl Werdunn, Debra)
Werdunn, and Mark E. Kosobucki,)
)
Defendants.)
)

The Plaintiff, by and through his undersigned counsel, filed a Motion to Dismiss on or about June 27, 2011, pursuant to Rule 41(a)(2) of the South Carolina Rules of Civil Procedure. The Defendants Mitchell and Weiss (hereinafter collectively "Defendants") filed a Response to this motion on or about June 29, 2011. The Plaintiff hereby replies to this response as set forth below.

The Defendants' Response clearly indicates an acceptance to having this matter dismissed, yet they will not consent to this dismissal unless they are paid "cost and fees" under Rule 11, SCRCF. Defendants have not provided any information as to what these costs and fees entail. Moreover, they seek attorney's fees as *pro se* defendants and have failed to explain the basis for this request.

This action was filed in good faith on behalf of the Plaintiff, whom authorized such a filing in good faith. The Defendants' allegations of failing to comply with the duty of good faith are baseless, and they have presented no evidence supporting the same other than their bare accusations. A reasonable person could infer that the Defendants' request for "cost and fees" is

merely presented to retaliate against the Plaintiff and may itself fail to comply with the duty of good faith. This is further illustrated by the Defendants' Response that the case should not be dismissed "without consequence."

Charging an attorney, as an officer of the court, with a violation of Rule 11 is a serious matter and should never been thrown around lightly. The Defendants have provided no basis or evidence that the Complaint was filed in bad faith other than their bare assertions, thus failing to meet the burden of proof as to the alleged violation. While no one may like being named a defendant in a lawsuit, Rule 11 still requires a legitimate basis to be actionable.

Under the current Scheduling Order, discovery in this case ends on July 31, 2011. The Defendants have scheduled numerous depositions and indicated their desire to depose upwards of fourteen individuals. As stated in the motion, both parties will likely incur excessive and unnecessary costs due to these depositions.

Based on the foregoing reasons, the Plaintiff respectfully requests that the Plaintiff's Motion to Dismiss be granted and each party bear his or her own costs and fees.

Respectfully submitted,

J. LEWIS CROMER & ASSOCIATES, L.L.C.

BY: Julius W. Babb

J. Lewis Cromer (#1470)
Julius W. Babb, IV (#77216)
1522 Lady Street
Post Office Box 11675
Columbia, South Carolina 29211
Phone 803-799-9530
Fax 803-799-9533

Attorneys for Plaintiff

July 15, 2011

COPY

STATE OF SOUTH CAROLINA)
COUNTY OF LEXINGTON)

IN THE COURT OF COMMON PLEAS

FILED

C/A No. 2009-CP-32-05708

Michael Mauldin,

2011 03 27 P 12:27

Plaintiff,

vs.

**NOTICE AND MOTION
FOR FRIVOLOUS PROCEEDING
AND SANCTIONS**

Carol Vander Heide, Murray)
Mitchell, Pamela Weiss, Eileen)
Korpita, Karl Werdunn, Debra)
Werdunn, and Mark E. Kosobucki,)
Defendants.)

TO: JULIUS W. BABB, IV, ESQUIRE, AND J. LEWIS CROMER, ESQUIRE.

You will please take notice that Pamela S. Weiss (Weiss) and Murray F. Mitchell (Mitchell) will move before The Honorable William P. Keesley, in ten (10) days or as soon thereafter as permitted for an award of attorney's fees and costs incurred in defending this lawsuit and for sanctions against Plaintiff's attorneys pursuant to South Carolina Frivolous Civil Proceedings Sanctions Act, S.C. Code Ann. § 15-36-10 *et seq.* and under Rule 11, SCRPC.

Plaintiff, through his attorneys, filed a Complaint against Weiss, Mitchell, and five other defendants on December 21, 2009 for \$1 million in actual damages and \$1 million in punitive damages (total of \$2 million each) for a total of \$14 million. The original Complaint was signed by J. Lewis Cromer (J. Lewis Cromer & Associates, LLC). Subsequent actions and representation of the Plaintiff were handled by Julius W. Babb, IV of the same firm. The Complaint included two causes of action: (1) Interference with Contractual Relations, and (2) Defamation.

Defendants Weiss and Mitchell were forced to hire an attorney to respond to this lawsuit. When representation became too expensive (more than \$8,500 in two months), they had to defend themselves *Pro Se* to respond to interrogatories during the approximately 22 months that the lawsuit ensued. This amounted to well over 725 combined hours of their time, estimated at more than an additional \$30,000 in costs and fees. Defendants suffered real losses as a result of this frivolous lawsuit. Defending themselves against this lawsuit over the past two years has not only

turned Defendants' live upside down, but the cost to them and their family has been enormous. The case was dismissed at a hearing on October 10, 2011 by the Honorable William P Keesley, and the request that parties be responsible for their own fees was eliminated from the order.

In the summer of 2009, Plaintiff Michael Mauldin was coach of the Irmo High School Varsity girls' soccer team and all seven defendants were parents of children who were members of the Irmo High School girls' soccer team and thus were directly coached by Mr. Mauldin. The only actions complained about in the Plaintiff's lawsuit were privileged communications. The parents of public school students in the school in question communicated with parents of other soccer players, the Principal of the High School, the Human Resources Officers, the Superintendent of the School district, and the United States Department of Education Office for Civil Rights (OCR), concerning actions allegedly taken by the Plaintiff who was a public school official at the time. All communication by Defendants was limited to those who shared a direct and common interest in the conduct of the girls' soccer program and officials who oversee the actions of these public officials.

All of the parents' activity was protected by the First Amendment. United Mine Workers of America v. Illinois State Bar Ass'n, 389 U.S. 217, 222 (1967) and was required by the S.C. Code of Laws § 63-7-10 *et seq.* The First Amendment includes the protection for the right to petition the government for a redress of grievances and protects the political activities in which the Defendants engaged. The case of NY Times vs. Sullivan, 376 U.S. 254, 84 S. Ct. 710, 11 L. Ed. 2d 686 (1964) states that the 1st Amendment protects an individual's free speech. Talking to school officials or other parents about teacher misconduct or unsafe conditions is protected. Mr. Mauldin alleged no more than what was clearly lawful conduct of the parents in pursuit of their own legal rights.

This kind of suit seeks to thwart the citizen's right to petition. Strategic lawsuits against public participation (SLAPPS) are civil lawsuits filed against non-governmental individuals and groups, usually for having communicated with a government body, official, or the electorate, on an issue of some public interest or concern. The SLAPP plaintiff's goal is not to necessarily "win" the lawsuit, but rather to deter public participation in the democratic process by chilling debate on public and political issues. *Opinion of the Justices (SLAPP Suit Procedure)*, 138 N.H. 445, 448-449 (1994). Mr. Mauldin sued the defendants for retaliation for what the defendants had said in the past and also to intimidate them into silence in the future. Plaintiff instituted the lawsuit to chill the

protected speech of parents who had legitimate concerns about a public school official. Allowing this case to be dismissed without consequences is to allow the court to be used to punish parents for asking for an investigation and chill their rights, and the rights of other parents of public school students, to free speech and to petition the government.

The Parents' communications with the Irmo School District, the US OCR, and other concerned parents was absolutely privileged. Privileged communications in the law of libel and slander are either absolute or qualified. The parents were clearly justified in voicing their concerns to the school district. Defendants at all times acted reasonably and in good faith toward the Plaintiff, and the Defendants did not deprive Plaintiff of any rights specified under the common or statutory laws of the United States or the State of South Carolina.

At no time during the 22 months of discovery did the Plaintiff provide any documentation to support a charge of defamation. Plaintiff further alleges no publication of any sort to anyone other than school or government officials or other parents of soccer players. Plaintiff was at all times relevant to the Defendants' discussions as a public employee in a public school setting and communications were made only to persons sharing an appropriate and common interest.

As to the Plaintiff's charge of interference with contractual relations resulting in the Plaintiff's inability to pursue other coaching positions, all statements made by the Defendants, were made in raising a matter of public concern on the behalf of their adolescent daughters and their teammates on the Irmo High School girls' soccer team. Further, the Plaintiff resigned his position as a coach and was rehired immediately in the same school district—*prior* to filing his lawsuit. Had the Plaintiff's attorney conducted a reasonable investigation prior to filing the lawsuit, he would have uncovered these facts and he would have known there was no basis for the causes of action. Even after filing the motion, Plaintiff admits to having no gap in employment following his resignation.

Parents were clearly justified in voicing their concerns to the school district, and were not the proximate cause of a breach of Mr. Mauldin's employment contract. "To establish intentional interference with a contract one must show the existence of the contract; the other party's knowledge of the existence; the other party's intentional procurement of the breach of the contract; the absence of justification; and resulting damage." Webb v. Elrod, 308 S.C. 445, at 447.

The case of Angus vs. Burroughs & Chapin (SC Judicial Dept., SC Supreme Court, 358 S.C.498, 596 S.E.2d 67 (Ct. App 2004) further states that: "In our democratic society, a public official is answerable to the public; members of the public are not third-party interlopers." In a democracy, citizens are free to complain about the conduct of public officials without being exposed to liability for making good faith complaints.

Not only do parents in South Carolina have the right to inquire as to the conditions their children experience in a public school environment, they have a duty to protect those children from abuse. S.C. Code of Laws § 63-7-10 *et seq.* The procurement of the break of Mr. Mauldin's employment contract was a quite collateral matter. That is evidenced by the fact that parents did not ask for Mr. Mauldin's resignation, rather, they began the process simply by voicing their concerns and asking the school to investigate. Although the plaintiff's complaint alleges parents' actions were made "for the purpose of removing the plaintiff," he pleads no facts to support this contention and, as in Webb, there is no evidence to lend itself to the claim of interference of bad faith or intentional interference. A reasonable Attorney presented with the same circumstances would believe that the initiation of a civil cause was frivolous, intended merely to harass or injure the other party and was unsupported by the facts.

In April 2009, the American Civil Liberties Union (ACLU) of South Carolina (ACLU-SC) filed an *amicus curiae* brief in support of Defendants' motion to dismiss, citing legal cases that parents' activity was protected by the First Amendment and that the law suit was seeking to chill the rights of parents to petition their government for a redress of grievances. The court ruled that because of the extremely narrow standards that apply to the lower courts (limited to the "four corners" of the complaint), it must allow the Plaintiff time to prove his case through Discovery, even if it has reason to doubt their validity. The courts further stated that "*defendants may reassert their attempt to obtain dismissal of the case at a later point and/or attempt to pursue remedies based on their allegations that the lawsuit was frivolous or done in an abusive fashion.*"

One year later (April 2010), when presented the opportunity at the time of the hearing to consider a Motion for Summary Judgment, Plaintiff's Attorneys were unable to identify *any* non-privileged communication. Legally, the Plaintiff's Attorney has provided no evidence or written documentation of defamation or for interference with contractual relations. This inability implies

that Plaintiff's Attorneys had not researched before filing this Complaint and failed to properly investigate the matter, and that the action was frivolous. Indeed, even last minute affidavits filed by the Plaintiff on September 9, 2011, only serve to further support Defendants' contentions that the Plaintiff had no genuine issues of material fact to support his claims. Whereas documents filed during Discovery by Defendants showed many of the concerns brought by Parents were in fact true, and believed to be true, and that parents were justified in bringing their concerns forward.

Defendants produced a 12-page report issued from the U.S. Office for Civil Rights (OCR) which investigated the school after the law suit was filed and found (after interviewing numerous students, parents, and administrators, including Mr. Mauldin) that *parents were justified in bringing their concerns forward, that they went through appropriate channels to bring their concerns, and that the school did not conduct a proper and thorough investigation of parents' concerns when first brought to them.* The report further identified that parents engaged in protected activity by raising concerns to school officials. The OCR also concluded that parents suffered adverse action as a result of bringing concerns forward and being sued, sufficient to discourage a reasonable person from further protected activity. A reasonable Attorney in the same circumstances would believe that under the facts, this claim was clearly not warranted under existing law and that a good faith or reasonable argument did not exist.

Defendants further produced subpoenaed records from the Plaintiff's Human Resources files going back some 20 years showing memos related to other parents who had filed complaints against the Plaintiff in his roles as a teacher and coach in the same school district. Defendants also produced Freedom of Information records from the OCR interviews with players, parents, and school administrators relating to the truth of concerns raised by parents and students. Finally, Defendants have affidavits of many witnesses willing to speak to the truth of concerns raised and the character and reputation of the Plaintiff. Most if not all of these facts would have been uncovered by the Plaintiff's counsel if he had done a reasonable investigation prior to filing the lawsuit.

Dismissing groundless lawsuits without consequences has a chilling effect on the exercise of Constitutional Rights and stifles legitimate petitions. Those who lack the financial resources and emotional stamina to "play the game" face difficult decisions of defaulting, despite meritorious

defenses, and being brought to their knees to settle. The fact that the Plaintiff quickly settled a \$14 million lawsuit for a couple thousand dollars with the insurance companies of each of the insured defendants previously named in the case, further supports the fact that this was a suit to punish defendants for exercising constitutional rights and not to redress any damages. While settling this type of frivolous lawsuit may seem logical to insurance companies who can pass these losses on to policy holders, this solution does not work for *Pro Se* defendants; there are principles here that are greater than settling a nuisance lawsuit.

If parents and students fear they will be sued any time they bring legitimate concerns about a public school official to administrators and ask them to investigate, a serious injustice will have been perpetrated. If filers of such lawsuits are successful in silencing parents for speaking up, others will be silenced. This chilling effect will be furthered if the lawsuit is dismissed without consequences.

The Honorable Court should apply a high standard as a well-established constitutional right, the right to petition, was deliberately compromised. An attorney is expected to conduct a reasonable investigation beyond what is relayed to the attorney by his client. Bringing charges against anyone without having done due diligence to investigate is a sign of bad faith.

Plaintiff's allegations and the filing of this action were frivolous, unreasonable, groundless, and without foundation and were made and asserted in bad faith. Plaintiff instituted the lawsuit to chill the protected speech of parents who had legitimate concerns about the conduct of a public school coach toward their children. Plaintiff's lawsuit was instituted for the purpose of punishing and retaliating against Defendants for filing legitimate complaints through established channels regarding the conduct of a public school coach toward their children.

Compounding the initial Complaint were efforts to intimidate *pro se* litigants through producing an improperly "discovered" signed Order of Dismissal, and offering then withdrawing at the Scheduling Hearing a Motion to Dismiss with no costs assessed. Finally, during the Hearing to Dismiss, when a ruling on the Summary Judgment was available, Plaintiff's attorney moved to dismiss rather than allow the ruling to be rendered. This action is further support of the Plaintiff's attorney recognition of the lack of substance to support this frivolous action. Moreover, the Plaintiff's goal had been achieved—detering public participation and chilling debate on a public

issue. Dismissing this groundless lawsuit without consequence will further the chilling effect on the exercise of constitutional rights.

SC Act 15-36-10 states that an attorney may be sanctioned for: a) filing a frivolous pleading, motion, or document; b) making frivolous arguments that a reasonable attorney would believe were not reasonably supported by the facts; or c) making frivolous arguments that a reasonable attorney would believe were not warranted under the existing law and if there is no good faith argument that exists for the extension, modification, or reversal of existing law. SC Act 15-36-10 provides for liability for attorney fees and costs of frivolous suits. SC Act 15-36-10 provides that any person who takes part in the procurement, initiation, and continuation of a civil proceeding is subject to being assessed for payment of all or a portion of the attorney fees and court costs of the other party if (1) he does so primarily for a purpose other than that of securing the proper adjudication of the claim upon which the proceedings are based, and (2) the proceedings have terminated in favor of the person seeking an assessment of the fees and costs.

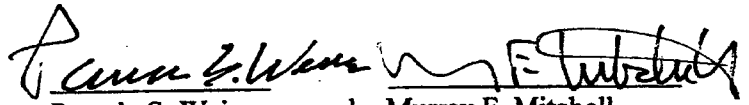
Under Rule 11(a), SCRCP, a party and/or the party's attorney may be sanctioned for filing a frivolous pleading, motion or other paper, or for making frivolous arguments. The party and/or attorney may also be sanctioned for filing a pleading, motion, or other paper in bad faith whether or not there is good ground to support it. The sanction may include an order to pay the reasonable costs and attorney fees incurred by the party or parties defending the frivolous action brought in bad faith, a reasonable fine to be paid to the court, or a direction of a nonmonetary nature designed to deter the party or the party's attorney from bringing any future frivolous action or action in bad faith. Further, if appropriate under the facts of the case, the court may order a party and/or the party's attorney to pay a reasonable monetary penalty to the party or parties defending the frivolous action or action brought in bad faith.

Defendants seek an award of attorney's fees and costs incurred in defending this lawsuit and for sanctions against Plaintiff's attorneys. This Motion will be based upon pleadings, briefs and affidavits filed or to be filed.

WEISS AND MITCHELL SO MOVE

Respectfully submitted,

Dated: October 20, 2011



Pamela S. Weiss and Murray F. Mitchell

240 Wood Moor Place

Columbia, South Carolina 29212

(803) 749-6699

FILED

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CLERK OF COURT

STATE OF SOUTH CAROLINA)
COUNTY OF LEXINGTON)

FILED
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IN THE COURT OF COMMON PLEAS
FOR THE
ELEVENTH JUDICIAL CIRCUIT

Michael Mauldin,

Plaintiff,

vs.

Carol Vander Heide, Murray)
Mitchell, Pamela Weiss, Eileen)
Korpita, Karl Werdunn, Debra)
Werdunn, and Mark E. Kosobucki)

Defendants.

Case No.: 2009-CP-32-05708

MEMORANDUM IN OPPOSITION
TO DEFENDANT'S MOTION FOR
FRIVOLOUS PROCEEDING AND
SANCTIONS

COPY

Comes now the Plaintiff, by and through undersigned counsel, and responds to Defendant's Motion as follows:

Plaintiff respectfully requests that Defendant's Motion requesting attorney's fees and costs be denied.

Statement of the Case¹

Plaintiff has coached soccer for more than thirty years. During his tenure as a coach, he has experienced great success for his teams and has forged positive relationships with his players, their parents, and the community at large. In 2009, he served as the girls' soccer coach at Irmo High School.

In June of 2009 and continuing through the end of the summer that year, several parents of students on Plaintiff's team at Irmo High School wrote letters accusing Plaintiff of sexual harassment towards his players, unprofessional activities, and questioning his fitness to coach. (Complaint ¶ 6.) Plaintiff asserted and continues to

¹ Plaintiff previously filed a Memorandum in Opposition to Defendant Mitchell's and Defendant Weiss' Motion for Summary Judgment, and attachments, which further addresses the nature of the case.

assert that the accusations had no basis and were, in fact, absolutely false. (Complaint ¶ 7.) The Superintendent and Human Resources Director for the school district did an investigation into the complaints and found that the charges made by the parents had no basis. (Complaint ¶8.)

Plaintiff filed a complaint on or around December 21, 2009 asserting claims for defamation and interference with contractual relations against seven Defendants, who comprised the parents involved in the above complaints against Plaintiff.² Defendant Debra Werdunn answered on or around January 20, 2010. Defendant Karl Werdunn filed on or around February 12, 2010. Defendant Mark E. Kosobucki filed an answer on or around February 16, 2010. Defendant Pamela Weiss filed an answer on or around February 25, 2010. Defendant Murray Mitchell filed an answer on or around February 25, 2010. Defendant Carol Vanderheide filed on or around February 26, 2010. Defendant Eileen Korpita filed an answer on or around March 5, 2010. On or around April 22, 2010, the Court heard Defendant Korpita's Motion to Dismiss. The same day, the American Civil Liberties Union (ACLU) filed a Motion and Memorandum in Support of Motion to File an Amicus Brief in Support of Defendant Korpita's Motion to Dismiss. The Plaintiff objected to the filing of this amicus brief, which was handed to him

The parties continued to participate in written discovery. Plaintiff individually reached a resolution with all of the defendants, except Defendants Weiss and Mitchell, and Plaintiff stipulated to dismissal as to those defendants. While Plaintiff tried to resolve the case with Defendants Weiss and Mitchell on several occasions, they refused and demanded to be paid.

² In their Notice and Motion for Frivolous Proceeding and Sanctions, the Defendants assert that the Complaint asks for \$14 million. This is simply not the case, as the Complaint prays for \$1 million actual and \$1 million punitive against all of the defendants together.

On or around June 29, 2011, Plaintiff filed a Motion to Dismiss, moving to drop the claims against Defendants Weiss and Mitchell. Defendants Weiss and Mitchell responded to the Motion to Dismiss on or around June 29, 2011. On or around July 15, 2011, Plaintiff filed a Reply to Defendant's Response to Plaintiff's Motion for Dismissal, respectfully requesting that the Court dismiss the case and order that each side be responsible for their separate costs. On or around July 25, 2011, The Honorable Judge William P. Keesley, Plaintiff, and Defendants Weiss and Mitchell signed a Consent Order, agreeing to a hearing on the outstanding Motion to Dismiss. A hearing regarding the Motion to Dismiss was held on October 10, 2011 before the Honorable Judge William P. Keesley. On or around October 14, 2011, the Court filed an Order signed by Judge Keesley dismissing the case against Defendants Weiss and Mitchell without prejudice. Following this hearing and Order, Defendants Weiss and Mitchell filed a Motion for Frivolous Proceeding and Sanctions against Plaintiff and Plaintiff's counsel.

Argument

Defendants Motion for attorney's fees and costs as well as sanctions against Plaintiff's counsel should be denied. Plaintiff and his counsel acted in good faith and reasonably. Defendants' bare assertions of bad faith and unreasonableness on the part of Plaintiff or his counsel are unfounded and unsupported, and Defendants have failed to meet their burden of proof.

I. Rule 11 Sanctions are inappropriate in this case.

Plaintiff and his attorneys should not be sanctioned pursuant to the South Carolina Rules of Civil Procedure Rule 11.

A trial court may impose sanctions on a party, a party's attorney, or both for filing a frivolous pleading, motion, or other paper to cause delay or when no good grounds exist to support the filing. SCRCP Rule 11; *Runyon v. Wright*, 322 S.C. 15, 19, 471 S.E.2d 160, 162 (S.C. 1996). The party and/or attorney may also be sanctioned for filing a pleading, motion, or other paper in bad faith whether or not there is good ground to support it. *Ex parte Gregory*, 378 S.C. 430, 438, 663 S.E.2d 46, 50 (S.C. 2008) (citing *Runyon*). If the court finds a violation of this rule, it may impose sanctions, which may include an order to pay to the other party or parties the amount of the reasonable expenses incurred because of the filing of the pleading, motion or other paper, including a reasonable attorney's fee. SCRCP Rule 11(a).

Plaintiff and his attorney brought suit against Defendants Weiss and Mitchell in good faith, based on evidence available and likely to be discovered. Further, Plaintiff's counsel signed the Complaint in this case out of a good faith belief that the Plaintiff had a sound legal basis upon which to recover based on the facts and evidence available to counsel or likely to be found by Plaintiff's counsel through discovery.

Defendants rely in part on the Amicus Curiae Brief filed by the American Civil Liberties Union (ACLU) in this case to demonstrate bad faith. Defendants claim that this suit is typical of a SLAPP suit, where a plaintiff brings a lawsuit against another party merely to silence public participation rather than to "win" or recover damages. (Defendants Notice and Motion for Frivolous Proceeding and Sanctions, p. 2.) In support of this assertion, Defendants contend that Plaintiff and Plaintiff's counsel "instituted the lawsuit to chill the protected speech of parents who had legitimate concerns about a

public school official", out of "retaliation" and "also to intimidate them into silence in the future". (*Id.*)

As a preliminary matter, South Carolina has not enacted any Anti-SLAPP legislation. As noted in the ACLU Amicus brief, a mere four states have enacted such legislation. *Tired of being slapped around: States take action against lawsuits designed to intimidate and harass*, 25 Rutgers L.J. 401 (1994) (as cited in ACLU Amicus Curiae Brief, p. 3). Those states include: New York, California, Rhode Island, and Washington. *Id.* Thus, this motion, brought under SCRPC Rule 11 and the Frivolous Proceedings Act, constitute the only remedies available to Defendants.

However, when a defendant is sued for defamation, he or she is not without recourse. Certain defenses, the most pertinent to this case being qualified privilege, may be raised to counter a claim for defamation. Qualified privilege protects a person who publishes defamatory statements concerning another if "published upon an occasion that makes it conditionally privileged" and if "the privilege is not abused". *Swinton Creek Nursery v. Edisto Farm Credit*, 334 S.C. 469, 484, 514 S.E.2d 126, 134 (S.C. 1999). The privilege is qualified, not absolute, and must be made "such as the occasion warrants" and made in "'good faith to protect the interests of the one who makes it and the persons to whom it is addressed.'" *Id.* (citing *Bell v. Bank of Abbeville*, 208 S.C. 490, 494, 38 S.E.2d 641, 643 (S.C. 1946)). Where asserted, qualified privilege may be overcome by a showing of actual malice or through evidence demonstrating that the scope of the qualified privilege was exceeded. *Fulton v. Atlantic Coast Line R. Co.*, 220 S.C. 287, 67 S.E.2d 425 (1951).

In bringing suit against Defendants Weiss and Mitchell, Plaintiff and Plaintiff's counsel had a good faith belief that the statements made by Defendants were not protected by qualified privilege or that, in the alternative, any privilege that did exist had been exceed in scope through the Defendants' actions. From the beginning, Plaintiff pled that "complaints and charges were made against the plaintiff by some of the defendants later followed by a ruthless campaign of vilification, false and pretextual reports and accounts, *as well as other contacts with school officials...*" (Complaint ¶ 5 (*emphasis added*)).) Thus, from the commencement of this case, Plaintiff demonstrated a good faith belief that not all of the publications to third parties made by defendants were made directly to school officials and likely exceed the scope of qualified privilege. Moreover, Plaintiff, by and through counsel, has submitted pleadings (see Plaintiff's Memorandum in Opposition to Defendant's Motion for Summary Judgment) as supported by evidence that the statements of Defendants Weiss and Mitchell were made with actual malice, and thus, also exceed any qualified privilege (if any existed).

Plaintiff and Plaintiff's counsels' good faith belief that no qualified privilege exists or, at the very least, has been overcome through moving beyond the scope or actual malice, continues to the present day. Defendants allege that Plaintiff had no evidence of non-privileged statements as early as April 2010 and should have moved to dismiss at that time. Plaintiff disagrees, and contends that, at the very least, a genuine issue of material fact existed then and still exists as to whether or not some or all of the statements made by Defendants were privileged or not.

Additionally, Plaintiff and Plaintiff's counsel had a good faith belief that Defendants' actions constituted Interference with Contractual Relations.

Since filing his Memorandum in Opposition to summary judgment, Plaintiff has conducted some limited discovery and filed affidavits from several potential witnesses. This evidence demonstrates Plaintiff and his counsels' continued good faith belief that Defendants Weiss and Mitchell made defamatory statements, unprotected by any qualified privilege, and that those statements caused injury to Plaintiff. Plaintiff and his counsels' primary purpose in dismissing the suit at this juncture relates to the financial realities of proceeding with suit. Plaintiff learned from Defendants Weiss and Mitchell that they likely would take upwards of seventeen depositions during discovery. Plaintiff understood the extreme financial burden this might cause, as well as the length of time. Plaintiff also considered the emotional impact of seventeen depositions on Plaintiff and witnesses.

II. Sanctions under the South Carolina Frivolous Civil Proceedings

Sanctions Act are inappropriate in this case.

Sanctions and attorneys' fees and costs are likewise inappropriate under the South Carolina Frivolous Civil Proceedings Sanctions Act (SCFCPSA).

The SCFCPSA applies a "reasonable attorney" standard to determine whether sanctions are warranted. S.C. Code Ann. §15-36-10 (2005). The SCFCPSA was amended in 2005, at which time the "reasonable attorney" standard was added. See *Southeastern Site Prep, LLC v. Atlantic Coast Builders and Contractors, LLC*, 394 S.C. 97, 713 S.E.2d 650 (Ct. App. 2011). Prior to this time, analysis for sanctions under the SCFCPSA and SCRCF Rule 11(a) were the same. *Id.*

The SCFCPSA provides in relevant part that an attorney may be sanctioned for filing a frivolous pleading, making frivolous arguments a reasonable attorney would

believe were not reasonable supported by the facts or for making frivolous arguments that a reasonable attorney would believe were not warranted under the existing law or through a good faith argument for extending, modifying, or reversing the existing law. S.C. Code Ann. §15-26-10(4)(a)-(c) (2005). Section (4)(a) delineates circumstances where sanctions may be imposed for filing a frivolous pleading as follows: (i) the person has not read the frivolous pleading, motion, or document; (ii) 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; (iii) a reasonable attorney presented with the same circumstances would believe that the procurement, initiation, continuation, or defense of a civil cause was intended merely to harass or injure the other party; or (iv) a reasonable attorney...would believe the pleading, motion, or document is frivolous, interposed for merely delay, or merely brought for any purpose other than securing proper discovery, joinder of parties, or adjudication of the claim or defense upon which the proceedings are based. *Id.*

The party moving for sanctions under the SCFCPSA has the burden of proving that (1) the other party has procured, initiated, continued, or defended the civil proceedings against him; (2) the proceedings were terminated in his favor; (3) the primary purpose for which the proceedings were procured, initiated, continued, or defended was not that of securing the proper discovery, joinder of parties, or adjudication of the civil proceedings; (4) the aggrieved person has incurred attorney's fees and court costs; and (5) the amount of the fees and costs set forth in item. S.C. Code Ann. §15-36-40 (2005). The movant must show these factors by a preponderance of the evidence.

Rutland v. Holler, et al., 371 S.C. 91 (Ct. App. 2006). Unless the court finds, by a preponderance of the evidence, that an attorney or party engaged in advancing a frivolous claim or defense, the attorney shall not be sanctioned. S.C. Code Ann. §15-36-10(C)(4) (2005).

A reasonable attorney in the same position as Plaintiff's counsel might have taken exactly the same actions as Plaintiff's counsel in the case at hand. As set forth in Part I above, Plaintiff brought suit under a belief that Defendants, including Defendants Weiss and Mitchell, had published defamatory statements. A reasonable attorney could believe, as did Plaintiff's counsel, that the statements known to and discovered by Plaintiff's counsel were defamatory. The statements made called into question Plaintiff's ability to perform his job as a coach and attempted to impugn his moral character. (Complaint ¶ 6.) A reasonable attorney could likewise believe that the statements were not protected by any qualified privilege or that any privilege that existed had been exceeded in scope based on publication to community members or exceeded through publication with malice.

Additionally, a reasonable attorney could believe, as did Plaintiff and Plaintiff's counsel, that Defendant's conduct constituted Interference with Contractual Relations.

Plaintiff and his counsel, acting just as any reasonable attorney would, brought the lawsuit against Defendants to protect Plaintiff's rights and interests such as the law provides to him. Plaintiff and Plaintiff's counsel did not take any actions in initiating or during the course of the lawsuit merely to interpose for delay or for any reason other than to seek adjudication of the matter. As stated in Part I, the time required and financial resources necessary to continue the suit, were too much for Plaintiff, and after consulting counsel, decided to dismiss the matter. Further, Plaintiff and Plaintiff's counsel did not

bring suit merely to silence parents' present and future concerns. This assertion is without merit and stated as if true without providing any evidence or support to meet their burden of proof.

Finally, the Defendants have continuously made assertions that they have incurred attorney fees and costs, yet they have failed to provide and evidence or itemized statements as to these alleged fees and costs. While the Defendants Mitchell and Weiss were initially represented, they have proceeded *pro se* through the majority of this suit. Accordingly, they cannot incur attorneys' fees as non-attorneys.

Conclusion

Plaintiff and his attorneys acted reasonably and in good faith in filing and proceeding with the action. Defendants Mitchell and Weiss have failed to establish a violation under either Rule 11 or the SCFCPSA. Based on the reasons set forth herein, Plaintiff respectfully request that Defendants' motion be denied.

Respectfully Submitted,

CROMER & MABRY

BY:

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Attorneys for Plaintiff

January 13, 2012

E X H I B I T S

	<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID.</u>	<u>EVD.</u>
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3	P-1	Letter	70	70
4	D-1	Binder	5	5
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1 (The following proceedings were held on
2 January 17, 2012.)

3 **THE COURT:** What do y'all have?

4 **MR. CROMER:** Your Honor, this matter is really
5 based on their motions. We had earlier in this case
6 filed a motion for -- they'd filed a motion for
7 summary judgment. We had agreed to dismiss the case
8 not for reasons of lack of merit, but for reasons of
9 practicality, but they would not accept that. And
10 they're here today, I think, to seek sanctions and
11 that's why we're here to defend it.

12 **THE COURT:** Are y'all ready to proceed?

13 **MS. WEISS:** Yes, Your Honor.

14 **THE COURT:** Go ahead.

15 **MR. MITCHELL:** Your Honor, we have a memorandum
16 in support of -- we have some exhibits to accompany
17 that. I have them loosely bounded and filed
18 downstairs. I have a three-ring binder. Would you
19 prefer the binder or loose?

20 **THE COURT:** Have you seen these?

21 **MR. BABB:** Your Honor, I have not. I've seen
22 those were initially filed with the motion.

23 **THE COURT:** Do you want to look at them and
24 tell me if there's any objections?

25 **MR. BABB:** Yes, Your Honor.

1 **MR. CROMER:** Your Honor, it would serve no
2 purpose for us to read these voluminous documents.
3 We're here to argue the issue irrespective of
4 whatever the memorandum contains or does not
5 contain.

6 **MR. BABB:** And note our objection that we just
7 saw this document and all these exhibits.

8 (Pause.)

9 **MR. MITCHELL:** Your Honor, there is a -- that
10 is on file downstairs as well.

11 **THE COURT:** Whether it's on file and whether
12 it's an exhibit are two different issues.

13 (Defendant's Exhibit Number 1, binder,
14 marked and admitted into evidence.)

15 **MS. WEISS:** Thank you, Your Honor. My name is
16 Pam Weiss. I'm one of seven defendants originally
17 named in this action. My husband and I are here
18 today to seek fees and sanctions against plaintiff's
19 attorneys pursuant to South Carolina Frivolous Civil
20 Proceedings Sanctions Act at 15-36-10, Rule 11.

21 While we've been before this Court before,
22 today is our very first time to present the -- to
23 have the opportunity to make our case for sanctions
24 and fees and we appreciate the opportunity to
25 present our case. To do this, we presented both you

1 and opposing counsel a copy of our memorandum and
2 exhibits. We've obviously taken these violations
3 very seriously and have spent a fair amount of time
4 developing this case. So if Your Honor will indulge
5 us, we will now highlight key points in what you
6 have before you.

7 Beginning on page three and continuing to the
8 top of page nine in your memorandum, we provide a
9 timeline of what took place before this lawsuit was
10 filed. What's noteworthy about all these facts is
11 that they were available to the plaintiff's attorney
12 prior to filing this lawsuit.

13 In a nutshell, in 2009, parents of adolescent
14 girls who played soccer in a public school system
15 brought concerns to the school administration about
16 what they felt was a pattern of inappropriate
17 behavior by the soccer coach toward their daughters
18 over many years and asked them to investigate.

19 After parents were rebuffed by the coach, they
20 brought concerns to the plaintiff's immediate
21 supervisors, which directly followed school district
22 policies regarding how to report issues of
23 harassment as included in paragraph 14, reference to
24 the memorandum. There was absolutely nothing
25 defamatory in any of the concerns raised.

1 When parents' concerns were dismissed by
2 administrators, they brought concern to the next
3 appropriate channel in the school, the District
4 Human Resources Director and Title IX Coordinator.
5 Exhibit 5 includes several of these parent letters
6 and e-mails describing additional concerns about the
7 plaintiff.

8 Weeks later they showed, in paragraph 24 of the
9 memorandum, the District e-mail to say it had
10 concluded its investigation, but would not discuss
11 it with parents. However, none of the parents who
12 raised concerns nor any of their daughters or any of
13 the soccer players were ever contacted or
14 interviewed by anyone in the school district. In
15 addition, a written report about the results of the
16 investigation was never issued to parents as
17 required by the District's own guidelines per
18 Exhibit 4.

19 Defendants then took the next -- took concerns
20 to the next appropriate level, Your Honor, which is
21 the U.S. Office of Civil Rights or the OCR. As
22 paragraph 28 of the memorandum shows, the OCR
23 encouraged parents to file a complaint for possible
24 Title IX violations. I would note this was the
25 first time that parents' concerns were ever labeled

1 was well known before the lawsuit was filed.

2 If the plaintiff's attorney had done a proper
3 investigation of facts, he would have also seen that
4 in late August of 2009, more than three months
5 before filing the lawsuit, the plaintiff admitted
6 that many of the previous concerns raised by
7 concerns [sic] had, in fact, occurred, as seen in
8 Exhibit 28. The only thing in question was whether
9 parents acted reasonably and properly and had a
10 constitutional right to bring concerns to the
11 District personnel on behalf of their adolescent
12 daughters.

13 The plaintiff and his attorney also claimed in
14 their lawsuit that there was a, quote, a bullet --
15 bullet point list of complaints accusing the
16 plaintiff of sexual harassment toward players,
17 unprofessional activities, unfitness to serve as a
18 high school coach.

19 Your Honor, nowhere in the 33 concerns included
20 in Exhibit 3 do the words complaints, charges,
21 sexual harassment, unprofessional activities or
22 unfitness to serve appear. The plaintiff himself
23 even later admitted this during discovery as shown
24 in Exhibit 25.

25 Despite this, the plaintiff still claimed that

1 charges by parents carried an insinuation that the
2 plaintiff was guilty of sexual harassment. A simple
3 inquiry would have revealed that none of the parties
4 involved shared this perspective. In fact, the
5 principal, athletic director and the HR director all
6 told the OCR that they never thought of any of the
7 concerns raised by parents as rising to the level of
8 sexual harassment, thus never even thought to
9 investigate concerns of this light.

10 Even the plaintiff, when asked about the nature
11 of concerns raised by the parents, told the OCR
12 there was nothing in his mind that was sexual
13 harassment in nature. Yet, the lawsuit went on to
14 say that notwithstanding this fact, defendants have
15 pursued these false and frivolous charges, filing
16 complaints with the Office of Civil Rights and
17 continued to scheme, meet to conspire to have the
18 plaintiff removed from his position.

19 Your Honor, first, an attorney should know that
20 it is illegal to harass or intimidate anyone from
21 filing a Title IX complaint with the OCR. Second,
22 if the plaintiff's attorney had done due diligence
23 investigating facts, he would have discovered that
24 parents were specifically told by the District and
25 OCR that they could not ask for the coach's removal.

1 parents everywhere.

2 For these reasons, Your Honor, the defendants
3 respectfully request that this Honorable Court
4 consider the facts and grant defendants request for
5 sanctions and award actual and punitive damages,
6 including all reasonable fees and court costs
7 incurred for defending these frivolous claims for
8 the willful and deliberate conduct and abuse of the
9 legal process. Defendants also request any other
10 sanctions or fees as the Honorable Court considers
11 equitable, proper and justified. Thank you, Your
12 Honor.

13 THE COURT: Thank you, sir.

14 Do you know how long your argument will take?

15 MR. CROMER: It won't be very long. It won't
16 be anything like theirs, Judge Keesley.

17 THE COURT: Well, I need to take -- let's take
18 a five minute break and then I'll get to you.

19 MR. CROMER: Thank you, Judge.

20 THE COURT: We'll be in recess for five
21 minutes.

22 (Brief recess.)

23 THE COURT: All right. Mr. Cromer, I think
24 we're to you now.

25 MR. CROMER: Thank you, Your Honor. May it

1 please the Court.

2 Let me start out by saying that I want to make
3 it very clear that these defendants had a right,
4 every right to make a complaint to the school
5 district if they, in good faith, felt that there was
6 something going on that was meritorious of that.
7 They further had a good faith right not just under
8 the First Amendment, but as citizens to pursue it on
9 to the OCR if that's what they wanted to do in this
10 case. And no one faults them for that, not even the
11 plaintiff -- not even the plaintiff in this case,
12 Coach Mauldin.

13 The OCR determination played very little, if
14 any, part in this lawsuit itself.

15 Let me go back, Judge Keesley, and very briefly
16 -- of course, Mr. Babb presented all the motions
17 that I believe you heard a number of, so you are
18 familiar with the procedural history of this case,
19 but let me go back to the chronology that my -- that
20 the defendants referred to.

21 Our complaint relates to the reputation and
22 history of this good man who is sitting here, Coach
23 Mauldin, who, not for 10 or 20 or 30, but actually
24 for 40 years has spent his professional lifetime in
25 high school athletics, particularly girls and boys

1 of soccer. He has coached within the school
2 district where he was as head soccer coach since
3 2002. He had worked in that district for a decade
4 earlier in other positions. He had coached in other
5 places. He had never, in the history of the whole
6 time that he was there, ever had any complaint made
7 against him of this kind or nature.

8 Now, in light of the Penn State things that are
9 taking place, I think that everybody in this room
10 can appreciate the seriousness when an educator and
11 a coach is accused of sexual harassment.

12 The lawsuit that we brought in this case
13 against these five defendants did not begin when
14 they filed a charge with the OCR, did not begin --
15 or was not the purpose to try to chill whatever
16 rights they had under the First Amendment. They
17 have those rights and we concede that they have
18 those rights. But it was brought because of the
19 history and the problem that he was having long
20 before this case was reported to the OCR or even
21 before he was called into the school board about it.

22 It goes back to the summer of 2009 when there
23 was a -- as the complaint alleges and as his
24 affidavit, which the Court sees which gives the
25 chronology of the facts -- when a group of parents

1 for one reason or another saw fit to go ahead and
2 try to get him removed as soccer coach at Irmo
3 because, plainly and simply, they wanted him gone.
4 They didn't like their girls playing for him.

5 And the history with Dr. Mitchell and Ms. Weiss
6 goes back years before that. They'd had problems
7 with him. They didn't like him personally. That's
8 what it was all about.

9 And during that summer, it came to his
10 attention that there were letters being circulated,
11 calls being made, e-mails being exchanged, as one of
12 the affidavits that we submitted indicates from a
13 lady named Frick, suggesting all these things that
14 he had done wrong. Now, he wasn't absolutely sure
15 at that point in time what those things were, but he
16 had a feeling, based upon what was being told to
17 him, that some of them involved sexual harassment.

18 When he was called into the school district to
19 answer to the principal and the HR director, to a
20 superintendent and the HR director about it, then he
21 was given a list of things that had been talked
22 about. Several of those items involve sexual
23 harassment and I'm going to talk about them in a
24 little bit of detail. And there's no reason for him
25 to have thought at that time that that was not the

1 subject of conversation that was going around.

2 Two things in particular that are on that list:

3 The first is some suggestion that one of the girls,
4 somebody's daughter, wore a pair of pants playing
5 soccer which you could see through and see something
6 about the underpants that were underneath there.

7 The statement was made that he made statements about
8 that. He never made statements about that. That's
9 his statement. If that's their allegation, that is
10 not a statement of fact. That's something that's
11 totally contradicted by him and has always been
12 contradicted to him.

13 Another thing was a suggestion that when the
14 girls were coming in to get dressed in their soccer
15 clothes, that he would come and bring things to them
16 pretextually to show them what the schedule was and
17 all just to watch them undress. Now, that upset him
18 terribly because that never happened either and he
19 was irate about that.

20 And when he went back to the -- when he was
21 called into the school board, he explained all of
22 these things, including other charges which were
23 semi-sexual in nature, but perhaps other -- just
24 frivolous charges saying that he was condoning some
25 type of a terror campaign toward new girls that were

1 coming on the team, that he was doing things that
2 were totally inappropriate for a soccer coach to do.
3 He went over each of those things with the school
4 district.

5 They performed their investigation. Whether
6 they performed a good investigation, a bad
7 investigation or whatever investigation they
8 performed, he had no control over and the result was
9 that they cleared him.

10 Now, the parents saw fit to go on to the OCR to
11 file charges with them, but that did not occur until
12 October of 2009. And the OCR investigated. They
13 made -- and in the OCR letter, they specifically
14 stated that it was sexual harassment was one of the
15 charges that was being made against him. That's in
16 the OCR letter that's in evidence that the Court
17 has. And they pursued that.

18 And the OCR made an investigation and to some
19 -- and then they came back and they said, We can't
20 find anything involving sexual harassment with this
21 man, but we think the investigation by the school
22 board should have taken a different tact. They
23 should not have -- they ought to have done more,
24 maybe they should have talked to him directly, maybe
25 they shouldn't have given him a list of complaints

1 or whatever should have been done differently. But
2 the bottom line, Judge Keesley, is they also found
3 no evidence of sexual harassment on the part of this
4 coach.

5 Here was a man, who is certainly not my age,
6 who has some years left after serving about 40 years
7 as a soccer coach, may be approaching the end of his
8 career, wanting to coach, but loving, if you let me
9 use that term, by people that -- whose children he
10 coached, being accused in a way of being a sexual
11 predator to the point where he's -- it's going to
12 ruin his career.

13 Yes, he was able to resign, but the District
14 didn't make him resign. He was not fired from his
15 job, but he chose to leave the hostile environment
16 in which he found himself with these defendants and
17 others and go somewhere else to try to teach and
18 he's trying to do it, but it's left a scar on him.

19 The defendants are right. We're here today to
20 talk about sanctions and talk about what a
21 reasonable attorney or attorneys would do when they
22 receive the information that we received that coach
23 -- that this good man gave us. And I'll say
24 outright that he answered every question we asked
25 him and he acted in good faith all the way through

1 the case.

2 The question remains did we use -- were we
3 reasonable in going ahead and bringing that lawsuit?
4 Yes, we were because we had an abiding conviction
5 that he had been done wrong, his reputation had been
6 injured because of the errant and, if you excuse the
7 term, frivolous actions on the part of these parents
8 that they took.

9 We sued seven of the parents. Some of them
10 were represented by lawyers, some were not. Four of
11 them settled the case pretty early on. And I'm not
12 going to -- and the amount of that settlement should
13 be confidential, but it doesn't matter if it was not
14 a substantial amount of money, it put an end to the
15 controversy with those defendants. The fifth one
16 did not settle with us, but we went ahead and
17 swapped releases with that defendant just to put an
18 end to it.

19 When it became evident -- and, Judge Keesley,
20 you were there to hear all these arguments -- the
21 discovery role that we have in this case is not
22 silent. There was all kind of arguments about
23 interrogatories, production requests. And it was
24 complicated by the fact that we have people on the
25 other side who are laymen who are not lawyers, but

1 that's not unusual and they have every right to
2 represent themselves, but we had discovery problems.

3 And we also scheduled depositions with certain
4 of the defendants. Those depositions were postponed
5 for the purpose of working out a settlement and
6 getting those defendants out of the case and they
7 did. And there were motions to compel which we had
8 to file, which I think the Court heard earlier on
9 it, dealing with the evidentiary phase of this case.

10 It's plain to me that there is no complaint
11 being made by OCR or by the school district or
12 indeed by the other parents that we're trying to
13 stifle their First Amendment rights or to keep them
14 in some way from pursuing whatever they wanted to
15 pursue indeed. It certainly did not have -- did not
16 have that result.

17 This lawsuit was brought for the reason that
18 I've always brought lawsuits and I presume every
19 other lawyer, including yourself when you practiced,
20 Your Honor, when you felt honestly that your client
21 had been damaged by what took place and that there
22 was a cause of action that you wanted to seek to try
23 to bring about justice.

24 Now, there came a time months after the lawsuit
25 was brought that it became obvious to us and obvious

1 to the coach that it's no use to spend all kind of
2 money on depositions, no use to go through this,
3 let's turn the page, let's go on with life. And we
4 did do that.

5 If the Court recalls the hearing that Mr. Babb
6 came over on some -- the judgment, we agreed to drop
7 the case and be done with it, not because we didn't
8 think we had any merit to the case because we
9 believe sitting here today that we could produce
10 evidence, and it's in the affidavits that these
11 people acted without thinking about it themselves
12 because they'd stated things and they did things
13 which ruined or was attempting to ruin this man's
14 reputation, certainly to remove him from his job.
15 We still believe that as we stand here today before
16 you.

17 But we decided to drop this case because it's
18 one of many cases that all of us run into where it
19 gets down into a tar baby case. And it's one that
20 you really need to put an end to it and we tried to
21 and we did. And we've offered that. And this
22 motion for sanctions was not made until October. It
23 wasn't made at some earlier time in the game.

24 I respect with all my heart and with all that I
25 can tell you, the positions that these defendants

1 have espoused. And anybody that brings a frivolous
2 lawsuit for the preface of slowing down some or
3 taking away somebody's First Amendment rights, every
4 case that they cited and everything they said is
5 right. And in my career and my background, I've
6 done that a few times. This is not such a case.

7 We deserve the same consideration that they're
8 talking about. Clients who have been wronged
9 deserve the same consideration. They should not be
10 chilled and deterred from filing defamation cases or
11 any other kind of cases that they have before.
12 reports are made which may be claimed to insulate
13 them from defamatory actions. They should not be
14 chilled and deterred from doing that.

15 I hate it that we had to agree to the summary
16 judgment, but it was the right thing for my client.
17 It also was the right thing for the defendants in
18 this case. And this is a case where no sanctions
19 should be imposed, Your Honor.

20 **THE COURT:** Thank you, sir.

21 Any response?

22 **MS. WEISS:** Yes, Your Honor.

23 I appreciate that the plaintiff loved his
24 career and still loves his career. There are
25 countless accounts of players who also loved playing

1 Opposing counsel also continually talks about
2 the sexual harassment. This isn't about sexual
3 harassment. This is parents bringing legitimate
4 concerns, truthful concerns to school
5 administrators, which is their right, their
6 privilege, you know, First Amendment right, and
7 asking them to investigate, period.

8 Even the school district didn't even recognize
9 the concerns of sexual harassment and neither did
10 the plaintiff and neither did the -- did the
11 defendants bringing concerns. They just brought
12 concerns, period, 33 concerns -- you've seen some of
13 them, there are many others -- and asked
14 investigators -- the school district to please just
15 look into them and see if they consider this
16 appropriate behavior by a coach with adolescent
17 girls.

18 You know, whether the school district accepted
19 them or whether the plaintiff, in his own words, had
20 some other alternative explanation for why he did
21 certain things -- and page 23 of your memorandum
22 goes into great detail to describe how the coach, in
23 his own words, said, you know, I feel that it's my
24 responsibility as the girl's head coach to correct
25 inappropriate behavior when it occurs. I feel it's

1 If the Office of Civil Rights determined that
2 there might be Title IX violations, that had nothing
3 to do with parents bringing concerns originally and,
4 you know, of any validation for what -- if there was
5 any inappropriate thing done by parents bringing
6 these concerns originally.

7 So this is, again, not about sexual harassment,
8 you know, this is about parents bringing legitimate,
9 truthful concerns, which they have every right to
10 do.

11 He was -- parents never asked for his removal,
12 that's stated throughout the evidence provided. In
13 fact, the OCR told them, you're not even allowed to
14 ask for the coach's removal as part of their
15 negotiations.

16 The only reason the coach is gone is because he
17 resigned. You know, parents have no say over that,
18 no control over his contract and so a claim of
19 interference of contract is just ridiculous. These
20 are -- this is their lawsuit and what they claimed
21 in their documentation. So if they can't prove
22 that, then we have a right, defendants do, to be
23 present to identify that there might not have been a
24 -- that this was an abuse of process and due
25 diligence was not done.

1 Honor. I appreciate Mr. Cromer's involvement. It's
2 a -- it is a long and confusing case. And I think
3 indeed he's confused about a couple of items with
4 respect to the facts in the case.

5 He suggested that the plaintiff had been head
6 coach for Irmo High School since 2002 and that's
7 simply not true. He was a head coach at some point,
8 but he was an assistant coach prior to that with the
9 program. Suggesting that there were no complaints
10 of this nature in 2004, indeed there was an issue at
11 Leaphart Elementary School that is in his personnel
12 file, was available prior to the filing of this
13 claim.

14 He suggested that the plaintiff had
15 contradicted a number of the concerns that we had
16 brought forward. And what we would suggest, that
17 reading any of the affidavits of the players or
18 their parents would indeed, and from the OCR report,
19 would suggest that there appeared to be two
20 interpretations of what went on. And it seems to
21 support the suggestion that plaintiff's attorney did
22 not go beyond what his client reported to him. And
23 in a case of this level of severity in terms of the
24 outcoming consequences, there has to be some
25 responsibility of the attorney to go beyond what the

Subject: Re: Irmo High School Girls Soccer
Date: Monday, April 20, 2009 9:45 PM
From: Mike Mauldin <mmauldin@lex5.k12.sc.us>
To: Murray Mitchell <mmitchel@mailbox.sc.edu>

I will not answer any thing from you in the future. It appears that you are very sarcastic individual. I will not hide behind a computer screen and make the comments about your program as you did mine. This will not be up to discussion with you or any other parent. Your name was never mentioned. Your daughter ask me if you were the one. I said no at first but she already knew because you expressed those negative ideas to her in advance. I really do not appreciate the way you do things. It not fair to the program or the girls. you were not brought into the conversation. the conversation was brought to me by you.

Mike

>>> Murray Mitchell 04/20/09 7:25 PM >>>

Dear Coach Mauldin:

I understand that you thought talking to my daughter and other girls on the team, in response to my email, was a better decision than speaking to me. Apparently, your written response to my observation was sarcastic. Sarcasm does not come through clearly on email; I'm sorry that I didn't pick that up.

However, I really wish that you would direct your responses and observations to me, leaving the children out of this.

I am more than happy to set up a time to meet and talk face to face if you think that would be more satisfactory.

I am looking forward to the meeting on Wednesday evening.

Sincerely,

Murray.

—
Murray F. Mitchell, Ph.D.
Associate Professor and Graduate Director
Department of Physical Education and Athletic Training
University of South Carolina

(803) 777-3815 (voice)

(803) 777-6250 (fax)

mmitchel@mailbox.sc.edu <<http://webmail.lex5.k12.sc.us/gw/mmitchel@mailbox.sc.edu>>

From: Mike Mauldin <mmauldin@lex5.k12.sc.us <<http://webmail.lex5.k12.sc.us/gw/mmauldin@lex5.k12.sc.us>> >

Date: Sun, 19 Apr 2009 22:44:18 -0400

To: Murray Mitchell <mmitchel@mailbox.sc.edu <<http://webmail.lex5.k12.sc.us/gw/mmitchel@mailbox.sc.edu>> >

Subject: Re: Irmo High School Girls Soccer

Thanks for your observation. I appreciate that.
Mike

>>> Murray Mitchell 04/19/09 8:39 PM >>>
Dear Coach Mauldin:

was only able to catch the second half of the game against Dutch Fork on Saturday night because of other soccer commitments at State Cup being played up at the BB&T complex, but, WOW, what a difference! I saw a cohesive group of girls, being positive with one another, supporting each other (emotionally and strategically in the game), having fun, and playing hard. I have seen other games this season, home and away. This was the first game this season where I saw the Irmo girls playing together, not getting on each other, but rather being encouraging, positive and actually happy and smiling after the game. Clearly, the missing ingredient has not been about winning and losing. It is about a team coming together as a unit.

I fully support the notion that rookies have a responsibility to earn their way on a team; gathering the balls and cones, etc., FOR THE COACH after practice is a reasonable task. Having the younger players serve as "slaves" to the returners and seniors is no way to build any sense of team unity. Fetching water and other equipment for a senior player "on demand" simply builds a sense of entitlement that is not earned through playing ability or birth. It is feudal and undermines a sense of team.

It would, in my humble opinion, improve team morale immeasurably to rein in the upper class students with respect to their treatment of that core of younger players you have. Allowing

the upper class students to even approach breaking the spirit of the younger players is simply a shame. I would hate for the Irmo program to lose any of those players to the game because of mistreatment borne out of some misguided belief that they are "better" than their younger teammates. Eliminating the negative talk and bickering that goes on during matches also needs to be addressed.

I hope this doesn't sound like trying to second guess your coaching. I am not trying to make any comments about playing time, positions, or game strategy. I am talking about what had to be obvious to you and Coach Armstrong as you reflect on your players across matches. I hope what you are reading is simply reinforcing your own observations. In spite of the challenging match, and a close loss, the girls were a unit and enjoyed the match. I don't mean to suggest that they were satisfied with a loss. Quite the contrary, but, I believe they were happy with their effort under the circumstances. That was not the same group of players I have seen coming off the field countless other times, even after winning games. There has been no visible sense of joy on that team.

I am uncertain as to whether or not the upper class players know either how vicious their actions are or how hurtful, but, I do believe they need guidance in learning more appropriate behavior toward their teammates. I believe it is more important to them to exert their "rights" as senior players than it is to build any sense of team unity. They do not appear to understand how much better the whole team can be if they support and mentor all of their teammates.

I hope you are able to offer that guidance. What I am describing is clearly out of reach of the captains.

Best of luck with the remainder of the season.

Murray.

—
Murray F. Mitchell, Ph.D.

Associate Professor and Graduate Director

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<http://webmail.lex5.k12.sc.us/gw/mmitchel@mailbox.sc.edu>

Subject: Re: Irmo High School Girls Soccer
Date: Monday, April 20, 2009 9:59 PM
From: Mike Mauldin <mmauldin@lex5.k12.sc.us>
To: Murray Mitchell <mmitchel@mailbox.sc.edu>

Oh! one additional thing. My response was not sarcastic but the truth.

>>> Murray Mitchell 04/20/09 7:25 PM >>>

Dear Coach Mauldin:

I understand that you thought talking to my daughter and other girls on the team, in response to my email, was a better decision than speaking to me. Apparently, your written response to my observation was sarcastic. Sarcasm does not come through clearly on email; I'm sorry that I didn't pick that up.

However, I really wish that you would direct your responses and observations to me, leaving the children out of this.

I am more than happy to set up a time to meet and talk face to face if you think that would be more satisfactory.

I am looking forward to the meeting on Wednesday evening.

Sincerely,

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To: Mr. Eddie Walker, Principal
Mr. Robbert Hanna, Athletic Director
Irmo High School
From: Pam Weiss (422-0469)
Murray Mitchell (422-8843)
Date: June 11, 2009

We are writing to ask for your assistance in dealing with Coach Mike Mauldin and the Irmo Girls Varsity soccer program. We have tried to initiate a conversation with Coach Mauldin through email and were told that "I will not answer any thing [sic] from you in the future" and "This will not be up to discussion with you or any other parent." (email 4.20.09).

Our experience with Coach Mauldin is not unique. Days after the email described above, he called a mandatory parent (only) meeting in which he scolded and reprimanded the parents and told us that we were not "permitted" to say a word during the meeting, and that in the future, we were not allowed to approach him with any concerns about the program (comparing himself to Steve Spurrier and Darrin Horn). Our job was to "support the soccer program"—period.

In contrast, acceptable behavior from students appears to have included hazing of younger students, vandalizing the homes of rookie players as a part of the initiation to the team, and inconsistent consequences for similar misbehaviors. One insubordinate player was dismissed from the team this year and has been told that she may not even tryout for the team next year. Another player cussed out the coach and the program within earshot of the rest of the team (dropping the "F-bomb" regularly), and went from bench to starting and playing the majority of all remaining games.

Over the past few years, several families have complained to Coach Mauldin about inappropriate behavior to their children and themselves. This has ranged from inappropriate comments to students and about other players, texting to students (both during and after school hours), condoning hazing of "rookies" and vandalism, to inappropriate use of his position as a soccer coach during classroom time to intimidate and embarrass kids, intentionally inflict emotional distress, disparage students and their parents' reputation among students and players. His response has been to retaliate for any complaints by limiting or preventing playing time during future games.

While no one incident may stand alone as a dismissible action, together, there is a long and consistent record of conduct unbecoming of a coach or teacher. We can't believe that this is what is considered appropriate or acceptable behavior from someone who serves as a role model to students at Irmo High School. We feel there is a legitimate concern for the emotional health and development of players on this team. We do not believe this pattern of behavior and misconduct is representative of the Irmo Athletic Program and we want to make sure you are aware of what has happened for the past year and beyond.

There are other parents and students who are willing to come forward to express their own concerns over this situation. They have outlined the following (general) pattern of inappropriate incidents and actions (please see attached) - which represent only the handful of events that we have documented.

We will contact your office in the next few days to set up an appointment to speak personally about this situation in the hope that we can find a positive solution.

Concerns Regarding Inappropriate Behavior by Coach Mike Mauldin

- Repeatedly called students up to his desk during study hall, in front of others, to discuss their soccer behavior or that of other players on the team, and then told them, "If you repeat this, I will deny it."
- Texted kids on their cell phones during the school day about a wide range of issues—some soccer, and some personal.
- Accused a student – in front of others – of "losing the game" for the team because of her negative attitude and he was sick of it (although the player sat on the bench all season due to injury); The player was reduced to tears during school hours.
- Called an adolescent girl up to his desk in class to identify that in a game when the girls were wearing (see through) white shorts, he saw her "numbered underwear," he then repeated the story weeks later to remind her not to wear the "numbered underwear" at a next game.
- Has repeatedly called students up in class (in front of others) to ask, "Should so & so make the team or not?" or to say, "So & so will not make the team" for this reason or that (even before tryouts took place).
- Asked one student if (about two siblings in the program), which one was more "mature" than the other, and as a result, who should make the varsity team next year.
- Called a student up in study hall to identify (in front of others) that a certain parent had emailed him about activities on the team and accusing that parent of being a "coward" for hiding behind his computer (knowing perfectly well that the student knew it was her own father, and indeed, supported his actions). Later, he told this same child that it was her mom who had put an end to the years of "rookie" day (hazing) activities, as if that was a bad thing.
- Called several first-year players up to his desk to ask them, in front of others, "Do you feel like you are *treated like a slave* by upper classman?" placing them in an awkward position.
- Has discussed the "punishment" of certain players in front of others on the team, including whether they would be dismissed from school, or, ever be permitted to play soccer again based on contracts they had signed with him.
- Told one student, as she entered class that day in front of everyone in the class, that she made the Palmetto (2nd level) CUFC United "club" team– not the first level team as she had hoped - even though the official team list was not to be posted online until the next day (and even then, it was to be listed by player "number" to protect privacy of names). He then told her the name of a girl who *did* make the first-level team. This reduced the student to tears and caused her to be upset the rest of the day. This was not only confidential information, of which he was privy to only because he helped with tryouts, but also served no useful purpose other than hurting the child's feelings.
- Said, "I'm down with that," when a girl in his class said she was going to make out with her boyfriend.
- Routinely asked kids about their relationships with their boyfriends.
- One day during school, he asked a player if she had lost weight and she said, "No." He then said, "Well you look good." It was in a tone that made her feel very uncomfortable.
- He told other players that one individual would never be a captain of the team because she was not aggressive in practice. This was repeated to her later.

- Would not put game cancellations over the announcements at school. Instead, he said he would “text” the team captains and the captains were supposed to text the rest of the team. One of the captains checked her phone during school to see if the game was cancelled. She was caught by a teacher and had the phone taken away. Coach Mauldin expected students to use their phone during school when he works at the school and knows it is against the rules. Later, that player’s parents told him not to text her. He then stopped texting the captains, but continued to text the rest of the team and expected the captains of the team to find out what is going on with the team.
- Has repeatedly demonstrated inconsistent actions and favoritism about what behavior by players/parents was acceptable, permissible, and at times, rewarded. In one recent example, a player told the coach to “f*** off” in front of other players and marched down to tell the rest of the team she was quitting; showed obvious signs of disrespecting the coach; walked off the field before one game officially ended due to lack of playing time; and her parent later complained to the coach about her child’s lack of playing time. The coach responded by allowing that same student to start the next game, and she played most of each of the games for the rest of the season.
- Similar behavior by another player who was also accused of disrespecting the coach was punished by throwing the student off the team, insisting that she go into anger management and see a therapist, and making her sign a contract impacting whether she could ever play again in the district. That player was never allowed to return.
- Allowing (and certainly not discouraging or reprimanding) upper classman for putting down and mistreating younger players during practices and in games on a repeated basis; this regularly affected team morale and spirit.
- Permitting upper classman to make “rookies” fetch them water during practices, put soccer balls at their feet, not drink water until *they* got their water first during actual games, and basically treating younger players as “second-class” citizens.
- During one game, he told two players sitting on the bench that a particular senior should play “right bench” or “left bench” and not be starting, and that he was glad that he only had another month of this girl being on the team before he got rid of her. He then told these two players that if they told anyone then he would deny it.
- For years, allowing and encouraging upper classman to have a “Rookie Day” in which new players had to do whatever the upper classman requested (dress up in outlandish clothes, paint their faces, dye their hair, etc.) and generally suffer whatever embarrassing consequences the upper classman requested throughout the school day, in front of other classmates) – all for “the spirit” of the team. When parents complained about the procedure and asked that it be stopped, they were later ridiculed by the coach for doing so.
- In a similar fashion, Coach Mauldin allowed and encouraged a tradition in which only the upper classman would have a sleepover and then that night, go out and TP, egg, or otherwise mark-up the property, cars, houses, mailboxes, etc. of the “rookies” (much to their parents’ dismay). This was a known and accepted practice. When some parents put an end to this practice one year, they were also criticized by the coach (to certain players) for doing so.
- Interestingly, the tables were turned in a recent incident this spring in which some kids on the coach’s club and varsity team apparently thought it would be “fun” to TP, egg, or write on the coach’s car, mailbox, etc. Only now, this same coach who condoned such behavior of his players in past years, threatened to bring criminal charges against the kids involved, and they were

suspended for a week from school. This would also seem to go to what was "modeled" for them as acceptable behavior.

- One day at practice, Coach Mauldin told the players not to do stupid things. One player then said, "Oh yea, like we're going to get naked." Coach Mauldin then responded, "I'm down with that."
- During practice Coach Mauldin touched a girl's shoulder. The player said, "Please don't touch my shoulder." He continued to do so even after she asked him 3 or 4 more times to stop.
- Before the season even started, back in September and October, the Coach would approach kids about who was going to make the team. For example, he would discuss player performance with other players disparaging their performance. He would then tell other returning players who would not make the team before tryouts even took place.
- After a game with Chapin one year in which the team lost, the Coach yelled at two of the team captains for "not doing their job of controlling the team," even though he never told them to do anything like that. When they responded that it was not their responsibility to run the team, he broke down and admitted that he was a terrible coach.
- He continually treated all of the players differently and held them to different standards. For example, school policy says that you must have a note signed by a parent not to ride the bus home from away games. These notes had to be turned in before they left for the game. Some players were allowed to turn in the permission slip later and some of the players were not. This created team dissention among some players.
- He would not let some of the players come late to practice because they went for tutoring after school.
- Texting players before school started and in the evenings, on a wide range of topics.
- At the Rockhill tournament during one season in which the players stayed overnight at a hotel, Coach Mauldin was in his room with two players and started talking about another player and her boyfriend. He was saying things such as they are not right for each other and other inappropriate things, when this player overheard the conversation in the hallway. The player was deeply hurt and cried while other players tried to console her.
- Would routinely ask Player A if Player B had problems or bad attitudes. If he was told they did, he would go to Player B and tell her that Player A said you have a problem. Such gossip and mentality seems inappropriate for a teacher/coach.
- Recently called a mandatory parent meeting in which parents were told they would not be allowed to say a word. He then proceeded to scold, reprimand, and lecture the parents for coming to him about their children or about the team, as if he didn't know what he was doing after 31 years as teacher. He accused one parent of being cowardly for hiding behind his computer. He compared himself to Coach Steve Spurrier and Darrin Horn at USC, asking if parents would dare to tell *them* how to do their job. He then said he would accept no further comments from parents for the remainder of the year, and their sole responsibility was to support the program to their kids and never say a bad word about it.

June 16, 2009

Mr. Eddie Walker
Irmo High School

Cc: Dr. Angela Bain
Re: Soccer Coach Meeting Follow-up

Dear Principal Walker,

I have presented to you and Coach Hanna a list of "inappropriate contacts" that Coach Mauldin has made to both of my daughters that attended Irmo High School. These are actions that my daughters were directly involved in or witnessed in Study Hall or with the Girls' Soccer Team. I am very disappointed in your response to what I believe is a consistent pattern of inappropriate behavior by Coach Mauldin over the past five years. These actions are shared with many parents on the team...some who have already contacted you and some who won't because they are scared of the retribution that Coach Mauldin will have with their children next year.

In summary, these complaints are not about his technical or coaching techniques, but rather of a personal nature, which should not be a part of the soccer experience of a team at Irmo High School. Your response, as I understand it, was that you met with him and told him not to repeat some of these complaints...and that he denied the rest of the complaints.

As a parent, I have to place my trust in you and the teachers/coaches you hire to responsibly teach and watch over my children when they are at Irmo High School and its activities. The complaints I have made show a pattern of irresponsible and disturbing actions by Coach Mauldin showing a lack of responsibility and maturity for someone I must trust my children with during school activities. The fact that you so easily dismissed these allegations is even more disturbing. It's ironic that he denies saying to my child, "If you repeat this to anyone, I will deny it." An adult asking a child to keep secrets from their parents is in an indicator that things are going on that should not.

The news is filled with terrible acts of violence committed by people whose friends and neighbors can't believe that person did it. Prisons are full of people who deny they are guilty, yet you so easily dismiss the actions that my children insist are true. This is not a one-time incident that I believe can be fixed; it is a continuing pattern that needs to be properly addressed.

It is my intention to fully examine all of the allegations on my list until I am convinced my children are safe at your school. Per your suggestion I am forwarding this letter to the school district office. I would suggest a conference with you, Coach Mauldin, and a representative from the District Office, such as Dr. Bain. While it is not my business to discuss other student's problems, there are several other families that are willing to come forward and discuss similar problems as I have with Coach Mauldin. In discussion with them, they would appreciate the same forum to discuss the issues.

I can be contacted my email or my cell phone at your convenience.

Sincerely,

Karl Werdunn
920-8837
kwerdunn@sc.rr.com

Dear Mr. Walker,

June 17, 2009

I am writing out of concern for the inappropriate behavior of the varsity girls' soccer coach, Mike Mauldin. Because I have dealt with Coach Mauldin's vindictiveness in the past, I am reluctant to write this letter. I feel sure that he will take this out on my daughter, if she decides to play soccer again next year, by not playing her, treating her badly, or in some other way. I have seen him do that to her and other girls during the soccer season. I also experienced it two years ago, when Mr. Mauldin coached my older daughter.

I have had a difficult time reasoning why more parents have not complained about Coach Mauldin. Then it dawned on me that he only began acting as head coach of a girls' team last year. Prior to that, he had Heather Frederick leading the girls' team, and I believe he coached boys' teams before that. I do not think Coach Mauldin serves as a positive role model for a group of teen-aged girls.

My daughter recently tried out for a club soccer team and had her sights set on making the highest team, the "elite." The rosters were to be posted on the web on a Wednesday afternoon. She was anxiously awaiting to look at the list; however, the day before the list was posted, Coach Mauldin, who participates as a coach in that club, announced to her as she walked into his room at school, in front of all the other students, that she did not make the elite team, she made the "Palmetto" team, which was the lower level of the two teams. She was completely taken off guard, not expecting any news until the following day and in the comfort of her own home. She was also embarrassed that Coach Mauldin announced the news in front of everyone in the classroom. Coach Mauldin's behavior was totally insensitive to my daughter's rights and also to her reaction.

Coach Mauldin has also demonstrated immaturity by talking negatively about other players on the team to my daughter, then telling her if she repeated what he said, he would deny he ever said it. Clearly, if he told her he would deny he ever said something, he knew it was inappropriate and bad behavior when he said it.

One day a student in Coach Mauldin's room alluded to going to have sex with her boyfriend, to which Coach Mauldin replied, "I'm down with that," in an encouraging manor. That is another totally inappropriate comment that I would prefer my 15 year old daughter not hear from a supposed role model.

At practice one day, one of the players got angry and told Coach Mauldin he was ruining the team. She used the F word several times, then stormed off the field and told him she was quitting. She did this in front of the team. That same player was at practice the next day and started every game after that incident; again, not a positive role modeling behavior. He allows the girls to curse on the field, he talks about players to other players, and he is retaliatory if anyone questions him about anything. Several other parents have told me they would like to write a letter, but chose not to because they fear his retribution against their girls next season.

My daughter gave up other sports to play soccer. She has enjoyed learning the game and becoming a better player. Throughout much of this past season, though, she was coming home from practice frustrated, discouraged, and disheartened. That was a difficult thing to watch. She is a strong, athletic leader who would be an asset to many sports teams, but she wishes to play soccer.

It seems ironic to me that the reasons some parents and players are choosing not to come forward are because of the very same inappropriate behaviors Coach Mauldin exhibits: vindictiveness and retaliation.

I hope you will consider my letter seriously. Coach Mauldin's actions have serious implications that are not beneficial for the emotional well-being of teenage girls. He is certainly not an appropriate role model for them.

Sincerely,

Eileen Korpita

WEISS, PAM

From: KORPITA, EILEEN
Sent: Thursday, July 16, 2009 9:08 AM
To: WEISS, PAM
Subject: FW: Letter Confirmation

I sent Eddie Walker an email to confirm he received my letter and this is what he sent me. He's obviously not getting the message.

-----Original Message-----

From: Eddie Walker [mailto:EWalker@lex5.k12.sc.us]
Sent: Thursday, July 16, 2009 6:15 AM
To: KORPITA, EILEEN
Subject: Re: Letter Confirmation

I received your letter, read your letter, and discussed it with Coach Mauldin. You did not request a response in your letter.

Thanks,
Eddie

>>> "KORPITA, EILEEN" <EILEENK@mailbox.sc.edu> 7/15/2009 5:35 pm >>>
Hello Mr. Walker,

I am the parent of an Irmo High School student and girls' varsity soccer player. I sent a letter to you a couple weeks ago. I am writing to confirm that you received the letter.

Thank you for your assistance.

Best regards,

Eileen Korpita

WEISS, PAM

From: MITCHELL, MURRAY
Sent: Thursday, June 25, 2009 10:51 PM
To: abain@lex5.k12.sc.us; handerso@lex5.k12.sc.us
Cc: WEISS, PAM
Subject: Concerns with Coach Mauldin Misconduct
Attachments: Irmo Letter.docx; Misconduct examples.docx

*Letter to
district office
(Hr + Superintendent)*

Dear Dr. Bain & Ms. Anderson:

We are writing to you to express our concerns with the behavior of Coach Mike Mauldin as head coach of the girls' varsity soccer program at Irmo High School. It is our understanding that you have heard from other parents and we wanted to assure you that you have not heard isolated complaints from knee-jerk reactions. For what it is worth, we are both employed in the education field at USC—Pam is an Assistant Dean in the School of Social Work, and Murray is a certified teacher and associate professor in the physical education teacher education program.

As additional context, our daughter has started and played most of all games for the past two years—this is not a concern about playing time or some sort of unfair treatment as a part of coaching philosophy. We believe decisions about who makes the team, who starts in games and who sits on the bench to be very subjective. All of these decisions are prone to the influence of any coach and her/his philosophy for the game and perceptions of player strengths and weaknesses in combinations that yield success in a team sport. Our concerns are of a different nature.

In the letter and attachment included with this email, we are sharing what we originally sent to Mr. Eddie Walker and Mr. Robert Hanna. We subsequently met with both of these gentlemen, and Coach Mauldin. Our impression at the conclusion of the meeting was that Mr. Walker and Mr. Hanna were not convinced that our concerns had merit.

Furthermore, Mr. Walker suggested that any additional concerns should be addressed to Coach Mauldin (a route that has not proven satisfactory or successful in the past) for any future problems that we might have.

As you will see in the attached correspondence, our concerns run deeper than simply chatting with the coach. If you would like to speak with either or both of us, contact information is below. We would welcome the opportunity to clarify or elaborate on any of the events described. Pam can be reached at 422-0469 (cell), and Murray can be reached at 422-8843 (cell).

Thank you for your consideration of our issues.

Sincerely,

Murray F. Mitchell, Ph.D.
Associate Professor and Graduate Director
Department of Physical Education and Athletic Training
University of South Carolina
(803) 777-3815 (voice)
(803) 777-6250 (fax)
mmitchel@mailbox.sc.edu

Pam Weiss
Assistant Dean for Research
College of Social Work, DeSaussure Bldg
University of South Carolina
(803) 576-6074 (work)
(803) 777-3498 (fax)
pweiss@mailbox.sc.edu

WEISS, PAM

From: MITCHELL, MURRAY
Sent: Thursday, July 30, 2009 3:35 PM
To: abain@lex5.k12.sc.us
Cc: WEISS, PAM
Subject: Two additional items Re: Irmo varsity girls soccer program

Dear Dr. Bain:

There are two other items that I did not mention earlier that contribute to the pattern of judgment issues for Coach Mauldin.

At the meeting with parents toward the end of the season, Coach Mauldin made a strong case for him being in charge of this program. At that meeting, one parent raised a concern about a T-shirt with a slogan printed on it for the team. The slogan was "It Happens." The concern raised at the time was that this seemed to be an inappropriate take on a popular bumper sticker, slogan or t-shirt that suggests "shit happens." Popularity of the phrase notwithstanding, this seemed like an inappropriate phrase to be endorsed even tacitly as appropriate attire to represent the school.

Coach Mauldin's retort was that this was a slogan designed and created by the girls.—to give them some sense of ownership and investment in decisions for the team. My concern is that his role is to provide guidance and leadership to help shape their decisions to be appropriate. I might add that there is an additional greater concern in the literature on the development of adolescents (particularly for females) of "learned helplessness." Put differently, endorsing a sense of resignation for how events will unfold beyond the control of the girls, is not a message I want my daughter to embrace. I want her to believe in her ability to contribute to her destiny. For what it is worth, this slogan was adapted from what I consider to be a far more appropriate message under their previous head coach (a female) that said "Make it Happen." The previous message was decidedly more positive and empowering.

The second issue was with respect to the selection of uniforms. In particular, the selection of thin white nylon shorts. Soccer is an outdoor sport where games will be played in the rain. These are adolescent girls, many of whom are beginning puberty with all accompanying physical and emotional changes. Thin white nylon shorts that will get wet and transparent are not a best choice—especially when so many alternative school color choices exist. The coach's response to an inquiry about the uniform was again to defer to the choice of the girls on the team.

I have a daughter on the team. Neither she nor any of her teammates (she did not contact ALL teammates) were consulted on this uniform choice, much less did they insist on the white uniform. I do not dispute the coach's claim that one or even more players contributed to this decision, although I have no knowledge of which players that might have been. My point again is that I would look to the coach to offer some guidance to the girls in their decision making process.

More important is the pattern represented by these two concerns. When confronted by a decision or action that may not be characterized as a "best practice," the coach does not take ownership or responsibility and embrace the need to be more attentive in the future. Instead, the pattern is to deflect responsibility to someone else; usually the team. These two issues—not me, the team. Previous hazing concerns—not me, the team (my house was "rolled" with toilet paper and my daughter was directed to wear outlandish clothes and make-up and ordered around to do silly things during the school day as a part of a hazing ritual)—not me, the team (also identified by the AD and principal as behaviors characteristic of several other school groups). Concerns about underwear worn by athletes—not me, a parent told me about it!

re is a pattern of behavior by this coach that consistently represents much less than best practice for current values in this district. I teach, coach and work with aspiring and practicing coaches and physical education teachers. There are many behaviors from hazing, through language used, to touching student athletes that were once tolerated and are no

longer appropriate. While there will remain parents and athletes who are accepting and even supportive of these types of behaviors, I believe the pattern is clearly beyond the bounds of what should be tolerated. None of what I have described approaches any of the subjective realm of soccer knowledge. My concerns have been with the educational side of responsibilities for coaches in this district.

I do not believe this is a popularity assault or contest. Concerns with the inappropriate behavior of any professional cannot be counted against the number of instances of appropriate behavior to be summed together in pursuit of a positive or negative balance. The medical maxim of "do no harm" applies to more than just physicians. Teachers, and coaches, are responsible for their behaviors with all of their students/athletes. "Malpractice" is unacceptable, regardless of how much appropriate practice is modeled; regardless of how many wins or losses are accumulated; and, regardless of how much support has been provided to selected student athletes.

I apologize for the length of this note. As time has gone by, my wife and I have felt powerless and exasperated with responses to concerns that have been voiced. We have not taken lightly the implications of coming forward with our concerns. I have tried to be clear in descriptions of situations and to give context to these concerns. I am not responding out of retaliation because my daughter didn't make the team or doesn't play. She did make the team and did start and play regularly. I am not responding out of some misguided or unrealistic expectation for coaches and other educators. I am a parent of 3 children, a coach and educator who has worked in Canada and 4 states in this country for over 30 years. In that time, I have never sought anything similar to this type of action against any other teacher or coach.

We have tried going through the coach, AD and principal. We do not believe that appropriate action has been taken.

In short, we do not believe that Coach Mauldin is a positive educational influence on or role model for the girls in the Irmo Soccer program.

Please feel free to contact me directly if you need additional clarification on the points in this email or if you have any additional questions.

Sincerely,

Murray.

--
Murray F. Mitchell, Ph.D.
Associate Professor and Graduate Director
Department of Physical Education and Athletic Training
University of South Carolina
(803) 777-3815 (voice)
(803) 777-6250 (fax)
mmitchel@mailbox.sc.edu

August 6, 2009

To: Eddie Walker, Irmo High Principal
Coach Hanna, Irmo High Athletic Director
Dr. Angela Bain, Chief Human Resource Services Officer
Anderson, Helen, Director of Secondary Education

*Another letter
from
concerned
parent*

I am writing this letter as I am very concerned over actions and behavior that I feel is inappropriate that Coach Mike Mauldin has exhibited towards his high school girl's soccer players. Not only am I very concerned over behavior from coach Mauldin that I feel is inappropriate, I am appalled by the reaction or "lack of" that has taken place in response to several parents complaints. These concerns were dismissed as if the people reporting them were making up stories, therefore I am writing my concerns in hope that something will be done about this matter. You would think with all the inappropriate behavior between teachers & students that we hear about in the news – including some in our own district, that our school leaders would be more concerned in protecting the welfare of the students.

I believe a coach/teacher should be a positive role model for students in both actions and ideas. I believe Coach Mauldin does neither and in fact, **models negative behavior**. He has displayed behavior that I believe crosses the line on appropriate sexual conduct between a coach and player.

Examples-

- before practice approaches the girls cars to deliver memos, etc (this could be done down on the practice field, not in the parking lot- it is common practice that the girls change into their soccer clothes in their car) – Spring soccer season 2009
- discusses personal issues with players
 - has made comments directly to a player about the color of her underwear & to another about a particular design on her underwear (Spring 2009)
 - Personal conversations with or about players & their boyfriend issues to other soccer players (Spring 2009)
 - Talks about players to other players and then tells them, if they tell any one about it, he will **deny he said it** (April, 2009)
 - Makes comments with players about who will make the team or who will not make the team & what position they will play – even months before tryouts start (Fall 2007 & Fall 2008)
 - communicates with players by text messaging (personal & team related) – has sent a message to a player while on the team bus home from a game regarding that she won a starting position over another player (2/20/09)
 - sent text message to a player inquiring about her break up with her

boyfriend (May, 2009)

- models discrimination (inconsistent treatment of players) – changing rules, punishing some for behavior, but then others are rewarded for like behavior (Spring season 2009)
- Exhibits immature behavior
 - At the end of year soccer banquet did not acknowledge certain players as being members of the team & did not acknowledge awards they had earned that season (May 2009)
 - Blames team captains for poor performance of the team, and lack of control and discipline of other players (Spring season 2008)
 - Has team meeting with player's parents and we are told we can not speak at this meeting and we are never to talk to him about anything to do with the soccer program (April 2009)

I have 2 girls that have played soccer since they were 5. They have had a number of coaches – all with different styles and personalities - some my children liked more than others, but they respected all of them. But due to the behavior that coach Mauldin exhibits, my children have “**no respect**” for coach Mauldin. I have always taught my children to respect others (and they do), but quite frankly the behavior Coach Mauldin has exhibited in the last 2 years does not deem respect. My children have played various sports through out the years, and in all that time, I have never heard such concern and unhappiness with a coach by both parents and players. This unhappiness I believe stems from the inappropriate things he says to the girls, the gossiping about players that he does & inconsistent behavior (discipline, treatment of players) that Coach Mauldin exhibits.

I am very concerned with Coach Mauldin's inappropriate behavior and find him to be a very inappropriate role model for children – or anyone. I hope the school/district will take some action to put this to an end. I am available and welcome the opportunity to further discuss this issue with you and/or the appropriate person.

A very concerned parent,

Debra Werdunn
(803) 744-4061
dwerdunn@scchildren.org

Please allow me to introduce myself. My name is Carol VanderHeide and my daughter attends school at Irmo High School and is a player on the girl's soccer team. I have always been a firm believer in parents being involved and supportive in their children's athletics and educational programs and have demonstrated that by both my husband and I being very active in the Boosters and athletic programs throughout our children's academic years. I have enjoyed the challenge of running the concessions for Girl's Soccer for the last two years as well as being a member of the Boosters at Irmo.

This means I have a lot of contact with many team parents during the season and the last two seasons of soccer have been riddled with anxiety and frustration by many more people than you will hear from. Unfortunately, the stress that confrontation causes prevents many people from following through.

In reality, confrontation can bring growth. A desire for growth and continuous improvement needs to be in all of us, I believe.

Concern #1:

Coach Mauldin has had discussions with girls on topics I feel are not appropriate due to their sexual context. He made a comment to my daughter, Kelly, about the color/design of her underwear that was visible through her white shorts. This occurred at a preseason conditioning session when the girls were just running the track and no spectators were there to worry about. Another girl had this same issue addressed in front of her whole Study Hall class causing a great deal of stressful humiliation that was very inappropriate as well.

Concern #2:

Coach Mauldin is having conversations and text messaging girls about boyfriend issues. Last year a mother spoke with me about her daughter, Nicole, calling her in tears from an out-of-town soccer event because she had overheard Coach Mauldin sharing information with her teammates that she had shared with Coach in confidence. Another friend of my daughters', Alicia, broke up with her boyfriend this soccer season and she shared with me that Coach had text messaged her about her break-up. I feel that it would be more appropriate for Coach to refrain from these conversations, even if the girls initiate them.

Concern #3:

The C.U.F.C. club team has a confidential notification process. On at least two occasions Coach has violated that process. This year Marykate Korpita was informed by Coach that she did not make the club team that she was striving for which led to tears in Study Hall. My daughter Kelly was also informed early that she had made the team she was striving for which although brought her happiness, was still inappropriate. He was not either girls' team coach for Club.

Concern #4:

Coach Mauldin creates a great deal of anxiety and frustration for the girls and their parents with angrily stated, impromptu decisions and inconsistent follow-thru for discipline issues.

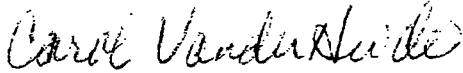
- For example, Coach announced during a soccer game that any player that looked at, or talked to, Ashley (a recently suspended player) would be kicked off the team.
- Another example is how Spring Break and mandatory practices become an issue every year because the Discipline Resolutions change constantly from year to year.
- Equally concerning is the ways the players themselves are trying to deal with the frustrations Coach Mauldin is causing others. Ashton played soccer for three years at Irmo, before this year, and ended up quitting. Erica has played for three years as well and seriously considered quitting because of a statement made by Coach to her in Study Hall. Stefanie, (a captain) has played Varsity for four years and said she quit and walked off, but later returned to the team. Ashley has played for three years on Varsity as well and was KICKED Off ... then allowed to come back ... and then kicked off again. And three of our newer members vandalized Coaches' home, were suspended from school, and were banned

from attending the banquet that they worked so hard toward all year.

We have a Code of Conduct policy and I believe that any changes to that policy should be sanctioned by the school and the Athletic Office and not by any one coach's whims. The frustrations these girls, and the parents, are reacting to could be so easily resolved (and it would be a real opportunity for the students to see for themselves how conflict SHOULD be handled appropriately) if all affected parties could share in an open and honest conversation with the school officials who can, and are WILLING TO, listen with an open mind to all parties and make the necessary changes toward resolution. This IS a real teaching moment for our Irmo students. The question then is WHAT will the lesson be?

Many people have worked many dedicated hours for this program and we do not want it to break down and fall short of it's true potential. Several strong supporting coaches have left our program recently. That indicates to me that this is not a program that is moving forward and continuing to grow strong. Coach Mauldin has been an effective administrator with some strong technical coaches supporting him in the past. But this is no longer the situation we have.

Any input you have will be greatly appreciated and thank you for your time,



Carol VanderHeide
803-767-1254

WEISS, PAM

From: Angela Bain [abain@lex5.k12.sc.us]
Sent: Monday, August 10, 2009 10:55 AM
To: WEISS, PAM
Subject: Re: Comments on Coach Mauldin

Thank you for your message.
Angela

Angela H. Bain, Ph.D.
Chief Human Resource Services Officer
School District Five of Lexington-Richland Counties
1020 Dutch Fork Road
Irmo, SC 29063

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>>> "WEISS, PAM" <PWEISS@mailbox.sc.edu> 8/7/2009 5:01 PM >>>

Dear Dr. Bain and Dr. Anderson:

I would also like to share my concerns over the inappropriate behavior of Irmo Soccer Coach Mike Mauldin. You have already heard from my husband, Murray Mitchell. So you are aware of issues that have directly impacted us and our daughter over the years. However, I have now also listened to many other parents share similar stories and complaints in recent months about incidents involving them or their child(ren). They have all agreed that such behavior is inappropriate and has impacted their kids, that they wish the coach was no longer there. and, that they are fully supportive what we are trying to do. Yet, at the same time. many of them

*Email sent to
Dr. Bain from
another parent
w/ attachment*

state, unequivocally, that they are afraid to have their name attached to anything for fear of retaliation by the coach against them or their child.

Quite honestly, my husband and I share that same fear (having experienced such retaliation by the coach in the past). and realize we are putting our own daughter's future on the team in some jeopardy; certainly how she will be treated next year. She is fully supportive of what we are doing, but loves soccer nonetheless. She is a strong player who has been a starter on the team every year, and hopes to play in College one day. So I truly understand what these other parents feel, and why they are afraid to step forward now.

As a result, I have put together a summary of key points (see attached) that I feel best expresses what many of us are feeling – and our frustration for lack of anything being done. We each have our individual stories of incidents that have occurred, or behavior our children have experienced or witnessed. And there may be countless others that will never be told. But it seems to boil down to whether this ongoing pattern of behavior is acceptable for a District Five employee, particularly someone who is a role model for young, impressionable, adolescent girls and athletes.

Thanks for your time.

Sincerely,

Pam Weiss

Assistant Dean for Research

College of Social Work

228A DeSaussure Building

University of South Carolina

Columbia, SC 29208

Email: pweiss@mailbox.sc.edu

Ofc: (803) 576-6074

Cell: (803) 422-0469

Fax: (803) 777-2774

(8/7 attachment
to letter)

Key Points:

- **Repeated pattern of inappropriate behavior over the years:** texting kids about items other than soccer; embarrassing comments in public; talking negatively about other kids on the team to players; telling kids if they repeat something he has said, he will deny it; inconsistent rules and disciplining of players (condoning inappropriate behavior by some-punishment for others), etc.
- **Why not go directly to the Coach to resolve these issues?** When parents or kids did approach the Coach over the years with these issues, they were often mocked in public and treated negatively with less playing time or other forms of punishment. Frustrated players and parents - afraid to do anything- simply put up with the behavior. In addition, for the past several years, the Coach has repeatedly claimed (to both parents and players) that this will be his last year coaching and he is going to retire - creating a false sense of security (to some) that the problem will all be taken care of without ever having to address it. But, that clearly hasn't happened. Most recently, the Coach himself said in a mandatory parent meeting that parents were not to approach him ever again with negative comments about the team; and that their job was to support the team-period. This seemed to suggest that even talking to him was no longer a viable route - thus, parents had no choice but to consider next steps.
- **Why haven't more parents come forward?** As evidenced above, fear of retribution, against both them and their kids, has (and continues to play) a big part in who is willing to speak up. As a case in point, some 8-10 parents might have stepped forward now, but are scared of what might happen to their kids next year. They all say they are "supportive," but afraid to have their names attached for fear of retribution. Finally, there is an overwhelming sense by many parents that what happens with the girls' athletic program is of little interest to the School, and that the Athletic Director will defend his staff no matter what the allegations, so why even approach the School when nothing will be done (and there will just be repercussions against their kids). This obviously makes for a powerful argument. And - a strong sense of fear and helplessness.
- **Is this behavior having a negative or detrimental affect on young, adolescent girls?** When a teacher, coach, or other role model in the school calls up students in the middle of a (class) study hall to ask questions about whether other players should make the team; discusses their choice of underwear; talks about disciplining kids on the team; texts kids during the day or night about issues other than soccer; tells kids that if they repeat something he has said, he will deny it; reduces kids to tears with accusations or comments in public; and repeatedly demonstrates inconsistent disciplining of players (rewarding negative behavior like cussing, disrespecting him, and walking off the field, yet takes action against others who do the same), this can obviously **IMPACT THE MENTAL HEALTH AND ATTITUDES OF IMPRESSIONABLE, YOUNG, ADOLESCENT GIRLS AND ATHLETES**. In addition, it **CLEARLY SENDS A MESSAGE TO STUDENTS** about what is acceptable, what is modeled as appropriate behavior, and, what the District permits. It further impacts the morale of all the players on the team. And, finally, and equally important, it can impact the choices girls will make about continuing to play soccer or other sports in high school or playing at an advanced level. Issues of drop-out of active lifestyles for adolescent girls is a national concern, especially at this age. **SO THE QUESTION IS: IS THIS BEHAVIOR THAT DISTRICT FIVE FOR LEXINGTON AND RICHLAND COUNTIES FINDS ACCEPTABLE FOR THEIR EMPLOYEES?**

WEISS, PAM

From: MITCHELL, MURRAY
Sent: Thursday, August 13, 2009 2:54 PM
To: Angela Bain
Cc: WEISS, PAM
Subject: Irmo Girls' Soccer Program

Dear Dr. Bain:

I am sorry to appear impatient, but, I have recently learned of yet another response from Principal Walker to a parent's concerns regarding inappropriate behavior of Coach Mauldin. The impetus for my contacting you originally was the apparent lack of belief by Principal Walker in any itemized accounts of concern. In response to another parent, he has identified her concerns as "undated and unsubstantiated." I did not believe we were headed toward a legal-action-level of evidence. When I brought my concerns to you originally, I suggested that sooner would be better for being able to gather students (current and former) to testify as to what has gone on in the varsity soccer program. Did I misunderstand the extent to which this might be necessary? Without students describing their interactions first hand, Coach Mauldin has defended interactions with responses like "you weren't there," and "that is not what I said."

While one student may have misunderstood or incorrectly recalled one incident, there is an overwhelming number of interactions and multiple students corroborating each other's recollections. I am dumbfounded by the response we have gotten. I had hoped these interactions would unfold privately and relatively informally. I am trying to understand whether or not this must become public and formal for an appropriate response.

I know it is a busy time as the Superintendent has returned from vacation and schools are about to re-open, with registration already underway. My question is, do you have any insight into when the Superintendent might make known his decision about how to proceed? If he decides to support the principal in retaining the services of Coach Mauldin for another season, I am also interested in your thoughts as to our next course of action to seek remedy for our concerns.

Any thoughts on these matters would be appreciated.

Sincerely,

Murray.

--
Murray F. Mitchell, Ph.D.
Associate Professor and Graduate Director
Department of Physical Education and Athletic Training
University of South Carolina
(803) 777-3815 (voice)
(803) 777-6250 (fax)
mmitchel@mailbox.sc.edu

WEISS, PAM

From: Deb Werdunn [DWerdunn@scchildren.org]
Sent: Thursday, August 13, 2009 2:14 PM
To: WEISS, PAM
Subject: soccer

Dear Ms. Werdunn,

I assume you are referring to the list of 33 undated and unsubstantiated allegations that were presented to me by Mr. Werdunn on June 10, 2009. I responded to Mr. Werdunn by mail on July 1 after meeting with he and Coach Hanna and discussing the undated and unsubstantiated allegations with Coach Mauldin. Coach Mauldin was able to produce to text messages that he had sent your daughter during the 2008-2009 school year. One text was sent at 8:52 on January 22, 2009 and it was "Can you train tomorrow?". The second text was sent on May 23, 2009 at 10:15 a.m.. It was "Just checking to see how your surgery went yesterday". I don't feel either of these text messages were inappropriate for a coach to send to a player. In fact I appreciate the fact that he would check on a player following surgery. If you have retained texts from your daughter's phone which contain inappropriate emails from Coach Mauldin, I would love to see them. If you have evidence of inappropriate behavior on Coach Mauldin's part I would love to see that. I am responding to all the people you sent your email to and Coach Mauldin. I feel strongly that an individual should be aware of the fact when people are making undated and unsubstantiated allegations about him or her. Our creed at Irmo High School is to treat everyone as we would want to be treated at all times. I intend to live by that creed in my relationship with you, your daughter, Mr. Werdunn and Coach Mauldin.

Thank you,

Eddie Walker

Mr. Walker,

Just to clarify, no, I am not referring to the list presented to you by Mr. Werdunn, (I have not seen this list)- he is my ex-husband, so his letter represents his thoughts on this matter.

The issues I refer to our stated in my letter. I don't believe I said any information in a text message sent to my daughter was inappropriate, I said I feel texting teenage girls was too personnel - I do find it odd though that someone would save text messages that were that old.

You only responded to me about the texting issue, nothing else - there are other issues that I mentioned that I feel are inappropriate. It is the combination of all these things that has made me come forward and voice my concerns.

Deb Werdunn

Dear Ms. Werdunn,

I am sorry. Your list of concerns is very similar to the list presented by Mr. Werdunn. I have discussed the underwear comments with Coach Mauldin and I am satisfied with his response. A coach has an obligation to make players aware if they are wearing something that is inappropriate to prevent them from doing that in the future. Again, your concerns are undated and unsubstantiated. I know that Coach Mauldin has been coaching your daughters for at least four years. Outside of the underwear comments your primary concerns appear to be concerning actions related to coaching. I don't view "approaches the girls cars to deliver memos" as inappropriate sexual conduct. I will be glad to meet with you, Coach Hanna and Coach Mauldin to address any concerns of which you have direct personal knowledge as they relate to your daughter. I am sending this letter to Ms. Anderson and Dr. Bain as they may choose to attend the meeting. Thank you for expressing your concerns.

Sincerely,

Eddie Walker

Deb

Debra Werdunn, Finance Manager
Children's Trust of SC
1634 Main Street, Suite 100
Columbia, SC 29201
803-744-4061

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September 28, 2009

To whom it may concern:

On June 18, 2009 I wrote and sent a letter to the principal of Irmo High School, Eddie Walker, about inappropriate behavior of the varsity girls' soccer coach, Mike Mauldin. Because I had personally dealt with Coach Mauldin's vindictiveness in the past, I was reluctant to write the letter. When my older daughter, Megan, was on the varsity girls' soccer team, there was dissension on the team, with many of the players angry that Coach Mauldin had developed an unusually close relationship with one of the players. This situation led to tension and a difficult season with Coach Mauldin for the team Coach Mauldin's behavior is NOT a new problem. And, it is obviously NOT going away.

I have had a difficult time reasoning why more parents have not complained about Coach Mauldin. Then it dawned on me that he only began acting as head coach of the girls' varsity team last year. Prior to that, Heather Frederick served as girls' varsity coach. I do not think Coach Mauldin serves as a positive role model for a group of teen-aged girls.

My daughter, Mary Kate, tried out for a club soccer team in May, 2009 and had her sights set on making the highest team, the "elite." The rosters were to be posted on the web (by player "number" to protect their privacy) on Wednesday afternoon, May 27. She was anxiously awaiting to look at the list; however, the day *before* the list was posted, Tuesday, May 26, Coach Mauldin, who participates as a coach in that club, announced to her as she walked into his room *at school*, in front of all the other students, that she did not make the elite team, she made the "Palmetto" team, which was the lower level of the two teams. She was completely taken off guard, not expecting any news until the following day and in the comfort of her own home. She was also embarrassed and deeply hurt that Coach Mauldin announced the news in front of everyone in the classroom. Coach Mauldin's behavior was totally insensitive to my daughter's rights and her privacy, and also to her reaction.

Coach Mauldin has also demonstrated immaturity by talking negatively about other player on the team to my daughter. One time in particular was at a soccer game on May 11. Coach Mauldin told my daughter that if she repeated what he said, he would "deny he ever said it." He had said similar things to her several times throughout the season. Clearly, if an adult/teacher/coach tells a student that he would deny he ever said something, he knew it was inappropriate and bad behavior when he said it. This is a representative of the Irmo School District.

One day in May of 2009 while in study hall, a student in Coach Mauldin's room announced that she was going to have sex with her boyfriend, to which Coach Mauldin replied, "I'm down with that," in an encouraging manor in front of the students, including my daughter. That is another totally inappropriate comment that I would prefer my 15-year-old daughter not hear from a supposed role model.

At practice one day in May, 2009, one of the players got angry and shouted at Coach Mauldin that he was ruining the team. She used the F word several times, then stormed off the field and told him she was quitting. She did this in front of the team, as was reported to me by my daughter and two of her teammates. That same player was at practice the next day and

started every game after that incident; again, not a positive role modeling behavior. He allows the girls to curse on the field, he talks about players to other players, and he is retaliatory if anyone questions him about anything. Several other parents have told me they would like to write a letter to Mr. Walker, the principal, but chose not to because they fear Coach Mauldin's retribution against their girls next season. It seems ironic to me that the reasons some parents and players are choosing not to come forward are because of the very same inappropriate behaviors Coach Mauldin exhibits: vindictiveness and retaliation.

My daughter gave up other sports to play soccer. She has enjoyed learning the game and becoming a better player. Throughout much of this past season, though, she was coming home from practice frustrated, discouraged, and disheartened. That was a difficult thing to watch. She is a strong, athletic leader who would be an asset to many sports teams, but she wishes to play soccer.

After I sent my letter to Mr. Walker and received no response, I sent my letter to the school district. I was told an investigation would take place, then several weeks later was told the investigation was concluded. Nobody from the school or the school district ever contacted me or asked me any questions. I have never heard anything about this situation from any school official, and have been ignored each time I have inquired about the status of the issue.

I am aware of several other families concerned about similar issues. The fact that neither the school nor the school district has responded is perplexing and inappropriate. This matter should not be ignored.

Eileen Korpita

korpita@sc.edu

*From another
parent*

>>> "Deb Werdunn" <DWerdunn@scchildren.org> 8/28/2009 2:09 PM >>>
Wondering if there is any update or response to our complaints against Coach Mauldin?

The 3 soccer girls that graduated a year ago (2008) have indicated that they would be willing to answer questions or talk to someone there about what they have witnessed in Coach Mauldin's behavior. Let me know if you want their contact info. & I can get it to you or they can write something up.

Deb

Debra Werdunn, Finance Manager
Children's Trust of SC
1634 Main Street, Suite 100
Columbia, SC 29201
803-744-4061

Please ☒ CHECK OFF for the prevention of child abuse and neglect in South Carolina.

Donate on your South Carolina Income Tax Form. See Line 13 of SC 1040A or Line 28 of SC 1040 and attach I-330.

WEISS, PAM

From: MITCHELL, MURRAY
Sent: Wednesday, August 05, 2009 8:24 AM
To: WEISS, PAM
Subject: FW: Procedural Question

Here is the question and response from Dr. Angela Bain in the district office.

--
Murray F. Mitchell, Ph.D.
Associate Professor and Graduate Director
Department of Physical Education and Athletic Training
University of South Carolina
(803) 777-3815 (voice)
(803) 777-6250 (fax)
mmitchel@mailbox.sc.edu

----- Forwarded Message

From: Angela Bain <abain@lex5.k12.sc.us>
Date: Mon, 3 Aug 2009 16:10:51 -0400
To: Murray Mitchell <mmitchel@mailbox.sc.edu>
Subject: Re: Procedural Question

← msg from HR Director
re: confidentiality

Hi Dr. Mitchell,
I can certainly understand apprehension, but I do need them to contact me. As much as I can try to maintain confidentiality in this situation, I cannot promise full anonymity.

I can tell you that we will not tolerate retaliation as you expressed in your email.
Thank you,
Angela

Angela H. Bain, Ph.D.
Chief Human Resource Services Officer
School District Five of Lexington-Richland Counties
1020 Dutch Fork Road
Irmo, SC 29063

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This footnote also confirms that this email message has been swept for the presence of computer viruses

>>> Murray Mitchell <mmitchel@mailbox.sc.edu> 7/31/2009 7:25 PM >>>

email question

Dear Dr. Bain:

There are additional parents of student athletes at Irmo who have asked if there is a way that they can express their concerns and remain anonymous. Their apprehension is for negative repercussions and retaliation against their daughters and families if their identity became known, in the event that the coach remains in place. I understand this to be a problematic question for all sides, but, I said that I would inquire.

Is there a way for you to contact them, or them to contact you, and for them to remain anonymous relative to formal documentation?

Thank you for your time,

Murray.

--
Murray F. Mitchell, Ph.D.
Associate Professor and Graduate Director
Department of Physical Education and Athletic Training
University of South Carolina
(803) 777-3815 (voice)
(803) 777-6250 (fax)
mmitchel@mailbox.sc.edu <about:mmitchel@mailbox.sc.edu>

----- End of Forwarded Message

Subject: Irmo High School Varsity Soccer Program for Girls

Date: Friday, September 18, 2009 11:25 AM

From: Murray Mitchell <mmitchel@mailbox.sc.edu>

To: Angela Bain <abain@lex5.k12.sc.us>

Cc: <hberg@lex5.k12.sc.us>, <stowers@lex5.k12.sc.us>, "WEISS, PAM" <PWEISS@mailbox.sc.edu>, Karl Werdunn <kwerdunn@sc.rr.com>, <dwerdunn@scchildren.org>, "KORPITA, EILEEN" <EILEENK@mailbox.sc.edu>, <heyemaster@gmail.com>, Mark Kosobucki <alivenwellnsc@msn.com>, <handerson@lex5.k12.sc.us>

To: Angela Bain, Ph.D.

Chief Human Resource Services Officer

School District Five of Lexington-Richland Counties

1020 Dutch Fork Road

Irmo SC 29063

C: Herbert M. Berg, Ed.D. (Superintendent)
Sybil Stowers (Executive Administrative Assistant)
Helen Anderson (Director of Secondary Education)
Pam Weiss (Parent)
Karl Werdunn (Parent)
Deb Werdunn (Parent)
Eileen Korpita (Parent)
Carol VanderHeide (Parent)
Mark Kosobucki (Parent)

Date: September 18, 2009

Re: Irmo High School Varsity Soccer Program for Girls Issue

Dear Dr. Bain:

After initiating communication about concerns with the Irmo High School Varsity Soccer program for girls in May 2009 with the coach, followed by communication with the principal and athletic director for the school, we began conversations with you at the district office. The issues we raised would be characterized in the language of the 2009-2010 district Discipline Code Handbook as "harassment, intimidation or bullying," specifically related to "harming a student physically or emotionally or damaging a student's property or placing a student in reasonable fear of personal harm or property damage" and "insulting or demeaning a student or group of students causing substantial disruption in, or substantial interference with, the orderly operation of the school."

I believe the information provided to you clearly qualifies as having expressed a concern for

Page 1 of 2

the emotional well-being of our daughters.

Under the guidelines outlined in the 2009-2010 district Discipline Code Handbook, p. 106, item #4, once an incident has been reported to an administrator, "The administrator will promptly thoroughly investigate all such reports and upon completion of that investigation, will notify the parents of all affected students of their conclusions and of the corrective action to be taken by the school. This notification shall be in writing."

You have provided a written email response to indicate that the district has concluded its investigation, and because it involves a possible personnel issue, you will not discuss it further. According to the District Code Handbook, your report is incomplete. A written notification of conclusions and corrective action to be taken is required. We have received neither of these required notifications. You have ignored further attempts to seek clarification of what are the implications of the investigation conclusions and corrective actions with respect to our daughters.

A response to our interpretation of this series of events would be appreciated. Without a response from you, we will move to the next level of accountability.

Sincerely,

Murray.

—
Murray F. Mitchell, Ph.D.
Associate Professor and Graduate Director
Department of Physical Education and Athletic Training
University of South Carolina
(803) 777-3815 (voice)
(803) 777-6250 (fax)
mmitchel@mailbox.sc.edu



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400 Maryland Ave., SW

Washington, DC 20202-1475

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e-mail: OCR.DC@ed.gov

OFFICE FOR CIVIL RIGHTS
SOUTHERN DIVISION

DISTRICT OF COLUMBIA OFFICE
District of Columbia, North Carolina, South Carolina, Virginia

October 28, 2009

Ms. Pam Weiss
240 Wood Moor Place
Columbia, South Carolina 29212

Re: OCR Complaint No. 11-10-1007
Notification/Partial Dismissal Letter

Dear Ms. Weiss:

On October 6, 2009, the District of Columbia Office, Office for Civil Rights (OCR), within the U.S. Department of Education (the Department), received the complaint of discrimination that you filed against School District Five of Lexington and Richland Counties (the District), particularly Irmo High School (the School). You (the Complainant) alleged that the District discriminated against your daughter (the Student) and other members of the School's girls' varsity soccer team on the basis of sex. Specifically, you alleged (1) that the coach of the girls' varsity soccer team sexually harassed members of the team, including the Student, by commenting, on more than one occasion, about seeing players' "numbered underwear" through their see-through shorts, often approaching players' cars while they were changing into their soccer clothes, and commenting on a player's physical appearance and (2) that the District failed to follow its procedures and adequately respond to concerns about the coach that were brought to the attention of District personnel. OCR carefully reviewed the information that you provided and determined that it has jurisdiction to proceed to complaint resolution of allegations 1 and 2. If we have misunderstood or mischaracterized your allegations, please contact OCR staff identified below within ten calendar days of the date of this letter to provide any necessary clarification.

You also identified various other actions attributed to the coach, including his commenting that players had been responsible for losing the games due to their negative attitudes, embarrassing players by inappropriately announcing tryout information in front of other students, making negative comments about certain players to other players on and off the field, having conversations and sending text messages about a player's starting position status, permitting the mistreatment of rookie players, texting students about game cancellations, making comments regarding players' issues with their boyfriends, treating players inconsistently for disrespectful behavior, and calling a mandatory parent meeting during which he informed parents that he would accept no further comments from them about their kids or the program. As was discussed

Our mission is to ensure equal access to education and to promote educational excellence throughout the nation.

in conversation with OCR staff on October 23, 2009, these actions do not appear to be sufficiently based on sex and, therefore, could not constitute sexual harassment. OCR is unable to pursue complaint resolution of these matters.

In addition, you alleged that the coach retaliated against players and/or parents if they spoke up about matters such as the mistreatment of rookie players by upperclassmen and team captains or offered suggestions for improving team morale. As was discussed with you on October 23, while Title IX does prohibit retaliation against an individual who attempts to assert a right or privilege protected by the statute, there is no indication that the matters raised by players and/or parents are matters that are protected by Title IX. Thus, the actions taken in response to these matters could not constitute retaliation under Title IX. Consequently, OCR will not pursue your retaliation claim.

Finally, you raised some matters regarding the coach that occurred in spring 2008, January 2009 and in 2004. As was discussed with you, OCR generally will take action only with respect to those allegations that have been filed within 180 calendar days of the date of the alleged discrimination. You noted that you were aware that some of the matters you described might be considered untimely but had opted to include them in your complaint as background information. In your complaint, you noted that parents did not come forward with some of these complaints initially as they were afraid of retaliation, they were under the assumption that spring 2009 was going to be the coach's last year coaching, and because some parents had raised with the principal and athletic director similar concerns about other coaches which had been dismissed and they felt that the same thing would happen with concerns about the soccer coach. These reasons do not support the granting of a waiver of OCR's filing deadlines. Thus, OCR will not pursue complaint resolution of these matters and is dismissing them effective the date of this letter.

OCR is responsible for enforcing, among other civil rights statutes, Title IX of the Education Amendments of 1972, 20 U.S.C. § 1681 *et seq.* (Title IX) and its implementing regulation at 34 C.F.R. Part 106, which prohibit discrimination on the basis of sex in any education program or activity receiving Federal financial assistance from the Department. The District is a recipient of Federal financial assistance from the Department and; therefore, it is subject to the provisions of Title IX.

Because OCR has determined that it has jurisdiction and that the two complaint allegations identified above were timely filed, OCR is opening them for investigation. Please note that opening the allegations for investigation in no way implies that OCR has made a determination with regard to the merits of the complaint. During the investigation, OCR is a neutral fact-finder, collecting and analyzing relevant evidence from the complainant, the recipient, and other sources, as appropriate. OCR will ensure that its investigation is legally sufficient and is dispositive of the allegation in accordance with the provisions of the Case Processing Manual, available at <http://www.ed.gov/about/offices/list/ocr/docs/ocrcpm.html>.

Our goal is the prompt, appropriate resolution of the allegations contained in the complaint. While we are proceeding with an investigation of the allegations, there are other approaches that can be used to achieve this goal. For your information, enclosed with the letter previously sent by OCR acknowledging receipt of your complaint was a document entitled "OCR's Complaint Processing Procedures." Please take particular note of the section on early complaint resolution, which appears on page 4. Under this informal approach, OCR may attempt to resolve the

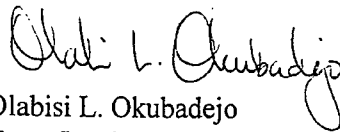
allegation by facilitating discussions and exploring options with the Complainant and the District. Both you and the District have expressed an interest in attempting to resolve the complaint allegations through the early complaint resolution process. Therefore, the case will be assigned to an OCR facilitator who will contact the parties to shortly.

Please be advised that the District may not harass, coerce, intimidate, or discriminate against an individual who has filed a complaint or participated in the complaint resolution process. If this happens, the individual may file another complaint alleging such treatment.

Under the Freedom of Information Act, it may be necessary to release this document and related correspondence and records upon request. If OCR receives such a request, we will seek to protect, to the extent provided by law, personal information that, if released, could constitute an unwarranted invasion of privacy.

We look forward to your cooperation in the resolution of this complaint. If you have any questions regarding the matters stated above, please contact Betsy Trice, the OCR attorney assigned to this complaint, at (202) 245-8327 or Betsy.Trice@ed.gov.

Sincerely,

A handwritten signature in cursive script, appearing to read "Olabisi L. Okubadejo".

Olabisi L. Okubadejo
Team Leader, Team II
District of Columbia Office

From: Mike Mauldin [mmauldin@lex5.k12.sc.us]
Sent: Friday, December 11, 2009 2:39 PM
To: Eddie Walker
Cc: Angela Bain
Subject: Fwd: resignation from Head Girls' Soccer Coach Irmo High School

Eddie,
I officially resign as the Head Girls' Soccer Coach at Irmo High School.
Thanks so much, Mike

Mike Mauldin
Girls' Soccer Coach
Irmo High School
803-476-3228
803-348-4764 (cell)
mmauldin@lex5.k12.sc.us



U.S. DEPARTMENT OF EDUCATION

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OFFICE FOR CIVIL RIGHTS
SOUTHERN DIVISION

DISTRICT OF COLUMBIA OFFICE
District of Columbia, North Carolina, South Carolina, Virginia

December 17, 2009

Pam Weiss
240 Wood Moor Place
Columbia, South Carolina 29212

Re: OCR Complaint #11-10-1007
Closure Letter

Dear Ms. Weiss:

This letter informs you of our disposition of the above-referenced complaint you filed with the District of Columbia Office of the Office for Civil Rights (OCR), U.S. Department of Education, on October 6, 2009, against School District #5 of Lexington-Richland Counties (the District). You filed the complaint on behalf of your daughter and other members of the Irmo High School girls' soccer team, alleging discrimination on the basis of sex. Specifically, you alleged that the coach sexually harassed members of the team and that the District failed to adequately respond to concerns about the coach that were brought to the District's attention.

After Early Complaint Resolution (ECR) negotiations, on December 15, 2009, you sent OCR an email message confirming what you had indicated to the ECR facilitator that you would like to withdraw your complaint. Based on your withdrawal, we are closing this case effective the date of this letter.

We have reminded the District that it is not permitted to intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by the laws OCR enforces. If any individual is harassed or intimidated because of filing a complaint or participating in any aspect of OCR case resolution, the individual may file a complaint alleging such treatment.

Under the Freedom of Information Act, it may be necessary to release this document and related correspondence and records upon request. If we receive such a request, we will seek to protect, to the extent provided by law, information that, if released, could constitute an unwarranted invasion of personal privacy.

If you have any questions about the outcome of this complaint, please contact Kristi Bleyer, the ECR facilitator, at (202) 245-8304 or kristi.bleyer@ed.gov.

Sincerely,


Dale Rhines
Program Manager

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WEISS, PAM

From: Vitali Cox, Juanita [Juanita.VitaliCox@amerisbank.com]
Sent: Thursday, May 13, 2010 2:52 PM
To: Cindy Dherckers; WEISS, PAM; Kellie Herndon; dkbbb3@aol.com; stevepatelbw@aol.com; wardercol@aol.com; qikon@bellsouth.net; williamwesterkam@bellsouth.net; jefsha@famhams.com; heyemaster@gmail.com; jkhsoccer@gmail.com; Kristin Mello; alivenwellnsc@msn.com; Ralph.Garofano@PalmettoHealth.org; bobbie@riverlandhills.org; dgkennedy@sc.rr.com; thefricks@sc.rr.com; gkorpita@scana.com; dwerdunn@scchildren.org; tamy.garofano@tgslc.org; boeva_65@yahoo.com; cgccox@yahoo.com; vickie.jordan@yahoo.com; MITCHELL, MURRAY; kwerdunn@sc.rr.com; KORPITA, EILEEN; KelleyS@Cintas.com; Kody, Korynn, & Kristin Duke; andersone2@winthrop.edu; rburnside22@gmail.com; jpaddock; TLKorpita@ColonialLife.com
Cc: CBASKIN@scana.com; hhutchens@scana.com; ahutchens@scana.com; bcbaxter60@bellsouth.net
Subject: RE: OCR visit letter given to Imo Girls Soccer players 5/12/10

Kevin,
Thank you for following up on this as I have not yet had the chance. Gina mentioned this to me and explained some of what you described. My concern is that anything said by those girls who are not currently part of the lawsuit, might be somehow dragged into the suit by Coach Mauldin, even if they did not experience any sexual harassment. I am not sure if there is a definite answer to this concern but it does make me a little gun shy to allow Gina to participate.

Juanita

From: Cindy Dherckers [mailto:cdherckers@sc.rr.com]
Sent: Thursday, May 13, 2010 1:44 PM
To: WEISS, PAM; Kellie Herndon; dkbbb3@aol.com; stevepatelbw@aol.com; wardercol@aol.com; qikon@bellsouth.net; williamwesterkam@bellsouth.net; jefsha@famhams.com; heyemaster@gmail.com; jkhsoccer@gmail.com; Kristin Mello; alivenwellnsc@msn.com; Ralph.Garofano@PalmettoHealth.org; bobbie@riverlandhills.org; cdherckers@sc.rr.com; dgkennedy@sc.rr.com; thefricks@sc.rr.com; gkorpita@scana.com; dwerdunn@scchildren.org; tamy.garofano@tgslc.org; boeva_65@yahoo.com; cgccox@yahoo.com; vickie.jordan@yahoo.com; MITCHELL, MURRAY; kwerdunn@sc.rr.com; KORPITA, EILEEN; KelleyS@Cintas.com; Vitali Cox, Juanita; Kody, Korynn, & Kristin Duke; andersone2@winthrop.edu; rburnside22@gmail.com; jpaddock; TLKorpita@ColonialLife.com
Cc: CBASKIN@scana.com; hhutchens@scana.com; ahutchens@scana.com; bcbaxter60@bellsouth.net
Subject: Fw: OCR visit letter given to Imo Girls Soccer players 5/12/10

— Original Message —

From: kdherckers@aol.com
To: cdherckers@sc.rr.com
Sent: Thursday, May 13, 2010 12:52 PM
Subject: OCR visit

To the parents of the Imo Girls Varsity Soccer Team,

I am in receipt of a letter from Principal Eddie Walker. The letter states that the Office of Civil Rights (OCR) wants to interview the Imo girls' varsity soccer team regarding the soccer program at Imo High School.

I talked with Principal Walker today and asked him basically two questions. 1) Who is the OCR, and 2) why are they so interested in the girls varsity soccer program at Imo High School.

The following are the facts as I understand them and some assumptions based on those facts regarding these interviews.

The OCR is a federal agency that is part of the Department of State. The OCR is one of the few offices within the federal government to employ in-house legal counsel. They investigate sexual and discriminatory harassment complaints.

Last year seven Irmo parents filed a laundry list of complaints against the previous Irmo coach, Mike Mauldin. These complaints were filed and ultimately dismissed by Principal Walker, Athletic Director Hanna, and District 5. After the dismissal of the complaints by the district, the complaints were then filed with the OCR. I assume a complaint of sexual harassment was part of the complaint or the OCR never would have accepted the case. Coach Mauldin has since filed a civil lawsuit against the seven Irmo parents for slander, defamation of character, and etc.

Based on the above facts, I think it is logical to assume that the OCR is not really interested in the Irmo soccer program, but instead they are sending federal lawyers to interview our daughters about alleged sexual harassment on the soccer team. Their visit may or may not have anything to do with the lawsuit, but they are required to investigate any complaints filed with their office.

I have asked Principal Walker for a list of questions the OCR will ask, but he could not provide a list. I told him the only way I would ever consent to Amy talking with OCR was if I was present. He said he didn't see a problem with that, but would verify it with the district.

I am disappointed in the letter as I think that the visit from the OCR is a more serious matter than the letter leads us to believe. I hope that this information is helpful and I would urge anyone with questions to call Principal Walker.

Kevin Dherckers



U.S. DEPARTMENT OF EDUCATION

400 Maryland Ave., SW

Washington, DC 20202-1475

Telephone (202) 453-6020 Facsimile (202) 453-6021; TDD 1-877-521-2172

E-mail: OCR.DC@ed.gov

OFFICE FOR CIVIL RIGHTS
SOUTHERN DIVISION

DISTRICT OF COLUMBIA OFFICE
District of Columbia, North Carolina, South Carolina, Virginia

July 23, 2010

Ms. Pam Weiss
Dr. Murray Mitchell
240 Wood Moor Place
Columbia, SC 29212

Re: OCR Complaint No. 11-10-1093
Letter of Findings

Dear Ms. Weiss and Dr. Mitchell,

This letter is to inform you of the disposition of the complaint that you filed with the District of Columbia Office, Office for Civil Rights (OCR), within the U.S. Department of Education (Department), on January 27, 2010, against School District Five of Lexington and Richland Counties (the District), in particular Irmo High School (the School). You alleged:

1. That the Coach of the girls' varsity soccer team sexually harassed members of the team, including your daughter (the Student), by commenting, on more than one occasion, about seeing players' "numbered underwear" through their see-through shorts, often approaching players' cars while they were changing into their soccer clothes, and commenting on a player's physical appearance;
2. That the District failed to promptly and equitably respond to concerns about the Coach that were brought to the attention of District personnel; and
3. That the District retaliated against parents who raised concerns about the Coach by taking actions (including disclosing parents' names to the Coach) that ultimately led to the Coach's filing a lawsuit.

OCR initiated an investigation under the authority of Title IX of the Education Amendments of 1972, 20 U.S.C. § 1681 *et seq.* (Title IX) and its implementing regulation at 34 C.F.R. Part 106, which prohibit discrimination on the basis of sex in any education program or activity receiving Federal financial assistance from the Department. Title IX also prohibits a recipient or other person from retaliating against an individual because that person has made a complaint, testified,

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by fostering educational excellence and ensuring equal access.*

assisted, or participated in an investigation, proceeding or hearing under the laws enforced by OCR. The District is a recipient of Federal financial assistance from the Department, and therefore it is subject to the provisions of Title IX and its implementing regulation.

In investigating this complaint, OCR conducted interviews and obtained information from you (the Complainants) and District personnel. OCR also conducted an on-site visit to the School and met with current and former female varsity soccer players. After carefully considering all the information obtained during the investigation, OCR has determined that there is insufficient evidence to support finding a violation with regard to Allegations 1 or 3. OCR did identify compliance concerns regarding Allegation 2. The District voluntarily entered into the enclosed resolution agreement (Agreement) to resolve the identified compliance concerns. OCR will monitor implementation of the Agreement.

Legal Standards

Sexual harassment is unwelcome conduct of a sexual nature. Sexual harassment can include unwelcome sexual advances, requests for sexual favors, and other verbal, nonverbal, or physical conduct of a sexual nature. Sexual harassment of a student can deny or limit, on the basis of sex, the student's ability to participate in or to receive benefits, services, or opportunities in the school's program. Sexual harassment can occur that does not explicitly or implicitly condition a decision or benefit on submission to sexual conduct. Harassment of this type is generally referred to as hostile environment harassment. This type of harassing conduct requires a further assessment of whether the conduct is sufficiently serious to deny or limit a student's ability to participate in or benefit from the school's program based on sex. If the conduct does rise to that level of severity, it is a form of sex discrimination prohibited by Title IX.

OCR considers a variety of related factors to determine if a hostile environment has been created, i.e., if sexually harassing conduct by an employee, another student, or a third party is sufficiently serious that it denies or limits a student's ability to participate in or benefit from the school's program based on sex. OCR considers the conduct from both a subjective and objective perspective. In evaluating the severity and pervasiveness of the conduct, OCR considers all relevant circumstances. Relevant factors include:

- the degree to which the conduct affected one or more students' education;
- the type, frequency, and duration of the conduct (in most cases, a hostile environment will exist if there is a pattern or practice of harassment, or if the harassment is sustained and nontrivial);
- the identity of and relationship between the alleged harasser and the subject or subjects of the harassment (for example, due to the power a professor or teacher has over a student, sexually based conduct by that person toward a student is more likely to create a hostile environment than similar conduct by another student);
- the number of individuals involved;

- the age and sex of the alleged harasser and the subject or subjects of the harassment (for example, in the case of younger students, sexually harassing conduct is more likely to be intimidating if coming from an older student);
- the size of the school, location of the incidents, and context in which they occurred (harassing conduct in a personal or secluded area, such as a dormitory room or residence hall, can have a greater effect (e.g., be seen as more threatening) than would similar conduct in a more public area; on the other hand, harassing conduct in a public place may be more humiliating. Each incident must be judged individually.);
- other incidents at the school (a series of incidents at the school, not involving the same students, could taken together create a hostile environment, even if each by itself would not be sufficient); and
- incidents of gender-based, but nonsexual harassment (acts of verbal, nonverbal or physical aggression, intimidation or hostility based on sex, but not involving sexual activity or language, can be combined with incidents of sexual harassment to determine if the incidents of sexual harassment are sufficiently serious to create a sexually hostile environment).

It is the totality of the circumstances in which the behavior occurs that is critical in determining whether a hostile environment exists. Consequently, in using the factors discussed previously to evaluate incidents of alleged harassment, it is always important to use common sense and reasonable judgment in determining whether a sexually hostile environment has been created.

Title IX requires that once a school has notice of possible sexual harassment of students, including harassment carried out by staff, it should take "immediate and appropriate steps to investigate or otherwise determine what occurred and take prompt and effective steps reasonably calculated to end any harassment, eliminate a hostile environment if one has been created, and prevent harassment from occurring again." See Revised Sexual Harassment Guidance: Harassment of Students by School Employees, Other Students, or Third Parties (OCR, 2001).

The Title IX regulation also requires schools to adopt and publish a policy against sex discrimination and grievance procedures providing for prompt and equitable resolution of complaints of discrimination on the basis of sex. OCR has identified a number of elements in evaluating whether a school's grievance procedures are prompt and equitable, including

- whether the procedures provide for notice to students, parents, and employees of the procedure, including where complaints may be filed;
- application of the procedure to complaints alleging harassment carried out by employees, other students, or third parties;
- adequate, reliable, and impartial investigation of complaints, including the opportunity to present witnesses and other evidence;
- designated and reasonably prompt timeframes for the major stages of the complaint process;
- notice to the parties of the outcome of the complaint; and

- an assurance that the school will take steps to prevent recurrence of any harassment and to correct its discriminatory effects on the complainant and others, if appropriate.

Finally, the Title IX regulation also prohibits a recipient or other person from retaliating against an individual because that person has made a complaint, testified, assisted, or participated in an investigation, proceeding or hearing under the laws enforced by OCR. In order to establish that retaliation has occurred, OCR determines whether: (1) an individual engaged in a protected activity (e.g., filed a complaint or advocated on behalf of a student based on race, national origin, color, sex, disability or age); (2) the recipient was aware of the protected activity; (3) the individual or someone closely associated with the individual suffered adverse action; and (4) there is some evidence of an apparent causal connection between the protected activity of the individual and the adverse action of the recipient. If these four elements are satisfied, an initial or *prima facie* case of retaliation is established. OCR then inquires whether the recipient had a legitimate, nondiscriminatory reason for taking the adverse action. OCR must then evaluate whether the reason(s) provided by the recipient is a pretext or excuse for retaliation.

Background

The Complainants are parents of a female varsity soccer player at Irmo High School (the School) in the District. After the spring 2009 soccer season, the Complainants and several other parents of varsity girls' soccer players raised concerns about the Head Coach's behavior to the Principal of the School. In early June, a parent (Parent A) met with the Principal and the School's Athletic Director and presented them a list of 33 separate concerns about the Head Coach, who also served as a study hall monitor. Those concerns included:

- "Texted kids on their cell phones during the school day about a wide range of issues—some soccer, and some personal."
- "Called an adolescent girl up to his desk in class to identify that in a game when the girls were wearing (see through) white shorts, he saw her 'numbered underwear,' he then repeated the story weeks later to remind her not to wear the 'numbered underwear' at a next game."
- "Said, 'I'm down with that,' when a girl in his class said she was going to make out with her boyfriend."
- "Routinely asked kids about their relationships with their boyfriends."
- "One day during school, he asked a player if she had lost weight and she said, 'No.' He then said, 'Well you look good.' It was in a tone that made her feel very uncomfortable."
- "One day at practice, [the Head Coach] told the players not to do stupid things. One player then said, 'Oh yea, like we're going to get naked.' [The Head Coach] then responded, 'I'm down with that.'"
- "During practice [the Head Coach] touched a girl's shoulder. The player said, 'Please don't touch my shoulder.' He continued to do so even after she asked him 3 or 4 more times to stop."

The remaining concerns relate to issues such as hazing of younger players by older players, and the Head Coach showing favoritism with regard to discipline, yelling at students, and discussing information about some players in front of other players.

The Principal sent Parent A a letter on July 1, 2009. In the letter, the Principal stated, "You presented us with a list of 33 undated and unsubstantiated allegations concerning [the Head Coach.]" The Principal said that he had "questioned" the Head Coach about the allegation regarding text messages, and the Head Coach showed the Principal two texts that the Head Coach had made to Parent A's daughter. One text was about training and the other asked about a surgery the player had the previous day. The Principal invited Parent A to provide any text messages that Parent A believed were inappropriate, but concluded that the ones he saw fell within the Head Coach's "parameters as a coach." The Principal did not address any of the other 33 items in the letter.

In the meantime, on June 11, 2009, the Complainants sent a letter to the Principal and the Athletic Director regarding the Head Coach and attaching the same list of 33 concerns.

On June 15, 2009, the Principal, School Athletic Director, Head Coach, and the Complainants met. The Head Coach told OCR that he thinks the Principal had given him a copy of the list of concerns prior to the meeting. The Complainants confirmed to OCR that the Head Coach had that list at the meeting.

On June 18, 2009, another parent (Parent B) sent a letter to the Principal. In addition to raising concerns about the Head Coach's putting Parent B's daughter in awkward situations such as by telling her negative things about other players, Parent B stated: "One day a student in [the Head Coach's] room alluded to having sex with her boyfriend, to which [the Head Coach] replied, 'I'm down with that,' in an encouraging manor [sic]. That is another totally inappropriate comment that I would prefer my 15-year-old daughter not hear from a supposed role model." Parent B sent a copy of her letter to the District's Chief Instructional Services Officer.

The Complainants told OCR that because they did not feel that they got an effective response from the principal or School Athletic Director, they then raised the matter with the District's Chief Human Resource Services Officer, who also serves as the District's Title IX Coordinator, and the Director of Secondary Education. The Complainants further told OCR that the Chief Human Resource Services Officer encouraged them to submit their concerns by no later than August 10, 2009, so that the concerns could be investigated and presented to the Superintendent.

On August 6, 2009, another parent (Parent C) sent an e-mail to the District's Chief Human Resource Services Officer and the Chief Instructional Services Officer. Her letter regarding the Head Coach included the following statement: "[The Head Coach] has had discussions with girls on topics I feel are not appropriate due to their sexual context. He made a comment to my daughter ... about the color/design of her underwear that was visible through her white shorts. This occurred at a preseason conditioning session when the girls were just running the track and no spectators were there to worry about. Another girl had this same issue addressed in front of her whole Study Hall class causing a great deal of stressful humiliation that was very

inappropriate as well.” Also, “[the Head Coach] is having conversations and text messaging girls about boyfriend issues.”

On August 6, yet another parent (Parent D) sent a letter by e-mail to the Chief Human Resource Services Officer, the Chief Instructional Services Officer, the Principal, and the School Athletic Director. That letter stated, “He has displayed behavior that I believe crosses the line on appropriate sexual conduct between a coach and player.” As examples, Parent D stated that the Head Coach approaches girls’ cars to deliver memos before practice and discusses personal issues with the players including the color or design of their underwear and matters about their boyfriends.

The Principal responded to Parent D by e-mail on August 10, 2009, copying the Head Coach. The Principal wrote, “I assume you are referring to the list of 33 undated and unsubstantiated allegations that were presented to me by [Parent A] on June 10, 2009. ... I am responding to all the people you sent your email to and [the Head Coach]. I feel strongly that an individual should be aware of the fact when people are making undated and unsubstantiated allegations about him or her.” Again, the Principal did not address the substance of any of the concerns other than to repeat what he told Parent A regarding text messages. In particular, the Principal did not address Parent D’s concerns about the Head Coach approaching players’ cars before practice or comments about players’ underwear.

Parent D wrote back to the Principal to clarify that she had not seen the list of 33 concerns. Parent D also noted the Principal’s lack of response to the concerns she had raised. The Principal replied on August 12, again copying the Head Coach. The e-mail stated in part, “I have discussed the underwear comments with [the Head Coach] and I am satisfied with his response. A coach has an obligation to make players aware if they are wearing something that is inappropriate to prevent them from doing that in the future. Again, your concerns are undated and unsubstantiated. ... I don’t view ‘approaches the girls cars to deliver memos’ as inappropriate sexual conduct.” In conclusion, the Principal offered, “I will be glad to meet with you, [the Athletic Director], and [the Head Coach] to address any concerns of which you have direct personal knowledge as they relate to your daughter.”

On August 21, 2009, the Head Coach met with the Chief Human Resource Services Officer, the Chief Instructional Services Officer, the Principal, and a union representative. In an interview with OCR, the Head Coach said that they discussed the issues that the Chief Human Resource Services Officer was most concerned about, and he was then instructed to prepare a written response to the remaining issues from the list of 33 concerns, which he did. In addition, the Head Coach prepared written Policy Changes for the 2010 season, including that white shorts would not be issued as part of the uniform or worn in games, and that the coaching staff would not text players or respond to any text received from a player.

The Complainants told OCR that, having received no further response to the information that they and other parents submitted, they contacted the Chief Human Resource Services Officer by e-mail on August 28 and on August 31. In their August 31 e-mail, the Complainants asked, “Did you find our concerns baseless and warranting no further action beyond investigating? Did you

find any merit in the concerns raised and opt to take some sort of action? If so, what action?" The Chief Human Resource Services Officer responded on August 31, stating only: "The district concluded our investigation in this matter on Friday, and because it involves a possible personnel issue, we will not be able to discuss this further with you. The issues have been reviewed with all necessary parties." The Chief Human Resource Services Officer sent an identical e-mail to at least one of the other parents.

The Head Coach resigned from his position at the School effective December 11, 2009. Very soon thereafter, he accepted a position at another District high school as Assistant and JV Girls' Soccer Coach. In an interview with OCR, he stated that the resignation was voluntary and based on his concern for the players, the school, and the soccer program.

On December 21, 2009, the Head Coach filed a civil lawsuit against the Complainants and Parents A, B, C, and D, for defamation and interference with contractual relations.

Analysis

Allegation 1: That the Coach of the girls' varsity soccer team sexually harassed members of the team, including their daughter (the Student), by commenting, on more than one occasion, about seeing players' "numbered underwear" through their see-through shorts, often approaching players' cars while they were changing into their soccer clothes, and commenting on a player's physical appearance

The Complainants alleged that the girls' varsity soccer team was subjected to a sexually hostile atmosphere. As noted above, to determine whether a sexually hostile environment exists, OCR must determine if the sexual harassment is severe, persistent or pervasive. OCR will examine the context, nature, scope, frequency, duration, and location of sex-based incidents, as well as the identity, number, and relationships of the persons involved. The harassment must in most cases consist of more than casual or isolated incidents to establish a Title IX violation.

OCR spoke with the Complainants, Parents A, B, C, and D, and multiple current and former varsity girls' soccer players, as well as the Head Coach.

There were a number of discrepancies between the Head Coach's version of events and the versions of the parents and a number of players. The Head Coach told OCR that some of the players changed clothes in their cars before practice and that he "occasionally" would approach players' cars when he had team-related information to pass out. However, whereas he told OCR that he made sure to either make eye contact with the girls or to verbally announce himself before he approached, the players told OCR that the Head Coach would just walk up to the cars. Not a single player verified that the Head Coach verbally announced himself before approaching a car. The players told OCR that there were other opportunities for the Head Coach to distribute the information and therefore no need for him to approach their cars. The Head Coach told OCR that he distributed the materials to other players as they walked toward the field: there is no apparent reason he could not have instituted that system for all players and thereby avoided approaching players' cars during a time they changed clothes.

In addition, whereas the Head Coach told OCR that he rarely touched players, and when he did it was just on the shoulder to get someone's attention, multiple players reported that he hugged and touched players with more frequency (one player said he hugged players "all the time"). Although some reported that they were uncomfortable with that and would move away from the Head Coach, all denied that the touching was sexual. One player told OCR that during a conversation with other players following the loss of a game, the Coach had put his hand on her shoulder and she told him plainly, "don't touch me." She said that she had backed away and again he put his hand on her shoulder. Again she told him not to touch her. She said that he continued to do so and that more than twice she repeated to him not to touch her.

The Head Coach also told OCR that he commented on a specific player's underwear on only one occasion and with regard to only one player. He said that after the player had worn printed underwear that was visible through her white uniform shorts 3 or 4 times, he spoke with her during study hall. He said that people in the stands were calling the player names related to her underwear from the stands. He told OCR that he said to her, "I think you need to be aware of what you wear under your shorts." The Head Coach said that from that point on it did not happen again, and that was the only girl he had to address about that issue.

During interviews with parents and players, OCR was told of two additional players to whom the Head Coach made comments about their underwear. One parent told OCR that the Head Coach commented to her daughter about the daughter's underwear (again visible through white shorts) during a practice session. Another player told OCR that the Head Coach said "Nice underwear" to her when her underwear was visible; she said that he did not say it in a "cover it up" kind of way. One player told OCR that the Head Coach once referred to another player by a number that had been visible on the player's underwear through her shorts and then said, "That was the number on your butt last night."

One of the players OCR spoke with reported that the Head Coach had called her in to his study hall class to talk about a soccer matter and commented that it looked like she had lost weight and that she "looked good." She told OCR that this made her uncomfortable but she did not reply to his comment. Another player who had been on medication that had caused her to gain weight last year said that this year the Coach told her that she looked really good and asked her if she had lost weight. While the players were uncomfortable by the Coach's comments to them about their own appearance, neither said that the Head Coach's comment was made in a sexual way. Another student reported being in the Coach's study hall and discussing homecoming with another player. She said that the Coach commented to the other player that she was "a looker" and should have no problem getting a date to homecoming.

A number of players reported that they considered quitting the team and the vast majority reported that the team atmosphere has improved significantly this year under a new coach. However, much of the Head Coach's conduct that inspired that dissatisfaction was not sexual in nature.

Given the circumstances taken in totality, OCR regards the situation presented here as posing a close call as to whether the conduct of the Head Coach rose to the level of sexual harassment and

notes that the significant age difference between the Head Coach and the players as well as the position of authority that the Head Coach had over the players are both relevant factors in making this determination. Although on balance we find that the conduct of the Head Coach falls just short of sexual harassment, we also find it reasonable and understandable that the Complainants and other players' parents felt that the Head Coach's actions were matters of concern.

While the Head Coach's conduct made some players' uncomfortable and while some of the conduct – and, in particular, the unnecessary approaching of female players' cars when they were changing inside – was inappropriate, students did not report that this had occurred frequently. Overall OCR concluded that the conduct was not sufficiently severe, persistent, or pervasive to create a hostile environment in violation of Title IX. In reaching this conclusion, OCR considered that the conduct at issue occurred only sporadically and not frequently; there is no indication that any threats were made; and players denied that any touching of a sexual nature occurred. In addition, while the Head Coach did make arguably unprofessional statements regarding players' underwear, no player reported that the comments were sexual.

Accordingly, OCR concluded that there is insufficient evidence to conclude that the players' were subjected to a hostile environment, as alleged.

Allegation 2: That the District failed to promptly and equitably respond to concerns about the Coach that were brought to the attention of District personnel

As stated above, Title IX requires that once a school has notice of possible sexual harassment of students, including harassment carried out by staff, it should take "immediate and appropriate steps to investigate or otherwise determine what occurred and take prompt and effective steps reasonably calculated to end any harassment, eliminate a hostile environment if one has been created, and prevent harassment from occurring again." See Revised Sexual Harassment Guidance: Harassment of Students by School Employees, Other Students, or Third Parties (OCR, 2001).

OCR identified several concerns with regard to the District's response to concerns about the Coach that were brought to the attention of District personnel. At the outset, building level personnel administrators did not recognize the parents' concerns as raising any possible issues of sexual harassment. In an interview with OCR, the Principal stated that he did not view the concerns in that light until the Chief Human Resource Services Officer told him of the OCR complaint. The Principal stated that he did not consider any of the items in the parents' list (including commenting about a player's underwear, telling a student she "looked good" in a "tone that made her feel uncomfortable," touching a player after she told him to stop, and saying he was "down with that" in response to a player's saying they were going to "get naked") as possibly being part of a sexual harassment claim, either singularly or as part of a pattern.

Possibly as a result of the Principal's failure to recognize the parents' concerns as raising an issue of sexual harassment, an inadequate investigation was conducted at the building level. The Principal did not speak to any of the players whose parents had raised concerns, nor did he interview or meet with all of the parents who had raised concerns. Of particular note, the

Principal told OCR that he did not ask any of the parents why they were concerned about the Head Coach delivering memos to players' cars, despite Parent D's flagging that conduct as an example of "behavior that I believe crosses the line on appropriate sexual conduct between a coach and player."

Even when the concerns escalated to the District level, the Chief Human Resource Services Officer did not interview any athletes. Although she told OCR that she had telephone conversations with the parents that she would characterize as "interviews," the parents denied that they had been interviewed as part of the District's investigation. Indeed, upon being notified that the District's investigation was complete, Parent D protested to the Chief Instructional Services Officer, "I am not sure how an investigation could have been carried out when none of the parties expressing concern were ever contacted." In addition, the Chief Human Resource Services Officer told OCR that she did not know that players changed in their cars until she learned of it in an OCR interview, and therefore (like the Principal and despite Parent D's pointed e-mail) she had not known why parents were concerned about the Head Coach's approaching players' cars. As a result of the limited information gathering, the Chief Human Resource Services Officer's conclusions were based predominantly on the Head Coach's version of events, including his assertion that he commented on only one player's underwear (whereas OCR's investigation revealed there were at least three such players) and that he touched students only very rarely (whereas students told OCR that the touching was frequent, though not sexual). Again, OCR concluded that the evidence does not support a finding that the Head Coach's conduct constituted prohibited sexual harassment. Nonetheless, the investigation conducted by the District would have been unlikely to uncover evidence of harassment had it occurred.

The Principal acknowledged to OCR that the District's sexual harassment policy states that all allegations of sexual harassment of students "will be investigated promptly and confidentially" and that a District administrative rule states, "Only those who have an immediate need to know may be provided the identity of the complainant." Again, possibly as a result of the Principal's failure to recognize the parents' concerns as raising an issue of possible sexual harassment, the Principal promptly informed the Head Coach of the names of many of the parents even though, given the nature of the allegations, this was not necessary in order to conduct an investigation of most of them. When Parent D wrote to the Principal on August 6 and said the Coach "has displayed behavior that I believe crosses the line on appropriate sexual conduct between a coach and player," the Principal copied the Head Coach on his response. The Principal acknowledged to OCR that he told the Coach the name of Parent A, and the Coach told OCR that the Principal also told him the name of Parent C. The Principal also arranged a meeting with the Complainants and the Head Coach after the Complainants raised concerns.

In addition, in all cases, it is good practice for a school to discuss confidentiality standards and concerns with a complainant initially, which the Principal did not do here. The school also should tell the complainant and the alleged harasser that Title IX prohibits retaliation and that, if the complainant is afraid of reprisals from the alleged harasser, the school will take steps to prevent retaliation and will take strong responsive actions if retaliation occurs. If the complainant asks that his or her name not be revealed, the school should take all reasonable steps to investigate and respond to the complaint consistent with the complainant's request as long as

doing so does not prevent the school from responding effectively to the harassment and preventing harassment of other students. At the same time, a school should evaluate a confidentiality request in the context of its responsibility to provide a safe and nondiscriminatory environment for all students. The factors that a school may consider in this regard include the seriousness of the alleged harassment, the age of the student harassed, whether there have been other complaints or reports of harassment against the alleged harasser, and the rights of the accused individual to receive information about the accuser and the allegations if a formal proceeding with sanctions may result. Here, the School did not discuss any confidentiality concerns with any of the parents, and their names and copies of their complaints were promptly shared with the Head Coach, who then shared at least some of that information with another parent.

The Principal's response to Parent D also is notable for its failure to recognize the seriousness of the concerns. Despite not having spoken with Parent D to clarify her concerns, the Principal characterized her e-mail as making "undated and unsubstantiated allegations." In addition, the e-mail indicated that if Parent D did want to pursue her concerns, the first step would be a meeting that would include the Head Coach. It is not generally appropriate for an individual who is complaining of harassment to be required to work out the problem directly with the individual alleged to be doing the harassment, and certainly not without appropriate involvement by the school (e.g., participation by a counselor, trained mediator, or, if appropriate, a teacher or administrator). Although the Principal indicated that he too would attend the meeting, the tone of his e-mail to Parent D did not suggest that he would serve as an effective neutral mediator. OCR noted too that the Complainants met with the Head Coach, the Principal, and the School Athletic Director as the first step in response to their letter of concerns to the Principal as well; the Complainants told OCR that they were "extremely uncomfortable" with that arrangement, although it is not clear that they communicated this, or would have felt comfortable communicating this, to the Principal.

The Principal's e-mail to Parent D also suggested that the meeting would take place only if Parent D raised concerns "of which you have direct personal knowledge as they relate to your daughter." If a school learns of possible harassment through a third party (such as from a witness to an incident or an anonymous letter or telephone call), various factors will affect the school's response. These factors include the source and nature of the information; the seriousness of the alleged incident; the specificity of the information; the objectivity and credibility of the source of the report; whether any individuals can be identified who were subjected to the alleged harassment; and whether those individuals want to pursue the matter. If, based on these factors, it is reasonable for the school to investigate and it can confirm the allegations, then the school is obligated to take appropriate responsive action. The standard articulated in the Principal's e-mail – that only allegations regarding a parent's own child and only allegations based on "direct personal knowledge" would be addressed – is not consistent with the District's obligations under Title IX, and was particularly inappropriate in this case given the many reports to the District raising similar concerns.

As noted above, the Title IX regulations require schools to adopt and publish grievance procedures providing for prompt and equitable resolution of complaints of discrimination on the

basis of sex. Among the elements OCR has identified in evaluating whether a school's grievance procedures are prompt and equitable is notice to the parties of the outcome of the complaint. The applicable District administrative rule (AR JC-R) includes the following:

Upon the completion of the investigation, the administrator/supervisor will report in writing the results of any investigation of sexual harassment, including corrective or disciplinary action taken, to the associate superintendent for personnel and to the complainant and/or the complainant's guardian.

The Complainants and the other parents who raised concerns about the Head Coach did not receive a written report consistent with that administrative rule. The Chief Human Resource Services Officer's August 31, 2009, e-mail to the Complainants stated only: "The district concluded our investigation in this matter on Friday, and because it involves a possible personnel issue, we will not be able to discuss this further with you. The issues have been reviewed with all necessary parties." The Complainants promptly responded, "There seems to be a missing piece to your response. Did you find our concerns baseless and warranting no further action beyond investigating? Did you find any merit in the concerns raised and opt to take some sort of action? If so, what action?" The District did not provide any additional information to the Complainants or the other parents. The notification that was provided to the Complainant and other parents was not sufficient under the District's own policy and under Title IX because it failed to notify them of the outcome of the investigation, that is, whether their allegations of sexual harassment had been substantiated.

In the course of the investigation, OCR noticed as well that the District's policies and procedures applicable to complaints of sexual harassment do not include designated and reasonably prompt timeframes for the major stages of the complaint process. The applicable administrative rule (AR JC-R) provides that the administrator/supervisor will initiate an investigation of any report of alleged sexual harassment within three working days. The rule further provides that the administrator/supervisor will "follow up within three months of any reported incident of sexual harassment to determine whether the complainant has been subjected to any sexual harassment." No other timeframes are provided, including for the completion of the investigation. In addition, the procedures do not indicate that any appeal of the investigatory findings is available to complainants; however, the Chief Human Resource Services Officer told OCR that complainants may appeal to the Superintendent. The District's procedures do not explain that process, including any time frames associated with a complainant's filing an appeal or the District's responding to an appeal.

Allegation 3: That the District retaliated against parents who raised concerns about the Coach by taking actions (including disclosing parents' names to the Coach) that ultimately led to the Coach's filing a lawsuit

Again, in order to establish that retaliation has occurred, OCR determines whether: (1) an individual engaged in a protected activity (e.g., filed a complaint or advocated on behalf of a student based on race, national origin, color, sex, disability or age); (2) the recipient was aware of the protected activity; (3) the individual or someone closely associated with the individual

suffered adverse action; and (4) there is some evidence of an apparent causal connection between the protected activity of the individual and the adverse action of the recipient. If these four elements are satisfied, an initial or *prima facie* case of retaliation is established. OCR then inquires whether the recipient had a legitimate, nondiscriminatory reason for taking the adverse action. OCR must then evaluate whether the reason(s) provided by the recipient is a pretext or excuse for retaliation.

OCR concluded that the Complainants and other parents engaged in a protected activity by raising concerns to the Principal and ultimately to the Chief Human Resource Services Officer. Although the Complainants and some of the other parents did not explicitly state that their concerns were of possible "sexual harassment," the conduct they described was sufficiently detailed and, at least eventually, sex-based as to trigger Title IX protection. In addition, in order for the activity to be protected, the Complainants need not establish that the sexual harassment actually occurred, but only that they reasonably believed in good faith that the practice was unlawful. It is not disputed that the recipient was aware of the parents' complaints. The Complainants addressed their concerns to the Principal on June 11, 2009, and subsequently escalated their concerns to the District level. Other parents, too, were in direct contact with the Principal and/or District-level personnel regarding their concerns.

OCR also concluded that the Complainants and other parents suffered adverse action. In order for an action to be considered adverse it must negatively affect a person's work, education, or well being in a serious, lasting and tangible manner and must significantly disadvantage a person's ability to gain the benefits of the educational program or activity. Alternatively, the action must be sufficient to discourage a reasonable person from further protected activity. Here, OCR concluded that the manner in which the Principal handled the parents' concerns would be sufficient to discourage a reasonable person from further protected activity. The Principal provided the Head Coach a copy of the concerns raised by the Complainants prior to meeting with them. He also told the Head Coach that Parent C had raised concerns and copied the Head Coach on his responses to concerns raised by Parent D. Although the Principal told OCR that he believed he needed to disclose Parent A's name to the Coach in order to investigate the concern regarding text messaging, the other disclosures were made without any apparent analysis of whether an effective investigation could be conducted while maintaining confidentiality. Moreover, the disclosures were made in conjunction with the Principal's insistence that the parents' first step in resolving their concerns would be to meet directly with the Head Coach and with the Principal's repeated characterizations of the concerns as "undated and unsubstantiated."

Although these adverse actions took place in the context of the District's failure to conduct an appropriate investigation of the parents' concerns, there is no indication that the actions were taken intentionally in response to the parents' protected activity. Retaliation generally is an intentional act. While OCR determined under allegation 2 that the Principal's response was not adequate, there is no evidence that his and other District personnel's actions had a retaliatory motive. The Principal told OCR that he did not recognize the parents' concerns as raising a possible issue of sexual harassment, and therefore he handled their complaints as he would any other complaint of dissatisfaction with a teacher, by sitting down with the complaining party and

the staff member to try to resolve the issue. Because there is no evidence of a causal connection between the protected activity and the adverse action, there can be no finding of retaliation.

Conclusion

Based on the evidence gathered during this investigation, OCR concludes that there is insufficient evidence to support finding a violation with regard to either Allegation 1 or 3. However, with regard to Allegation 2, OCR finds that the District failed to promptly and equitably respond to concerns about the Coach that were brought to the attention of District personnel. The District voluntarily entered into the enclosed resolution agreement (Agreement), which addresses the compliance concerns discussed above. OCR is closing this complaint effective the date of this letter but will monitor implementation of the Agreement.

Please be advised that you may file a private suit in federal court whether or not OCR finds a violation.

If you have any questions about the outcome of your complaint, please contact Betsy Trice, Attorney, at (202) 453-5931 or at Betsy.Trice@ed.gov or Martha Russo, Attorney, at (214) 661-9622 or at Martha.Russo@ed.gov. OCR is committed to a high quality resolution of every case. Accordingly, OCR's appeal process provides the complainant with an opportunity to bring information to OCR's attention that would change OCR's decision. An appeal should be as specific as possible and must explain why you believe the factual information was incomplete, the analysis of the facts was incorrect, and/or the appropriate legal standard was not applied, and how this would change OCR's determination in the case. Failure to do so may result in the denial of the appeal. Please note that we will not re-open a complaint because you are now providing facts that were known to you but not brought to our attention during the investigation or because you are merely expressing dissatisfaction with the resolution. You may submit an appeal within sixty days of the date of this letter to the following address: Deputy Assistant Secretary for Enforcement, Office for Civil Rights, U.S. Department of Education, 400 Maryland Avenue, S.W., Washington, D.C. 20202-1100. Please note that you have only 60 days in which to file an appeal. Talking with Ms. Trice or Ms. Russo will not extend this deadline.

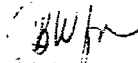
We have notified the District that it may not harass, coerce, intimidate, or discriminate against an individual because the individual filed a complaint or participated in the complaint resolution process. If this happens the individual may file a complaint alleging such treatment.

Under the Freedom of Information Act, it may be necessary to release this document and related correspondence and records upon request. If OCR receives such a request, we will seek to protect, to the extent provided by law, personal information that, if released, could constitute an unwarranted invasion of privacy.

This letter is a letter of findings issued by OCR to address an individual OCR case. Letters of findings contain fact-specific investigative findings and dispositions of individual cases. Letters of findings are not formal statements of OCR policy and they should not be relied upon, cited, or

construed as such. OCR's formal policy statements are approved by a duly authorized OCR official and made available to the public.

Sincerely,



Olabisi L. Okubadejo
Team Leader, Team II
District of Columbia Office

Enclosure

Resolution Agreement

School District Five of Lexington and Richland Counties OCR Complaint No. 11-10-1093

School District Five of Lexington and Richland Counties (the District) agrees to fully implement this Resolution Agreement (Agreement) to resolve Office for Civil Rights (OCR) Complaint No. 11-10-1093 (the Complaint). Full implementation of this Agreement by the District resolves the allegation in, and OCR's compliance concerns regarding, the Complaint.

Corrective Actions:

1. By **October 15, 2010**, the District will revise the procedures to be used to address allegations of discrimination under Title IX (including but not limited to sexual harassment). The grievance procedure(s) will provide for the prompt and equitable resolution of complaints alleging any action prohibited by Title IX, and will address, at a minimum, the following:
 - a. Adequate, reliable, and impartial investigation of complaints, including the opportunity to present witnesses and other evidence; and
 - b. Designated and reasonably prompt timeframes for the major stages of the complaint process.
2. By **November 1, 2010**, the District will provide in-service training to all District administrators regarding the District's responsibilities and obligation to comply with the regulations implementing Title IX regarding sexual discrimination, including sexual harassment. This training will include instruction on Title IX's procedures to be followed in reporting, investigating, and issuing a final determination on a grievance of sexual discrimination or harassment.
3. By no later than **March 31, 2011**, the District will provide in-service training to all District staff regarding the District's responsibilities and obligation to comply with the regulations implementing Title IX regarding sexual discrimination, including sexual harassment. This training will include instruction on Title IX's procedures to be followed in reporting, investigating, and issuing a final determination on a grievance of sexual discrimination or harassment.

Reporting Requirements:

1. By **August 16, 2010**, the District will submit for OCR's review and comment draft revised procedures under provision 1 above. OCR will provide comments within 10 calendar days of the District's submission.
2. By **October 18, 2010**, the District will submit to OCR a copy of the final policies and procedures adopted by Board.

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3. Within 5 school days of the completion of each segment of training, the District will submit the name(s) and title(s) of the in-service trainer(s), the date of the in-service training, the materials used, and the sign-in sheet indicating the names and titles of participants, as specified in items 2 and 3 above.

By: Dr. Berg
Dr. Berg, Superintendent
School District Five of Lexington
and Richland Counties

Date

7-20-10

Superintendent's designee
(Chief Human Resource Officer)



U.S. DEPARTMENT OF EDUCATION

400 Maryland Ave., SW

Washington, DC 20202-1475

Telephone (202) 453-6020 Facsimile (202) 453-6021; TDD 1-800-521-2172

e-mail: OCR.DC@ed.gov

OFFICE FOR CIVIL RIGHTS
SOUTHERN DIVISION

DISTRICT OF COLUMBIA OFFICE
District of Columbia, North Carolina, South Carolina, Virginia

September 17, 2010

Ms. Pam Weiss
240 Wood Moor Place
Columbia, South Carolina 29212

RE: FOIA Request #10-01751-F

Dear Ms. Weiss:

This letter is in response to your July 27, 2010 e-mail request under the Freedom of Information Act (FOIA), 5 U.S.C. Section 552, et seq., to the U.S. Department of Education (the Department), Office of Management. Your request was referred to the District of Columbia Office for Civil Rights (OCR) for response. In your e-mail you requested a copy of all notes taken, files, and documents collecting during the Early Complaint Resolution (ECR) regarding OCR Complaint No. 11-10-1007. You also requested a copy of all interview notes taken during the investigation of OCR Complaint No. 11-10-1093, including all other requested documents, notes, and filed collected by OCR attorneys Betsy Trice and Martha Russo.

All OCR complaint files are composed of investigatory records compiled to determine whether the educational entity under investigation has violated the statutes and regulations enforced by OCR. A copy of the document responsive to your request is enclosed. However, as explained below, OCR has denied your request in part and made redactions to the documents.

FOIA mandates Federal agencies to release records, on request, except those records or parts of records that qualify for one or more FOIA exemptions. FOIA provides, in part, that:

(b) this section [of the FOIA, which otherwise mandates release of records responsive to a request] does not apply to matters that are...

(3) allow the withholding of information prohibited from disclosure by another statute.....

(7) records or information compiled for law enforcement purposes, but only to the extent that the production of such law enforcement records or information...

(C) could reasonably be expected to constitute an unwarranted invasion of personal privacy....

Any reasonably segregable portion of a record shall be provided to any person requesting such record after deletion of the portions which are exempt under this subsection.

As to your request for notes taken during the ECR/mediation process for OCR Complaint No. 11-10-1007, we are not able to release that information in accordance with the Administrative Dispute Resolution Act of 1996 (ADRA) at 5 U.S.C. § 573 and FOIA exemption (b)(3). Pursuant to FOIA exemptions (b)(3), we are withholding information that is prohibited from being disclosed by another statute. Specifically, you agreed to participate in OCR's ECR process, and you signed a Confidentiality Agreement (the Agreement) agreeing to be governed by this standard. You agreed that a neutral (in this case, ECR facilitator/mediator) shall not voluntarily disclose or through discovery be required to

The Department of Education's mission is to promote student achievement and preparation for global competitiveness by fostering educational excellence and ensuring equal access.

disclose any dispute resolution communication or any communication provided in confidence to the neutral; and a party to a dispute resolution proceeding shall not voluntarily disclose or through discovery be required to disclose any dispute resolution communication. In addition, the parties and the ECR facilitator agreed that ECR sessions would not be tape-recorded or transcribed by the facilitator or any of the participants. All information, including all notes, records, or documents generated by the ECR facilitator during the course of ECR are kept in a separate file and are not shared with an OCR staff member(s) assigned to investigate the complaint should the complaint not be resolved through the ECR process. Parties or their representatives are not prohibited from retaining their own notes. However, the ECR facilitator does not collect or maintain any such notes or records as part of his or her record keeping procedures. Thus, we cannot release any documents that are responsive to this portion of your request.

As to your request pertaining to OCR Complaint No. 11-10-1093, a copy of the records, excluding personally identifiable information, are enclosed. Pursuant to FOIA exemption (b)(7)(C), we are withholding information that would identify a particular individual, including specific information that describes events and circumstances unique to a particular individual. The information withheld could reasonably be expected to constitute an unwarranted invasion of personal privacy if released. This information is redacted in each of the documents provided to you. OCR left as much text as possible, consistent with its obligation to protect against unwarranted invasions of privacy, to allow you to identify the nature of the document and to provide you with any material that could reasonably be segregated from the material which was redacted.

Accordingly, in response to your request, a copy of the responsive documents is enclosed. The provisions of FOIA allow us to recover the costs pertaining to your request. We determined that the first 100 pages are provided without charge and each page after that is 10 cents per page. Therefore, there are no fees for processing your request. This constitutes the Department's response to your request for records. You have the right to appeal this determination by writing, within 30 days of your receipt of this letter to:

U.S. Department of Education
Assistant Secretary for Management
Office of Management
400 Maryland Avenue, SW, Rm. 2W311, LBH
Washington, DC 20202-4500
ATTN: FOIA Appeals

Your appeal should be accompanied by a copy of your initial request and this partial denial letter, and should contain any evidence or argument you wish the Department to consider in making an administrative determination on your appeal.

If you have any questions regarding our response to your FOIA request, please feel free to contact Ms. April Byrd at (202) 453-5903.

Sincerely,



Alice Wender
Office Director
District of Columbia Office

Enclosure

OCR Case No. 11-10-1093

July 15, 2010

OCR Staff: Betsy Trice, Martha Russo

Also for the District: Andrea White

OCR staff explained that we completed our investigation and we would like to discuss resolution. District reps confirmed that they had a chance to review the agreement.

OCR explained that we investigated three separate allegations and that we did not find that the conduct of the Coach rose to the level of sexual harassment or that the District retaliated against the Cps. However, we did find concerns about how the District responded to the parents' complaints. Those problems were with the process that was followed and also some problems with the grievance procedures themselves.

OCR explained that the Principal's response was not adequate. He acknowledged that he had not recognized the concerns as raising possible issues of harassment. He did not talk to any of the students who were involved and only certain of the parents. When that was escalated to the District level, again the students weren't interviewed and there's a difference of opinion as to whether the parents were interviewed. We also had some concerns with the Principal's sharing of information with the Coach. With regard to the procedures, they do not have specific timeframes for the incremental steps of the procedure.

AW said the policy has not been updated since 1994.

OCR explained our concern with regard to the lack of notification of the parents of the outcome. AB asked whether her email to the parents was sufficient and OCR said it was not because it did not state whether the allegations of sexual harassment had been substantiated.

As far as training, District reps asked whether OCR means all District staff or just certified staff? OCR explained that our concern is with staff who interact with students. The District asked if they could train administrators and then administrators train at the building level. We said that was fine so long as it is documented. AB asked if it would be a problem that she be involved with the training given that the parents had a concern with her. OCR explained that this is an agreement between OCR and the District.

AB said that to change a District policy, she must present draft policy to the Board. Then 2 weeks later it goes to 1st reading and then 2 weeks after that to a 2nd reading before it can be approved. AB would like to have the policy revised to comply and then train the principals on both the policy and how to conduct an investigation all at once. She estimated that they could probably finalize the policy by October 1, but would prefer the agreement to say October 15, so there would be one more Board meeting if that was necessary.

The District proposed that it could have the policy drafted in time to have the readings in September. The earliest it could be approved would be Sept. 27. So in October the District could provide OCR the approved language.

We discussed time frames for the Agreement. We agreed that a draft could be provided to OCR by August 16. They will reference that any complaint about an employee about sexual harassment will be investigated under JC and JC-R. Then the policy could be approved by the Board by October 15.

Training of administrators could be done by November 1, and administrators could go back and train their staff. They proposed training could be completed by the middle of May. OCR staff stated that was too long a time frame because that would be nearly the end of the next school year. District reps then suggested March 31. OCR staff proposed March 1. District reps said that would be possible, with the understanding that if they have trouble reaching some employees by then (such as bus drivers), they could ask for an extension through the end of March. They expect they could train everyone by March 31. They could provide sign in sheets of the training segments within 5 schools days of completion of training.

OCR said we will revise the agreement and send it back with the dates.

AB said she will sign as the Superintendent's designee because Superintendent is out until August 2 or 3.

AWhite@dwilawfirm.com

OCR Case No. 11-10-1093

Interview of Dr. Angela Bain

May 19, 2010

Present for OCR: Martha Russo and Betsy Trice

Present for District: Andrea White

1. Title. How long have you held that position? How long have you worked for the District?

She is the Chief Human Resources Officer. She has held this position and been with the School District for four years.

2. What are your responsibilities with regard to Title IX?

She is responsible for investigating any allegation of sexual harassment. She handles all discrimination issues and personnel issues of all kinds. The District has 2500 employees. She lets others do the hiring and recruiting but all other employee issues come to her.

3. What training have you had on the substance of Title IX? When?

She has a degree in [unclear]. She is studying for the Senior HR exam and entire module of it is on investigations and Title IX.

4. Do you investigate all sexual harassment complaints? If not, which ones? Who investigates complaints when you are not involved?

She clarified that student on student harassment issues are handled at the school level. When an issue involves staff on student, she investigates it.

- a. What training have you had on how to investigate complaints?

She took a Fred Preyer canned seminar in 2001 or 2002 on how to conduct investigations. Other aspects of the modules for the Senior HR exam address educational leadership and policy including conducting administrative investigations and personnel issues. She also attends conferences which include information on conducting investigations.

- i. As an example, explain how you would go about investigating a high school student's complaint that she had been touched inappropriately by a teacher.

She tries to get statements from as many individuals as she can. She will talk with the building administrator and/or Helen Anderson or

others in the central administration. Andrea White may help her as well.

- ii. What do you tell complainants and witnesses about their rights with regard to the complaint process?

She tells them that the School District will not tolerate sexual harassment and that the School District will enforce its prohibition against it.

She told OCR that in July 2006 she began writing the new handbook for employees and consulted the policy manual. She found that the policies had not been updated so she began to update it and finished it in April 2010. She shared it via e-mail with all principals and Linda LaVigner send it to those who old the policy books.

- iii. How do you determine what remedy, if any, is appropriate? Do you ask complainants or victims are asked about what harm they've suffered and what remedies they are seeking? Do you keep a record of that?

She gives consideration to all factors. She looks at whether there has been any pattern of harassment and whether any policy has been violated. If the matter involves a classified staff member and she feels that she needs to reprimand the individual or let them go, she calls them in for a pre-termination meeting. She hears their side and recommends to the Superintendent whether to reprimand the individual or let them go. If the matter involves a teacher, she looks to whether there has been any pattern of behavior, have there been any issues with this person before, has the individual already been reprimanded for similar actions or reprimanded for any action at all.

If the matter involves any intentional touching or wrongdoing, the individual will be let go. If the actions were not intentional, they will work with the individual to improve their behavior.

She will consult with their attorneys as necessary. Certified employees fall within the Teacher Employment and Dismissal Act which requires that certain steps be taken. For example the teacher must be told where they went wrong, be given assistance and be provided time to improve.

She will ask the alleged victim what they did to tell the perpetrator to stop. If they respond that they did nothing, she asks what they would

like the result of the investigation to be. She may pull the individual in and reprimand them. She will tell the alleged victim that if the problem continues, they should come back in to tell her.

- b. What training have other investigators received?

At principals' meetings, she tells them they have to conduct an investigation and tells them that if they are not sure of how to do that, she will work with them. She tells them to call her with any questions. She said that she makes sure to tell them that if the issue involved is one of sexual harassment, the principals need to be sure that staff review the relevant policies. She explains to principals the need to share such information with staff and she reminds them to share sexual harassment policy and other policies.

She said that substitutes go through an on-line training module. She has also talked at several schools when invited. She has not been invited to do so at Irmo High School.

She puts legal "how to's" into the information conveyed at Principal meetings. And Andrea White's law firm puts out a newsletter covering various topics. Andrea White said that about 8-10 years ago perhaps in late in 2000, substantive training on Title IX was provided—from the angle of discrimination and sexual harassment.

- c. District policy AR-JC-R Student Rights and Responsibilities (JI-R) (at page 1076) says that students are encouraged to file a complaint of sexual harassment with the student's principal (unless the principal is the alleged harasser) and then the principal will initiate an investigation. Is that how most situations are handled? What is your role when principals investigate complaints of sexual harassment of students?

As noted in 4 above, she investigates personnel issues but does not investigate student to student harassment. The Principal initiates this at the school level and if the matter is not resolved at that level, it will come to her. Although the initial step is a school level investigation, she asks principals to notify her of any complaints. She has been adamant that if they feel it's going too far that they need to involve her. Also if they can't resolve it then they turn it over to her to resolve it. The principal will still be involved and most times the attorney is involved too.

5. Under both the former and current District procedures, is there a timeframe for:
1. The complainant's raising a complaint?

No set timeframe. She still has to investigate even if the complaint is

raised a year later.

2. The District's initiating the investigation? [three working days]

When the District first receives the complaint, she starts the investigation. She begins by opening a file for the complaint.

3. Concluding the investigation?

There is no timeframe for when an investigation must be concluded because you never know how long it will take. You must get as much information as you can.

4. Notifying the complainant of the outcome?

She tries to keep the complainant updated and is in communication with them along the way.

5. The complainant's appealing the finding?

An individual can always go to the Superintendent. She thinks that that is in the policy but regardless "people know that."

6. The District's making a decision on the appeal?

She does not know of one. The Superintendent tried to act on them as soon as possible because it is not good for the employee or for the District to have the situation linger.

She noted that Section J of the District policy manual is currently being worked on. Sections A – D were finished when she first joined the District. She started working on Section G when she first got there.

6. Whom do you notify of the outcome of complaints? How is that done? When?

She notifies the Superintendent of the outcome. In addition, she notifies the attorneys, the principal, the complainant(s) and the person who is being accused. Sometimes she provides this notice by e-mail other times by telephone call. For the person who has been accused, she puts it in a memo to the file, in which she includes timelines and specifies that the findings are x, y, and z. She also sends a copy of this memo to the principal, the Superintendent, the accused and the attorney. She tries to provide notice of the outcome as soon as possible. Sometimes it is not the exact same day that she has made her decision.

7. Is the "Timeline of Issues and Memos for (b)(7)(C)" a document you

created? If so, why and when did you create it? If not, do you know who created it?

She created this document because there were so many e-mails that she needed to get a handle on it to know where they were in the investigation. She does not recall when she created it but believes it was in September or in October. Upon reflection, she thinks she created it in September and kept on adding to it.

She said that "this thing just grew legs." She shared the document with (b)(7)(C) (b)(7)(C) Andrea White, and the Superintendent.

8. When did you receive a copy of the list of concerns raised by parents about (b)(7)(C) (b)(7)(C)?

She said that the (b)(7)(C) principal got it first. The first time that she knew about it was July 1, 2009. The principal wrote a response letter to the list of 33 concerns. She had not seen the June 11 letter from Weiss and (b)(7)(C). She first became aware of it when she was reading the principal's July 1 letter.

Then (b)(7)(C) started getting e-mails from (b)(7)(C). The Chief HR Officer first became aware of these at the end of June as (b)(7)(C) forwarded to her the e-mail from (b)(7)(C) and may have attached the list of 33 concerns. The Chief HR Officer also got a letter from (b)(7)(C). The principal wrote a response to Mr. (b)(7)(C). She received this on July 6th. She was mainly just copied on things at this point.

9. Did you understand the parents to be raising any issues of sexual harassment? Explain. If "no" ask: Did you consider whether the concern regarding the (b)(7)(C) asking a player if she lost weight and telling her she "looked good" in a "tone that made her feel uncomfortable" could be part of a sexual harassment claim. What about the comment about his being "down with that" in response to a player's saying that they were going to get naked? The touching of a girl's shoulder after she asked him to stop? Statements regarding players' underwear? (b)(7)(C) (b)(7)(C) 8/6/2009 email to you in which she said, "(b)(7)(C) (b)(7)(C) has had discussion with girls on topics I feel are not appropriate due to their sexual context"? (b)(7)(C) example that the (b)(7)(C) approaches girls' cars to deliver memos before practice? If "yes" ask: Which of the concerns did you consider to raise issues of sexual harassment? [make sure touches on above issues]

She did not understand them at that time to be raising issues of sexual harassment.

She reiterated that (b)(7)(C) had forwarded (b)(7)(C) e-mail to her and attached the list of 33 concerns. She also read the principal's letter. In July,

the Chief HR Officer started getting calls from the parents. When asked, she said that she did not regard the (b)(7)(C) alleged comment that a student "looked good" to be sexual harassments. She said that she did not even know if it was true that the (b)(7)(C) had made the statement. She said that lots of parents were sending the same list of concerns and she hadn't had time to read it all. When asked about the (b)(7)(C) alleged saying that he was "down with that," she noted that this caused her concerns and yes she considered whether it could be part of sexual harassment. She said that she considered the (b)(7)(C) alleged touching of a player's shoulder, the alleged comments about player's underwear, and what was described in the August 6th email from (b)(7)(C) to be possible sexual harassment.

- She said that she did not consider the (b)(7)(C) approaching cars to be possible sexual harassment and that yesterday was the first time that she had heard that girls were changing in the cars.

10. The timeline reflects that the letter listing 33 concerns was mailed to (b)(7)(C) and (b)(7)(C) on June 11, 2009. You met with (b)(7)(C) (b)(7)(C) on August 21, 2009. What happened in the interim?

She became actively involved after the Principal's July 1 letter to Mr. (b)(7)(C). Mr. (b)(7)(C) was the first parent that the Principal met with and she confirmed that the Principal characterized the parent's concerns as unsubstantiated. When she got back from vacation, all of this information was handed to her. She began to get calls; (b)(7)(C) was involved. She and (b)(7)(C) were comparing notes about what they each had heard.

11. Other than the meeting with (b)(7)(C) (b)(7)(C) to discuss the issues, were other steps taken to investigate the issues?

12. Did you speak with any / all of the parents (b)(7)(C) (b)(7)(C) who raised concerns? If not, why not? If so, when / what was said?

She said that Mr. (b)(7)(C) called some and e-mailed a lot. She did not recall receiving many phone calls from him but said that the "e-mails were flying."

Her timeline notes show that on July 29, August 30 and 31, (b)(7)(C) called.

Her records show that on July 30th she was contacted by Mr. (b)(7)(C) and asked "where do we sit?" She spoke with (b)(7)(C) on that date. She tried to be vague in her responses because she wanted to go to them to ask questions. She told OCR that the District had plenty of information but were somewhat on hold with a lot of things because she was trying to get direction from the Superintendent who was out from July 29- August 10th.

She said that she tried to get their information down and took their calls. She said that she would consider this to be an interview of the parents. To sum up, she spoke with Mr. (b)(7)(C) (b)(7)(C) and Mr. (b)(7)(C) by phone. She returned calls that they had placed to her.

She did not talk with (b)(7)(C) but received the August 6th letter that this parent sent to (b)(7)(C). She said that she did not know exactly what (b)(7)(C) referred to in her what she wrote to (b)(7)(C). She did not speak with (b)(7)(C) or (b)(7)(C). She said that "all these people were sending the same list and we were investigating it."

13. Did you speak with any of the (b)(7)(C) players about the concerns? If not, why not?

She did not speak with any (b)(7)(C) players. She explained that it was during the summer and she had not had an opportunity to speak with the (b)(7)(C) yet. After she had talked with the (b)(7)(C), she did not reach out to any (b)(7)(C) players.

14. (b)(7)(C) wrote to you on 8/28/09 and said that 3 (b)(7)(C) players who had graduated in 2008 would be willing to talk to someone about the (b)(7)(C) behavior. Did you get those students' contact information from Ms. (b)(7)(C)? Did you speak with those players? If not, why not?

She said that she did not speak with the three former players because she had not yet spoken with either the (b)(7)(C) or the current players. She explained that she had other priorities to deal with in getting people hired and to get it done before school started.

She said that she had intended to talk with students before concluding the investigation but once they filed the OCR complaint the matter took another direction so she just stopped.

15. On July 31, Dr. (b)(7)(C) sent you an email asking if there was a way for other parents to express concerns and remain anonymous "relative to formal documentation." You answered that you could try to maintain confidentiality but "cannot promise full anonymity." What did you mean by that? Did you discuss that again with Dr. (b)(7)(C)? Did you attempt to obtain the names of other parents who had concerns?

She said that a lot of parents and students knew about this and were aware of the vandalism of the (b)(7)(C) house such that she did not think that she could keep control of it. She did not discuss the issue of anonymity with Mr. (b)(7)(C). She asked him to have the other parents contact her.

16. Policy AR-JC-R states, "Only those who have an immediate need to know may be

provided the identity of the complainant." What is your understanding of that? Has the District provided any training to building level administrators on how to decide who has an immediate need to know? Is it the District's position that the accused harasser always has an immediate need to know the identity of the complainant?

In terms of those who might have an immediate need to know, she identified an administrator or someone who was investigating the matter, a counselor or social work or someone who was otherwise involved.

She has not received training on how staff should identify those with an immediate need to know.

It is not the District's position that the accused harasser always has a need to know. She did not tell the (b)(7) who the accusers were. Rather, he named them all. She does not know how he knew who they were.

17. You submitted a memorandum to file on October 12, 2009, reporting on the investigation of the complaint on the (b)(7)(C). What was the purpose of that memo? What does the handwritten note at the top say?

She wrote the August 12, 2009 memo to the file to close it out. The memo would inform the (b)(7)(C) of the outcome and it was also included in the District's sexual harassment files that are kept in a vault. The handwritten note at the top indicates that the memo will be filed in the vault.

- a. You conclude in the memo, "There is no clear line of evidence that the unprofessional incidents occurred other than the parents' reports from their children." What did you mean by "clear line of evidence"? What type of evidence would have established a "clear line"? What evidence did you consider when concluding that there was not enough evidence to find that unprofessional incidents occurred?

She said that after talking with the principal (b)(7)(C) the (b)(7)(C) and the SEA representative, she felt that the (b)(7)(C) had an explanation for his actions. When asked what evidence would have establish a clear line of evidence, she said that she can't answer that as it is different in every case. If the (b)(7)(C) did not have a good explanation that might have changed the outcome. She confirmed that she found the (b)(7)(C) explanations to be credible. The (b)(7)(C) did not mention approaching girls in their cars at the meeting they had with the (b)(7)(C) in August. After the August 21 meeting they had with the (b)(7)(C) the (b)(7)(C) had August 26 to respond to the concerns. She said that they had talked with the (b)(7)(C) about his touching students, he said that all that he was doing was to keep her from getting angry. She indicated that it was her understanding that had taken place one time regarding one student. It was on the sideline when one student was angry. The

Chief HR Officer indicated that the (b)(7)(C) was visibly upset by that allegation and said "well I won't touch them any more." When asked what informed her understanding that it was only one student, she said that her understanding was based on the list and what his response was. In the conference they had with him, the (b)(7)(C) said that he does not make a habit of touching students and he included that in his written response too.

18. On August 8, 2009, (b)(7)(C) sent an email to (b)(7)(C) and you, among others, and copied the (b)(7)(C). In the email Mr. (b)(7)(C) described some concerns raised by Ms. (b)(7)(C) and said, "I am responding to all the people you sent your email to and (b)(7)(C) (b)(7)(C). I feel strongly that an individual should be aware of the fact that people are making undated and unsubstantiated allegations about him or her." Was that action consistent with the District's policies regarding investigations of complaints? If "no", what actions were taken in response? If "yes", the District's Policy GBAA and Policy JC say that all allegations of sexual harassment of students "will be investigated promptly and confidentially." What is your understanding of that provision?

She confirmed that the Principal had copied her and the (b)(7)(C) on the e-mail response to the parent. She said that she had spoken with the Principal about that and had told him to stop responding to these people. She conveyed to the Principal that he was just "stirring the pot" and that he should just "let us have it." What she found problematic was that he had turned it over to the District and appeared now to be taking it back to investigate. The Chief HR Officer indicated that she was trying to corral this. She told him to stop e-mailing and to stop responding. When asked, she said that she probably was also bothered by his copying the (b)(7)(C) on the e-mail. She said that on August 10, 2009, she advised the Principal not to send any more e-mails until they had a chance to meet. The message she was sending was: "Stop the presses on this (b)(7)(C)." "

19. In both that email and a July 1, 2009 email, Mr. (b)(7)(C) characterizes the parents' concerns as "unsubstantiated" and asks for evidence or proof of wrongdoing. Under the District's policies, are parents or students required to come forward with some "proof" before the District conducts an investigation? If not, did you or anyone else speak with Mr. (b)(7)(C) about those emails?

She confirmed that parents are not required to come forward with proof. She does not recall if she told the Principal that he did not have to have evidence to conduct an investigation. She told OCR that she had a number of conversations with the Principal but is not sure if she specifically raised the concern about the fact that he did not need to have evidence to have to conduct an investigation.

At the school level, the Principal talked with and met with parents and had the texts from the (b)(7)(C). That is what she believes he had as evidence. She does not know what other evidence the Principal may have had. But she confirmed that he did not have to have

hard and fast evidence to start an investigation.

20. In an August 12 email to Ms. (b)(7)(C), Mr. (b)(7)(C) said that he would be glad to meet with Ms. (b)(7)(C), (b)(7)(C), and (b)(7)(C) to "address any concerns of which you have direct personal knowledge as they relate to your daughter." Under the District's policies, is a parent required to come forward with "direct personal knowledge" and must conduct affect that parent's own child before allegations of sexual harassment are investigated? If not, did you or anyone else speak with Mr. (b)(7)(C) about that email?

A parent is not required to come forward with direct personal knowledge. A parent can raise a sexual harassment claim that is unrelated to their own child.

- a. Mr. (b)(7)(C) email suggests that even if Ms. (b)(7)(C) did present "direct personal knowledge" of conduct affecting her daughter, the first step would be a meeting between her and the (b)(7)(C). Is that consistent with the District's policies regarding investigations of complaints of sexual harassment (including confidentiality provisions)? If not, did you or anyone else speak with Mr. (b)(7)(C) about that statement?

She spoke with the Principal on August 13 and told him to stop e-mailing as the District staff were now doing the investigation. She said that District policies would not require that a student first meet with the (b)(7)(C). She told OCR that she told the Principal: "let me have this—just stay out of this." She was disturbed that the Principal was stirring the pot and getting further into it after it had been turned over to the District office staff and before he knew if any District policies had been violated. He needed to just stop. She said that it was the first day of school for teachers and there was a lot going on right then.

21. In a June 25, 2009, email to (b)(7)(C), you wrote: "I am recommending that we do not allow Mr. (b)(7)(C) to coach in our district. Many of the comments are not appropriate, and I believe we have an 'accident waiting to happen' if we continue his coaching duties." How did you come to make that recommendation? Do you know why that recommendation wasn't followed? Did your assessment of the situation and recommendation change any time thereafter? If so, based on what?

She said that this took place after she read the e-mail from (b)(7)(C) that (b)(7)(C) had sent her. The Chief HR Officer said that she looked the (b)(7)(C) up and saw that he was no longer a (b)(7)(C) person. He had held both a (b)(7)(C) position and (b)(7)(C) coach but had resigned the (b)(7)(C) position at the end of last year. As a result, he was not a full time employee but was paid for (b)(7)(C) on a supplement. Since they were not obligated to keep him she felt that they should just let him go as they didn't "need the dust." She had talked with (b)(7)(C).

about this. (b)(7)(C) reaction was fine if that's what we need to do—let him go.

When she heard about the 33 concerns, her reaction was he is not even an employee—let's just let him go. But after they got knee deep into it, she felt that they couldn't just let him go but must give him due process. She said that it was more than just the list off 33 things that she was considering. She mentioned for example that his house had been vandalized.

22. The (b)(7)(C) employment records have a comment that he "resigned effective (b)(7)(C)." However, we understand that the Coach is currently coaching (b)(7)(C) at a District school. Can you explain?

She said that the (b)(7)(C) resigned from coaching at (b)(7)(C) High School. Then (b)(7)(C) School called him. Apparently the (b)(7)(C) coach at (b)(7)(C) was leaving and it was suggested that he could apply for the job. The (b)(7)(C) approached District staff about whether he could pursue the position at (b)(7)(C) and the Chief HR Officer were those who were involved in the decision that the (b)(7)(C) could apply for the position at (b)(7)(C). The Principal and Assistant Coach at (b)(7)(C) and the Athletic Director interviewed the (b)(7)(C) for the (b)(7)(C) position.

End of interview.

Interview of Coach (b)(7)(C) (W)
OCR Staff: Betsy Trice, Martha Russo
Also Present: (b)(7)(C) (Counsel for Witness); Andrea White (District Counsel), Dr.
Angela Bain
May 18, 2010 9 am

1. What is your current position with the District? How long have you worked for the District? What positions have you held prior to your current position?

Assistant and JV Girls' (b)(7)(C) Coach at (b)(7)(C); 5 months in that position. Has been with the District for 35 consecutive years. Has been a PE teacher at numerous elementary schools and at (b)(7)(C). Has also been a girls' and boys' cross country, track, (b)(7)(C), and girls' tennis coach. Was the "co-head" coach (with (b)(7)(C)) varsity girls' (b)(7)(C) coach at (b)(7)(C) for 5 years and then the Head Coach for 3 years prior to current position.

2. When did you become aware that (b)(7)(C) and (b)(7)(C) had raised concerns about you to Principal (b)(7)(C)? How did you become aware of that?

June 2009, toward the end of that month, (b)(7)(C) was visiting his daughter from June 15-30th and (b)(7)(C) called him. (b)(7)(C) had had a meeting with (b)(7)(C) – that was when they were initially told that there were concerns. Then in July or August, there was a meeting with (b)(7)(C) and (b)(7)(C) called (b)(7)(C). (b)(7)(C) thinks (b)(7)(C) gave him the list of concerns before the meeting.

3. Are you aware that other parents also raised concerns about you to District administrators? Names of the other parents. When did you become aware of that? How did you become aware of that?

(b)(7)(C) was the first one who went to (b)(7)(C). Then (b)(7)(C) and (b)(7)(C) went. Then there was a meeting with (b)(7)(C) and (b)(7)(C) and (b)(7)(C) showed up and tried to intervene but (b)(7)(C) wouldn't let him. Ms. (b)(7)(C) also showed up outside at that meeting with (b)(7)(C) and (b)(7)(C); she wasn't allowed to participate in the meeting. On another occasion, in July or August, Ms. (b)(7)(C) was in the athletics department (she's active in the boosters organization) and said something to (b)(7)(C) to the effect of, "I know morale is down since (b)(7)(C) left." (b)(7)(C) told OCR that he did not have the same opinion and that he had said to (b)(7)(C), "I don't think we should be discussing this." (b)(7)(C) had a lawyer then because he already had the list of 33 things.

(b)(7)(C) had an email from (b)(7)(C), so that's how he knew about her. (b)(7)(C) called (b)(7)(C) in about (b)(7)(C) who had written a letter of concern to (b)(7)(C) and (b)(7)(C).

(b)(7)(C) had a meeting with (b)(7)(C). (b)(7)(C) came to the track and met with (b)(7)(C) personally at the end of July. (b)(7)(C) had told a coach of a college team that he could not recommend (b)(7)(C) daughter. (b)(7)(C) had recommended (b)(7)(C) daughter to a college in January but with all that went on, he felt that he could not recommend her any more.

4. What is your understanding of the nature of the concerns raised by Pam Weiss and (b)(7)(C)?

(b)(7)(C) has a list of 33 different items that were brought to the attention of (b)(7)(C). They were concerned basically about how (b)(7)(C) ran his program and that he was inconsistent with discipline. They mentioned all kinds of things but nothing in (b)(7)(C) mind that was sexual harassment in nature. Most were about coaching and about (b)(7)(C) responsibilities to the team and to parents.

At the meeting with (b)(7)(C) and (b)(7)(C), they didn't say anything about underwear – just that the girls shouldn't be wearing white shorts.

5. Did you speak with Principal (b)(7)(C) about the concerns raised by the parents? When? [note: only record is of a meeting on August 21, 2009, but (b)(7)(C) said in an August 12, 2009, that he had "discussed the underwear comments with Coach (b)(7)(C) and I am satisfied with his response."] What did you discuss?

(b)(7)(C) was at his daughter's in (b)(7)(C) for 2 weeks. He talked to (b)(7)(C) by phone, and then met with (b)(7)(C), (b)(7)(C), (b)(7)(C), and Coach (b)(7)(C). Occasionally, (b)(7)(C) would also go in to (b)(7)(C) and ask him, "What does this mean?" and about the whole process.

The issue about underwear was on the list. In the meeting, (b)(7)(C) said something about white shorts, and (b)(7)(C) told him that the team rule was that girls had to wear sliders under white shorts so nothing would be visible. They were not to wear printed underwear because (b)(7)(C) was concerned about their well being. That has been the rule ever since the team started wearing white shorts.

(b)(7)(C) said that he does not believe in wearing white shorts but the girls wanted to and pretty much everyone in (b)(7)(C), including professional teams, wears white shorts. (b)(7)(C) concerns were for the girls' well being.

6. Did you ever comment on players' underwear?

The situation regarding the underwear happened after (b)(7)(C) had worn printed underwear 3 or 4 times. The reason (b)(7)(C) commented on it was because people in the stands were calling her names from the stands related to her underwear (things like Double Cheeseburger and Big Mac). (b)(7)(C) did not call (b)(7)(C) to his desk. It was in study hall. (b)(7)(C) happened to be there when (b)(7)(C) spoke with (b)(7)(C). (b)(7)(C) told (b)(7)(C), "I think you need to be aware of what you wear under your shorts." It happened spur of the moment conversation at his desk in study hall; his desk is about 25-30 feet away from the first desk. (b)(7)(C) said, (b)(7)(C), all you have to do is wear sliders." (b)(7)(C) response was, "That's all I had." It was a quiet statement from (b)(7)(C) to (b)(7)(C). From that point on it didn't happen again. (b)(7)(C) knows that the team wore white shorts again this year and (b)(7)(C) wore sliders under them.

The sliders policy is not written anywhere. (b)(7)(C) told every girl of the rule before every season.

There were no other girls he had to address about that. At the start of every year, (b)(7)(C) says to the entire group, "Wear sliders. Don't wear frogs on your underwear." He tries to make it funny. This is the only girl in nine years that he ever had to discuss the issue with.

19. After this, the school never informed me of the results of their investigation. I was only told that since my daughter was a first grader, she didn't have to take PE with Mr. Mauldin if we didn't want her to so that she wouldn't have to have any further contact with him. We were also told that he was not allowed to have any further contact with her period. He was not allowed to communicate with her in any way, or be near her. We agreed to this.

20. I understood that Mr. Mauldin did return to the school at some point, but that he also resigned his position as PE teacher at LES at some point before or at the end of the school year. It was my impression that he would not be working with students any more.

21. Since our family was already planning to move away from LES at the end of the year, my ex-husband and I decided not to pursue the allegations any further since we would not be at the school any longer. I have often regretted this decision, but we felt it was best for our family at the time.

22. A few years later, I discovered that Mr. Mauldin had, in fact, been rehired by the District 5 schools and was working with students. I was very upset to hear this. I called the District Office to express my concern about this individual working anywhere near children based on our experience at LES, however I am uncertain who I spoke with. I asked to speak with whoever would handle complaints about a teacher. I never heard anything more from the schools after that.

23. Mr. Mauldin was at all times relevant to my discussions as a public employee in a public school setting and my communication with the school district was always through Mr. Mauldin's supervisors or appropriate district employees and made only to persons sharing an appropriate and common interest.

Jammi K. Solis

SWORN to before me this 27th day of July, 2011

Virginie Gayman

Notary Public for South Carolina

My commission expires: April 25, 2018

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7. Did you speak with Angela Bain about the concerns raised by the parents? When? What did you discuss?

On August 21, (b)(7)(C), AB, (b)(7)(C), and (b)(7)(C) all met to review the issues. They discussed the issues that AB was most concerned about. After the meeting, (b)(7)(C) was to send back written answers to the issues that AB was not so concerned about. They also created the policy changes with items they thought would be beneficial to the program.

AB came up with a number of items that (b)(7)(C) needed to address at the meeting and then for the others (b)(7)(C) wrote a response.

Texting was an issue at the meeting. Texting is okay under the school rules so long as it is related to school stuff. (b)(7)(C) doesn't think he ever texted students about non-school things. The texting was done on his personal cell phone.

(b)(7)(C) had not other lengthy communications with AB except that 8/21 meeting. He did though speak with AB again when he brought in the written information, and they had some phone conversations about the OCR complaint. (b)(7)(C) also checked with AB to see if it was okay for him to apply for the (b)(7)(C) job and she said okay; she checked with all the pertinent people. At the time of (b)(7)(C) resignation, he had no idea the position at (b)(7)(C) was open. (b)(7)(C) brought his letter of resignation in in December but he is not sure that he saw AB on that occasion.

8. Did you speak with any other District administrator about the concerns raised by the parents? When? What did you discuss?

No. (b)(7)(C) did however meet with Coach (b)(7)(C), but that was later, after (b)(7)(C) decided to resign. The only people (b)(7)(C) spoke with were (b)(7)(C), AB, and (b)(7)(C) (at the 8/21 meeting).

9. Did you prepare the written "Response to concerns from parents" document? Why? Is it an accurate statement of your position regarding the parents' concerns?

Yes. That was the document (b)(7)(C) prepared as a result of the 8/21 meeting. It's an accurate statement. (b)(7)(C) also prepared the policy changes, which were things they felt like should be addressed to improve the program after hearing the concerns of the parents.

10. Where did (b)(7)(C) (b)(7)(C) players change after school before practice? Did any of them change in their cars?

(b)(7)(C) daughter was a (b)(7)(C) player too. Some dressed in the locker room across the street. For 4-5 years, there was no place for the girls to change or go to the restroom. There was no restroom except about 300 yards away and through the boys' area. About 4 years ago, (b)(7)(C) told (b)(7)(C) and Coach (b)(7)(C) that they needed someplace near the field to go to the restroom; (b)(7)(C) secured 2 porta-johns by the girls' side of the field.

Some of the girls changed in their cars; that was a choice they made. Some went home to change. Practice did not start until 45 minutes after school was out.

11. Did you ever approach athletes' cars before practice? If so, for what reason?

Occasionally, but (b)(7) would make eye contact first or say, "Is everything ok?" before approaching. If (b)(7) did not make eye contact, he did not approach the car. Occasionally, (b)(7) would have to pass out information - like information about the banquet, schedule changes, sweat order forms. He had 66 girls. He tried giving the information to coaches to disburse, but they didn't do it. Very seldom did (b)(7) have to approach a car. 90% of girls were dressed when they arrived. Approaching them in their cars worked because they had their bookbags and a place to put the information.

(b)(7) would verbally ask if he could approach and the girls' response would also be verbal or a thumbs up.

About 2 years ago, (b)(7) told (b)(7) that it was a problem that the girls don't have locker rooms by the field. It would require a capital expenditure for a building. (b)(7)(C) presented it to the cabinet and it was approved. (b)(7) doesn't know the status. (b)(7)(C) concern is for the well-being of the girls he's responsible for.

Between January and May 14 (the (b)(7) season), (b)(7) approached girls' cars maybe 3 or 4 times. The other girls got the information as they walked into the practice area. There's a big path between the parking lot and the fence and (b)(7) would pass stuff out to them at the gate as they walked along.

12. Did you ever comment on players' appearances?

Sometimes if girls are dressed up, not in their normal school stuff. (b)(7) might say, "You clean up well. You look good." (b)(7) can't recall ever commenting on a player's weight loss. He may have though if he was concerned about a student's health or well-being.

13. Have you ever touched a player?

Just tapping them on the shoulder to get someone's attention. (b)(7) was not aware that anyone ever communicated that that was not welcome. He estimates that he has touched players 2 to 3 times over the course of 9 years.

14. Were you notified that the District had completed its investigation of the parents' concerns? If so, by whom? When? What were you told?

Yes, by e-mail or phone from Angela Bain. The notification was just that everything was ok. He did receive a letter sometime in December saying no sexual harassment was involved; it had been investigated by the high school ((b)(7)(C)) and Coach (b)(7)(C) and the District office.

15. Your employment records with the District indicate that you resigned effective (b)(7)(C). Is that accurate? If no, do you know why your employment records include that

statement? If yes, when were you re-hired by the District? Who re-hired you? Why did you resign?

That's accurate. (b)(7)(C) concern was for the girls in the program, the program itself, and that Angela Bain was having to spend hours and hours on it. He did not want to put the girls through more. He thought resigning was in the best interest of the girls, the program, the school, and the District. It was voluntary, and done after discussion with AB.

(b)(7)(C) talked to the (b)(7)(C) principal on 12/18/09. He told the principal about the resignation. The same day (b)(7)(C) resigned was the day it popped up on (b)(7)(C) computer that (b)(7)(C) was looking for a JV (b)(7)(C) coach. (b)(7)(C) told AB about the position opening and asked about his applying for it. AB checked with the appropriate people. The Principal at (b)(7)(C) told (b)(7)(C) that he was the kind of person they wanted at (b)(7)(C) because he puts the kids first. At the time (b)(7)(C) resigned, he did not know that the (b)(7)(C) JV job was open.

16. Is there anything else you'd like to share?

(b)(7)(C) learned through other parents of a player that the parents who had the concerns were going to attack him verbally in front of other parents. (b)(7)(C) got wind of that and in a meeting with all parents told them, "If you have a concern about coaches, wait 24 hours before you approach a coach." (b)(7)(C) did not allow them to speak at all at the meeting. At the end of each season, (b)(7)(C) meets with 3 or 4 parents to talk about how to improve. (b)(7)(C) suggested that (b)(7)(C) meet with all the parents and (b)(7)(C) just didn't respond to that.

(b)(7)(C) was exonerated in all situations. The letter said that there had been no sexual harassment. He is concerned about the well-being of every child on his watch and always puts the kids first.

He mentioned that in October 2008, (b)(7)(C) apologized for being accusatory and insulting toward (b)(7)(C) wife. He also said that last summer he got word from (b)(7)(C), (b)(7)(C) and (b)(7)(C) (sp?) that parents were going to try to oust him. They mentioned that (b)(7)(C) and (b)(7)(C) had called parents seeking to have them join the group to oust (b)(7)(C) as coach. (b)(7)(C) said that he was going to accept a job at a predominantly (b)(7)(C) school to coach girls' (b)(7)(C) but then (b)(7)(C) left.

Group Interview of (b)(7)(C) Players
OCR Case No. 11-10-1093
OCR Staff: Betsy Trice
May 18, 2010

Seven female (b)(7) players were present. Three of the players have graduated from the School.

OCR staff explained the purpose of the interview and that notes from the interview would be part of our record, subject to FOIA. OCR staff also explained that we will not ask the names of the players being interviewed, so those names won't be part of our records. At the request of the District's attorney, OCR explained that the students could have a personal representative, or parent, or School District member present if they so chose. All of the students indicated they were fine talking with OCR without any representative, parent or District representative present.

1. What long have you played soccer at this school?

This is the first year for one player. Others played up to 4 years. One quit the varsity team midseason for personal reasons related to family, etc.

2. Did you ever play Varsity (b)(7)(C) at the school when Coach (b)(7)(C) was the coach?

The majority of students played varsity (b)(7) at the School when Coach (b)(7)(C) was the coach. Two students said that they played club (b)(7)(C) and the Coach was their (b)(7)(C). Another said he was not her (b)(7)(C) but would still ask her about how her club season was going.

3. Do you feel comfortable around your teachers and coaches? Other staff members at the school?

The students indicated that they were comfortable, mostly comfortable, pretty comfortable, or comfortable most of the time with their teachers. As for coaches, one said that the coaches tend to control a lot and the student considered late, late practices running from 3:30 to 7:30 pm as problematic. Another said that coaches were a little overbearing in trying to instill what the students "were supposed to have as athletes..."

4. Have you ever observed or heard of teachers flirting with students? Making any inappropriate comments to students?

No to both.

5. Has there ever been a time that a coach or a teacher or another staff member has made you feel uncomfortable? What happened? Did you tell anyone about it?

One student indicated that that (b)(7)(C) (b)(7)(C) (the Coach) would send text messages to some players more than others. For example, he would text captains when games were cancelled. Students aren't allowed to have phones at school. One Varsity Captain said that her phone was taken away by a math teacher when she used it to receive a text from the Coach. She did not get the opportunity to say to the teacher that the Coach had texted her. She told OCR that teachers aren't supposed to text either. She told him that her phone had been taken away and asked the Coach if he could communicate to them through announcements. He replied no because kids can't hear the announcements and he does not have the time to do that. Following that exchange the Coach then texted students who were one year younger than her although she was a captain. She said that at one Sunday practice, the Coach pulled three captains aside and yelled at them and said it was their fault that they lost a game at Chapin and that they are supposed to be leaders. He was yelling and angry. He did not have the respect for them that she would expect him to have. She felt that this was unfair as it is not their decision who plays. During this conversation, the Coach put his hand on her shoulder and she asked him three separate times to remove it but he kept it there. She said that he yelled at the captains while he was touching her shoulder and she yelled back "do not touch me." She backed away and he again put his hand on her shoulder. She told him more than twice on that occasion not to touch her. Another captain said that they tried to be the best captains but he was not able to support them as captains. He then began texting juniors.

Another student said that the Coach called her to his study hall in 10th grade to talk about a (b)(7)(C) matter and commented that it looked like she had lost weight and that she "looked good." This made the student feel uncomfortable. She did not reply to his comment.

A student said that the Coach is a totally different person around parents versus when he is with players. With players he gets into their personal business. One student said that the Coach commented about her boyfriend. The Coach called her up to his classroom and questioned her about her boyfriend and why they had broken up. She said that he commented that the boyfriend was not right for her.

One student noted that during a tournament at Rock Hill, when two of the three captains were not getting along well with another player, the Coach who was standing in the hall said that he was going to try to fix the two captains' relationship with the other girl. He suggested that they meet in one of the student's hotel room. He tried to mediate the meeting—he would but in and say "It's not your turn to talk."

A student confirmed that one player had said that she was going to "get down and dirty" with a boy to which the Coach commented, "I'm down with that." They said that such comments happened all the time. Even the boys notice the stuff that the Coach did and would say "Coach is so weird." Even guys from other schools would comment "Your coach is a pervert."

6. How would you describe the (b)(7)(C) team's relationship with Coach (b)(7)(C)? What was the atmosphere like in practices and at games?

The Coach was odd in that he would call or email a teacher and ask that certain players be sent to his study hall or if they were already in his study hall he call them up front and ask them about

decisions that a coach should make. For example, he would ask, "Do you think this player is good?" He would also ask a student if another player or players was being mean to her. He would then go to those other players and say that the player said this about you. In this way, he acted like a teenager. He would also stop players as they walked to lunch and would say, "I need to talk with you." One of the Captains recalled him saying "Hey can you come in here?" he would then ask about another player even before tryouts. She said that he was not just interested in (b)(7)(C) but also in who was dating who and in the drama of it all. He also wanted to know about what they did out of school. During (b)(7)(C) there might be 50 students present and half of the time they are not doing anything but playing on the computer.

One student said that the Coach had made some kids who had vandalized his home come to his (b)(7)(C) and apologize to him. He said that he wanted to see them "kissing ass in front of the whole school." People in the (b)(7)(C) would set up chairs and make a semicircle while other kids were made to apologize in front of everyone.

One player said that he would drive her home after practice and would bring up conversations during the drive. For example, he brought up her dad's death. He tried to step in as a father figure.

One time he asked the player if she needed a ride home (her mom had given permission for him to drive her home before) and she told him that her mom was on the way. He took her home anyway even after she said her mom was on the way there.

One player said that the Coach played favorites toward students in club (b)(7)(C) and to those who would be playing (b)(7)(C) in college. He would call club coaches and talk up certain players to get them on the team. When a college coach contacted the Coach about a certain player, he told the coach that the player has a bad attitude.

One student said that last year she and 4-5 other girls vandalized the Coach's house. She was on the JV team at the time. He forgave her and three of the other girls and said that they can still play (b)(7)(C) but he despised one of the other girls. She did not really do anything but he told her that she would not be allowed to play (b)(7)(C) ever again. She did not play the rest of the time.

7. Was there ever a time that Coach (b)(7)(C) made you feel uncomfortable? What happened? Did you tell anyone about it?

See above regarding Coach's touching the Student's shoulder and commenting about another student's weight and appearance. In addition, students told their parents about the Coach. Some parents brought it up to the School District. No one from the School District asked them if they felt uncomfortable around the Coach. Several students said that at times they considered quitting the (b)(7)(C) Varsity (b)(7)(C) team.

One player said that she had been on steroids last year and so had gained weight. This year the Coach told her that she looked really good and asked her if she had lost weight. She told OCR that she had begun weightlifting this year and that's when he commented to her. He asked what had been wrong with her and commented that she had not been in good athletic (b)(7)(C) shape.

Several students agreed that during practices the Coach picked favorites and that he never applied punishments across the board but chose punishments on a person to person basis. They said that the consequences depended based on who you were. If you were a good player, he would tell you that you had a good excuse. He was inconsistent in disciplining players.

One player said that he would give "side hugs" during practices after school. He sided hugged the student whose shoulder he had touched while yelling about the team's loss to Chapin. Other students confirmed that he would give side hugs. One demonstrated a side hug saying that because he is so tall when he bent down to hug a player he kind of leaned into the player's side and shoulder. He intercepted one student outside of study hall and gave her an awkward side hug.

When one player decided to quit, she had to tell him in (b)(7)(C) as he did give her another time that they could meet. She said that she had to tell him in front of other students who were watching. She told OCR that she quit the team for issues related to her grades and family issues.

Another student spoke about the pressure associated with being on the varsity team. She said that she had worked hard on the freshman team so that she could return to play on the varsity team. She was burned out as she was also playing volleyball too but the Coach pressured her into playing club (b)(7)(C) too. He said "I want you to play for the (b)(7)(C) club. He took care of her own initial absences from (b)(7)(C).

A former student said that the Coach had driven her home when she played club. He is gossipy, which is bad. She was in (b)(7)(C) and talking with another player about homecoming and the Coach said to the other player: "You are a looker. You should have no problem getting a date to homecoming."

She also recalled being hugged by the Coach in the hallway. She said that the Coach tried to get too involved in their personal lives. One player got kicked off the team because she did not make it to one game and did not tell him ahead. He was "way too involved" in their personal life. He would spread their personal business about. For example, he would approach a player to ask if she knew why another player was not there. She was referring to a situation involving a player who got sick last year. The Coach told everyone that they think she has lupus.

8. Did Coach (b)(7)(C) ever comment on your appearance? When? What did he say? Was anyone else present? How did you respond?

See above.

9. Did Coach (b)(7)(C) ever touch you in a way that made you feel uncomfortable? When? What happened? Was anyone else present? How did you respond?

See above.

10. Where do you change into your practice clothes after school? Did you or any other players ever change in your cars? Did the Coach ever approach you when you were changing in your cars before practice or before games?

During their freshman years and during middle school years when they played JV, they would change in the locker room connected to the gym. During sophomore year, they changed in their cars in the parking lot. Students said that he did not approach them but "there were windows." He would always stay at his car while other coaches went to the field.

11. If you or any other student felt uncomfortable because of something that Coach (b)(7)(C) said or did, is there someone you could report it to?

One student said she would tell her mom. Others concurred.

12. If that were to happen, do you believe the school would deal with the situation? Why / why not?

"Don't know. We would hope so."

13. What is your understanding of the school's or the District's policies about sexual harassment of students? Have you ever attended an assembly or school meeting where sexual harassment policies were discussed?

Not sure.

14. Any additional information?

Several said that they contemplated quitting last year since they hated it so bad. One even turned in her captain's armband on one occasion. The captains said that they felt personally incriminated and felt they bore the brunt of it. The Coach when talking to the captains from the previous year told them they "were terrible captains—the worst captains we've ever had."

Students confirmed that hazing took place among players. One time another captain kept kicking balls over into the woods. The captain did this purposefully and over and over and the Coach supported this.

Interview concluded.

Group Interview of (b)(7)(C) Players
OCR Staff: Martha Russo
May 18, 2010

OCR staff explained the purpose of the interview and that notes from the interview would be part of our record, subject to FOIA. OCR staff also explained that we will not ask the names of the players being interviewed, so those names won't be part of our records.

OCR staff offered the players the option of speaking with just me or of having someone from the District sit in if that would make them more comfortable. All said they were fine with just me.

5 players

1. How long have you played (b)(7)(C) at the school?

One is a graduate. She played for 6 years. Two have played for 4 years and two for 5 years.

2. Do you feel comfortable around your teachers and coaches? Other staff members at the school?

All said yes.

3. How would you describe the atmosphere at your school?

"Strict."

"Normal."

4. Have you ever observed or heard of teachers flirting with students? Making any inappropriate comments to students?

No for flirting but yes for inappropriate comments.

(b)(7)(C) "made a lot of inappropriate comments." One player had on bright blue panties with a number on them; the next day he said something like, "42 [or whatever the number was]. That was the number on your butt last night."

Once I had underwear with frogs on them and he said, "Nice underwear." He didn't say it in a "cover it up" kind of way.

There were a couple of times he came up to cars when players were changing to give out papers about the banquet. It was at least twice. Probably no one told him not to.

5. How would you describe the (b)(7)(C) team's relationship with Coach (b)(7)(C)? What was the atmosphere like in practices and at games?

One said: "We were all really comfortable to the point of taking advantage of him." He'd ask me who I thought should make the team and I'd tell him. "It was fun."

Others disagreed: "He'd say stuff he shouldn't say." Like "I can't wait for her to leave." He told me the results of tryouts before he was supposed to. Put us in awkward situations with other players. He had no respect for anyone - it was all joking around. When Coach (b)(7)(C) was there, there was no joking.

6. Did Coach (b)(7)(C) send you any text messages?

"I got a lot over the summer, some about (b)(7)(C)." People talked to him about their relationships. He wants to build a relationship; he wants to know things. "I think he thought of himself as a father figure." He acts like it's the olden days, but now it's taken the wrong way.

7. Did Coach (b)(7)(C) ever comment on your appearance? When? What did he say? Was anyone else present? How did you respond?

Yes. He told multiple girls they were losing weight and they "looked good." He didn't say it like, "I want you," but they were uncomfortable with it. He made a comment about my curly hair - he said it didn't look good. He told me my skirt was too short.

8. Did Coach (b)(7)(C) ever touch you in a way that made you feel uncomfortable? When? What happened? Was anyone else present? How did you respond?

"Not sexually." He gave people hugs "all the time." Once there were two girls who had a conflict and when it was fixed he told them, "Any time I see you you need to hug me." Don't know why. He'd get in your fact - "personal space type things."

9. If that were to happen, is there someone you could report it to?

Our parents went to the principal and the District. The District just told the parents that they were handling it.

10. If that were to happen, do you believe the school would deal with the situation? Why / why not?

4 of the 5 said they'd got to their parents and they would deal with it.

11. What is your understanding of the school's or the District's policies about sexual harassment of students? Have you ever attended an assembly or school meeting where sexual harassment policies were discussed?

We get a handbook - it's probably in there.

12. Did Principal (b)(7)(C) or any other District staff person talk to you about Coach (b)(7)(C)?

No

13. Is the atmosphere on the team different in any way this year?

4 of the 5 said they thought about quitting the team when (b)(7)(C) was there. "It wasn't fair."

"It wasn't serious." "There was so much drama and no order." "He was like a teenage girl."

"He had his favorites."

This season is so much better. There's no drama other than one player. Coach (b)(7)(C) would tell us things all the time and then say, "If you tell anyone, I'll deny it." He'd play favorites. We were afraid to come forward because of retaliation so we couldn't do anything about it.

Interview of (b)(7)(C) Player
OCR Staff: Martha Russo
May 18, 2010

1 female (b)(7)(C) player with a parent

OCR staff explained the purpose of the interview and that notes from the interview would be part of our record, subject to FOIA. OCR staff also explained that we will not ask the names of the players or parents being interviewed, so those names won't be part of our records.

[OCR staff had offered this parent/student the option of being interviewed as part of a group and parent/student opted instead to be interviewed separately]

1. What long have you played (b)(7)(C) at this school?

2 years

2. Do you feel comfortable around your teachers and coaches? Other staff members at the school?

Yes. Yes.

3. How would you describe the atmosphere at your school?

It's a good place. I enjoy being here this year. School is not that much different this year than it was last year because (b)(7)(C) was just a study hall teacher. But (b)(7)(C) last year was always stressful. I wanted to quit. This year I had fun.

(b)(7)(C) was good at singling people out – his favorites – and made it harder for people who were not his favorites. He'd do things like sent texts about team meetings only to his favorites so they'd be in the loop and no one else would be; he went out of his way to exclude people. "It divided our team."

4. How would you describe the (b)(7)(C) team's relationship with Coach (b)(7)(C)? What was the atmosphere like in practices and at games?

With most people, if you have a problem, you can talk to them about it. But with (b)(7)(C), if you questioned anything about him, he'd tower over you, use his hands, and gets defensive. There were always fights and drama. Players would be in tears. Many people quit.

5. Was there ever a time that Coach (b)(7)(C) made you feel uncomfortable? What happened? Did you tell anyone about it?

Yes. It was the positions he'd put you in. One time last year, the player was walking to the field and (b)(7)(C) said, "Step into my office" by which he meant the trunk of his car. On a club trip to England, (b)(7)(C) made a bet that if the team went undefeated, the players could shave his legs. The (b)(7)(C) girls [another school] shaved his legs.

There was a lot of intimidation going on. People were either in or out.

6. Did Coach (b)(7)(C) ever comment on your appearance? When? What did he say? Was anyone else present? How did you respond?

No. But she heard him comment about other players' appearances. There were two girls last year that he joked about because they're larger. He called them "quarter pounder."

7. Did Coach (b)(7)(C) ever send you text messages that weren't about soccer?

Sometimes things like "Have a good day."

8. Where do you change into your practice clothes after school? Did Coach (b)(7)(C) ever approach your car when you were changing before practice or before games?

In cars. He walked around. He would come right up and knock on the door. He did not announce himself. She doesn't know if he saw anything.

9. Did Coach (b)(7)(C) ever touch you in a way that made you feel uncomfortable? When? What happened? Was anyone else present? How did you respond?

No. He was touchy but not inappropriate. He would put his hands on players' shoulders but players would shrug him off.

He'd also hug players. It was confusing because he'd single you out and then later you'd be "out." When (b)(7)(C) would try to hug her, she'd turn her body and try to do a one-armed hug because she was uncomfortable. He'd call her up and touch her shoulder.

[The parent said that from the stands he would see Coach (b)(7)(C) touch the player's shoulder and she would pull away from him, obviously uncomfortable.]

10. What is your understanding of the school's or the District's policies about sexual harassment of students? Have you ever attended an assembly or school meeting where sexual harassment policies were discussed?

None. There is a little green book they hand out but that's mainly about kids.

11. Did Principal (b)(7)(C) or any other District staff person talk to you about Coach (b)(7)(C)?

No. "You have to be careful who you talk to." The player said she talked to (b)(7)(C) and he told her to be strong and get through the season.

It was kind of a compilation of little things (b)(7)(C) did over a long time. The player knew there would be retaliation and was a little scary. Everything you'd say would get back to (b)(7)(C). "He's an extremely manipulative sick-minded man." The player and her parent both said that he affected her a lot.

11. If that were to happen, do you believe the school would deal with the situation? Why / why not?

"Maybe if you told them more than once." They wouldn't take it seriously if it was just once. Players could go to Coach (b)(7)(C). They did not bring anything to the school's attention. They think the captains from the previous year may have gone to (b)(7)(C). (b)(7)(C) should not have been a varsity coach.

12. What is your understanding of the school's or the District's policies about sexual harassment of students? Have you ever attended an assembly or school meeting where sexual harassment policies were discussed?

None. Don't know of any.

13. Did Principal (b)(7)(C) or any other District staff person talk to you about Coach (b)(7)(C)?

No.

14. Is the team atmosphere different in any way this year?

It's more friendly and fun. "We can play (b)(7)(C)."

[After the meeting a parent told me that her daughter had told the Coach about her breakup with her boyfriend; the player was very upset about the breakup. The Coach then later sent the player a text message asking if she was ok. That did not make the student uncomfortable at all though the parent knows other parents have raised that text message as being something negative. The parent knew about the text message and was also not uncomfortable about it. That parent later returned to the school and showed me a memory book that she and her daughter are creating for the Coach. She said they view him as something of a father figure.]

[Another parent also remained after the meeting. He told me that the Coach called him in June, upset about the concerns that had been raised by the other parents. He met the Coach at a restaurant and the Coach showed him the list of 33 concerns. The Coach told him about the meeting scheduled with two parents, the Principal and the AD. The parent offered to be at the meeting to support the Coach. The parent waited in his vehicle, ready to go in in the event the Coach needed him and called him. Yet more parents showed up at the school. This parent got out of his car and confronted them, was yelling at them, and was in their faces, for almost the duration of the meeting that was taking place inside. If someone spoke to him like he spoke to them, he would get mad back, but they just stood there and took it. This parent finds it suspicious that the other parents didn't raise any concerns until after the (b)(7)(C) season was over. If something serious had really been taking place, those parents would have raised it earlier.]

I, the undersigned, Rachael Mitchell, age 18, of 240 Wood Moor Place, Columbia, SC, being duly sworn state:

1. The matters stated herein are known by me of my own knowledge.
2. I am the daughter of Pamela Weiss and Murray Mitchell, who also reside in Columbia, SC.
3. I was a member of the Irmo Varsity Girls' Soccer Team during 2007-2008 and the 2008-2009 school years when Mr. Mike Mauldin was the head coach of the team.
4. I personally observed or was aware that Mr. Mauldin sent text messages to other players on the team, sometimes about soccer, and sometimes about unrelated activities.
5. Another girl in my grade (not a soccer player) once told me that she gave Mr. Mauldin her number so he could text her. She was not a member of the soccer team. She used to come into study hall to visit with him.
6. Mr. Mauldin once joked with me about how he would have to pull over on the side of the road because he was texting another girl (Alyssa Olson) so much.
7. I personally observed or was aware that Mr. Mauldin asked other players on the team about their relationship with their boyfriends.
8. One day at practice, Rachel Wadsworth (a senior/captain on the team) told me and the other girls on the team that she was checking her phone for messages at school from Mr. Mauldin (since that's the only way he communicated with them) and that her phone was taken away from her by the teacher. She was upset. Her dad came in to talk to the office and said that this isn't fair.
9. I personally experienced or observed times when Mr. Mauldin would retaliate against players if they confronted him or said something he did not like.

10. I was aware that on one occasion during the Spring 2009 season after a team loss, Mr. Mauldin said something to a teammate, Erica Baskins, about how her “negative attitude” helped lose the game, which caused her to get very upset and consider quitting the team. He told Erica for the next game not to talk to any us (the rest of the team) and so for the whole away game, she wouldn’t talk. I heard that Mr. Mauldin then spoke to Erica’s dad to help calm things down.
11. After one of the first games when we had to wear white shorts for uniforms for the first time, the coach said something to me in study hall the next day like, “Hey – no. 46.” When I asked, “What?” –not knowing what he was talking about—he said something like, “that was the number on your butt (underwear) last night.” There were other people around who heard the comment and I was embarrassed.
12. I told other girls on the team about the comment because it bothered me and I thought it was creepy. Later on in the season, before another game where we would be wearing white shorts again, Mr. Mauldin repeated the same comment to me, saying something again like, “Hey No. 46” – as a reminder not to wear the numbered underwear. After that, people everywhere were telling me that they had heard about the underwear comment (even girls on other teams, and girls who had moved away).
13. Mr. Mauldin would often call me up to his desk during study hall to ask me about the behavior or performance of other players on the team. This made me uncomfortable.
14. Mr. Mauldin often called me up to his desk in study hall to ask me who should or shouldn’t make the team (before tryouts), and to tell me who was or wasn’t going to make the team, before tryouts. This made me uncomfortable.

15. Mr. Mauldin once commented to me how lazy one of my teammates (Danielle Werdunn) was, how she was not aggressive enough, and how she would never be a captain.
16. At one point, Mr. Mauldin called me up to his desk in study hall and asked me which of two sisters (Maddie or Callahan Taylor) was “more mature” – and told me how obvious it was which one had more skill than the other. Both were trying out for the JV team that year. I responded that it was not my place to answer. I was uncomfortable with being asked this question, since I not only knew both sisters, but lived next door to them.
17. Mr. Mauldin said to me, on more than one occasion, “If you repeat this, I will deny it.” I told my parents about this comment several times.
18. I directly experienced or witnessed times when Mr. Mauldin showed favoritism or treated different players unfairly on the team.
19. During one out of town tournament at Rockhill where the players were all staying overnight at a hotel, I was present and observed when another player on the team, Nicole Merchant, got very upset and started crying when she overheard Mr. Mauldin and other players talking about her and her boyfriend behind closed doors in a hotel room.
20. I directly experienced or witnessed times when Mr. Mauldin applied different punishments to players and inconsistent actions.
21. One day, other players and I overheard another soccer player, Stephanie Funderburk, come to the practice fields and cuss out the coach before practice. Stephanie then came down to the practice fields to tell the rest of the team that she was quitting and would not be back. I later saw her mother show up at the fields to talk to Mr. Mauldin. The next game, Stephanie started in the game and continued to play the rest of the season.

22. Everyone knew the coach didn't like one player on the team (Ashley Kosobucki). He treated her differently and punished her all the time. The girls always had to run laps before practice. At one practice he accused Ashley of not running all her laps (although no one ever did) and he said he was making her run something like three more laps. She said that wasn't fair – and other girls admitted to the coach that they hadn't run all their laps either. But he told Ashley they were all going to wait until she finished her laps. When she said it was too hot out, he told her to get off the team and leave the field. We all witnessed this. He told us it was because she disrespected him.
23. Later, Ashley told me and several other players that Mr. Mauldin told her she needed to go into anger management classes and she needed to take pills to control her moods. She told us that he made her sign a contract, and that was the only way she could get back on the team. After another incident a few weeks later though, he said she violated the contract and he kicked her off the team permanently.
24. I directly experienced and was aware of mistreatment by upper classman against myself and other players on the team, while I was a player on the team during the spring 2008 and 2009 seasons. This included girls routinely yelling and cussing at me and other players during games and practices and being told we could not drink any water when coming off the field during games until the upper classman drank water first. The cussing got so bad that the assistant (goalie) coach once made a rule that if any cussing went on, the players had to do 10 pushups, but I never heard Mr. Mauldin discuss any punishment.
25. I personally complained to Mr. Mauldin several times about this mistreatment, including during study hall. He would often say to me, "You know it's not your fault ... you play just as well as them ... but just stick with it." He then told me, "if you tell them I said

this, I will deny it." He did not reprimand the upper classman for this behavior and it did not end.

26. I directly experienced and observed with other players that if we told Mr. Mauldin that another player or players was being mean to one of us, he would then go to those other players and say that the player said this about you. In this way, he acted like a teenager.
27. Once when I was a freshman on the team and my mom came to pick me up from practice, she spoke to Mr. Mauldin about the mistreatment of the older players and mentioned how upsetting this was to me. She asked Mr. Mauldin if there was anything he could do to reign in some of these upper classman and prevent this behavior, as it was negatively affecting not only me but others on the team. When Mr. Mauldin said it was up to the captains to take charge, my mom suggested that perhaps this was beyond their capability, and asked if he, instead, could take control of the situation. He responded something to the effect of, did my mom know how often he came home each day with "blood dripping down his back," alluding to the stab wounds he received from trying to solve all the fighting on the team. Only my mom, me, and the coach were still at the soccer fields when this conversation took place. My mom did not speak to Mr. Mauldin again about the mistreatment by the upper classman.
28. The next day at practice after school, several of the older players on the team somehow knew all about the comments my mother had made to Mr. Mauldin and were saying that my mom had said all these terrible things about what the girls were doing. The only people who would have had any knowledge of our conversation were the coach, me, and my mom, and my mother and I had not discussed the conversation with anyone.

29. I came home several times in tears after practices and games to tell my parents how upset I was with the mistreatment of me by older players. This continued for two years while Mr. Mauldin was head coach of the team. When nothing changed, my parents told me that if I felt I needed to quit the team, they would support me. However, because I loved soccer so much, I chose to stay and just suffer through the mistreatment.
30. One weekend during the Spring 2009 season, I played in a game against Dutch Fork at the Hungry Howie's tournament in which many of the upper classman were at the prom so only the younger players on the team participated. Although we lost the game 1-0, our team was happy and in good spirits for once, without being yelled at by the older players. Many of the parents in the stands noticed a difference as well. Even our assistant coach, Paul Armstrong, asked the girls, "what's different about this game?"
31. The next time we had practice that week after the tournament, the Assistant Coach (Coach Burnside) brought cookies for all the girls that played in the Dutch Fork game to thank them for doing such a great job, and some of the older girls (who went to the prom) got furious. They told the younger kids at practice they were "never" to talk about that game again – as if it never happened. One of the seniors (who was also a captain – Alicia Baxter) then made "goodie bags" (which was a custom to do for the away games on buses to hand out snacks to all the players) – but only for the girls who went to prom – and then passed them out to those girls on the bus (but didn't give any to the younger girls as punishment). Mr. Mauldin did not reprimand the upper classman for this behavior.
32. During an earlier game in that same weekend tournament, another player on the team, Ashton Whitely (a senior), walked off and left the field before the game was over

because she was angry since she wasn't playing anyway and wanted to get ready for prom. All of the players and parents in the stands observed this, but Mr. Mauldin did not punish her.

33. While I was a player on the soccer team during the 2008 and 2009 season, I directly observed and was aware of several upper classman forcing the new players (rookies) to fetch water for them, put soccer balls at their feet at practices, chase balls that were purposely kicked over bushes, dig forks out of the dirt with their mouths that had been buried by the upperclassman, and other tasks. The younger kids could also not get water at practice before the older girls got it. This was just a common, known practice. Mr. Mauldin was well aware of this "rule." I told my parents about this treatment, and they were very upset to hear this.
34. On April 19, 2009, my father decided to write an email to Mr. Mauldin after the weekend Dutch Fork game and after hearing from me about the mistreatment of the younger players. He thought perhaps the coach just didn't realize what a difference it could make in team morale when everyone supported each other. He sent a message expressing some of these thoughts and wished Mr. Mauldin good luck with the rest of the season. He sent this to be an encouraging letter. I viewed the email and was aware it was being sent. I was supportive of my dad writing this email, but also told him that I expected there would be repercussions.
35. The next day at school, while I was in study hall, Mr. Mauldin called several of the younger players up to his desk, including me, and asked, "Do you think you are being treated like 'slaves?'" I felt like he was putting them on the spot in front of others. Mr. Mauldin then said something like, "because a certain parent emailed me saying that the

rookies were being treated like slaves.” And that this parent also ‘threatened his wife.’ I had no idea what he was talking about. But I obviously knew he was talking about my dad regarding the email. Mr. Mauldin went on to say something about this parent ‘hiding behind his computer and telling him how to run his program’ – and that he would never do that to this parent.

36. I stayed later after study hall ended and went back to Mr. Mauldin before lunch to tell him that I knew it was my dad that had emailed him and that he was talking about. At first he denied it, then he admitted it was my dad, but told me that he did not “hold me responsible” and wouldn’t take it out on me for what my parents said and my dad’s “negative” attitude. He also said something about how it had been my mom who stopped the rookie day tradition and TP-ing of houses. He said it to me in what I perceived to be a negative tone, as if blaming my mom for these actions. I was unsure where he got this information, since I knew my mom did nothing more than comment once to him about the mistreatment of younger players by the older players, which may have included rookie activities. I was very upset when I got home and relayed what had happened to my mom and dad.

37. That evening, my dad wrote another email to Mr. Mauldin expressing his disappointment with Mr. Mauldin’s decision to talk to his daughter in study hall in front of others about his email, instead of in private with him. He said he would be happy to talk in private with him at a convenient time. A series of email replies went back and forth between my dad and Mr. Mauldin, which I believe ended with Mr. Mauldin stating he would not speak to my dad any further about this and would not respond to him again.

38. By this point, word had also gotten out (an email had been sent) to all the parents that the coach had set up a "mandatory" parent meeting for that Wed (April 22). Mr. Mauldin also started telling the players that the parents would not be allowed to talk in the meeting. Both my parents attended the meeting.
39. After my dad emailed Mr. Mauldin and after the mandatory meeting that week, I felt like the coach treated me differently for the rest of the season in games, in study hall, and on the bus. He didn't speak to me on the bus anymore, and he didn't talk to me in study hall anymore (after two years of him always speaking to me). Instead of playing most if not all of entire soccer games as I had been prior to my dad's email, Mr. Mauldin now pulled me out of games more often without reason (to sub me out). This continued for the remainder of the season.
40. I either directly heard or was aware that some players and parents had complained about the Irmo Varsity Girls' Rookie Day tradition in which the new girls on the team each year were asked to wear or do outlandish things during one school day. I knew that there were times when the tradition got out of hand, like the time that one player was wrapped in Vaseline and saran wrap. My parents were among those who were not thrilled with the tradition. Mr. Mauldin was aware of the rookie day tradition.
41. I either directly heard or was aware that some players and parents had also complained about another Irmo Varsity Girls' Team tradition in which only the upper classmen had a sleepover and then TP'd or did other things to the property of the houses of the rookies. When I was a freshman on the soccer team, the activity stopped when the father of another player on the team put an end to it. Mr. Mauldin was aware of the tradition.

42. I considered quitting the team because I did not respect Mr. Mauldin as a coach and did not feel he had a good reputation.
43. I was aware that other players had quit the team because they did not respect Mr. Mauldin and felt he didn't respect them.
44. Mr. Mauldin often blamed the captains or other players for actions on the field, rather than take responsibility himself. After one away game at Chapin (which Irmo lost) - some of the older girls were especially being nasty to each other. He blamed the captains for the loss and not getting better control of the team. He told them that if Coach Frederick had still been there (the former head varsity coach for the Irmo girls), they would have never acted that way. And some of the girls said, we respected Coach Frederick, and we don't respect you because you are a terrible coach. And he said something like "You think I don't know that."
45. He made the captains stay late after practice the next day and when I returned 30 minutes later, he was still talking to them. One of the captains, Rachel Wadsworth, told me and other players later that he kept putting his hand on her and she screamed, "Don't touch me."
46. I complained to my parents on numerous occasions about Mr. Mauldin's behavior while I was a player on the team.
47. On several occasions, other players and I heard the coach say this would be his last year coaching and he would be retiring. Several of us even spoke to our club soccer coach (Phil Savitz- also head coach for the Boys Varsity Team) about Mr. Mauldin, and wondered if he was really going to retire and move away as he had claimed.

48. During the summer of 2009, I was aware that my parents and the parents of other players had written or called the school administrators about concerns they had with Mr. Mauldin and his conduct with their daughters, and asked the school to investigate.
49. My parents asked me directly about concerns I had with Mr. Mauldin when I was on the team and I told them the truth about my concerns, which they relayed to school administrators.
50. I was aware that my father had sent the attached letter (Exhibit A) to the school and agree that everything in it was the truth.
51. I was aware that my mother had sent the attached letter (Exhibit B) to the school and agree that everything in it was the truth.
52. After my parents brought concerns to school administrators about Mr. Mauldin, I felt like Mr. Mauldin intentionally retaliated against me by walking up to me when I was around other players on the team, and purposely not looking at me or speaking to me anymore when he saw me during the fall club season. I felt uncomfortable during some practices when Mr. Mauldin and Mr. Dherkers, a parent of another player on the team, would directly stare at me and the other players whose parents had brought concerns to the school. The same pattern continued throughout the summer and fall, where Mr. Mauldin never once spoke to me.
53. I also felt like Mr. Mauldin intentionally was not informing me and other players of dates and times when conditioning was taking place before the spring tryout season. In past years, he had provided a handout to players that included all the dates for conditioning and tryouts. This year, he did it through word of mouth. The captains of the team had even gone up to the coach after school one day to say they were captains on the team, and

why wouldn't he tell them when conditioning was taking place, but they got no good response. He later said he didn't have emails on all the players, although he had emailed us many times. He then said it was the captain's job to inform everyone of conditioning and told one of the captains to tell everyone about the schedule.

54. I was aware that my parents and the other parents who brought concerns about their daughters were later sued by Mr. Mauldin, after he resigned from the school.
55. After Mr. Mauldin resigned, and one day during conditioning, another player's dad, Mr. Dherkers, who was a good friend of Mr. Mauldin, showed up and was staring at me and another player, Danielle Werdunn, throughout the practice, making us feel uncomfortable (even though this man's daughter was not even scheduled to be at that particular practice).
56. While I was a player on the Irmo Girls Soccer Team during the Spring 2010 season, on two occasions, our team played against the Dutch Fork Varsity Team where Mr. Mauldin was then employed as an assistant coach. After games, as a sign of good sportsmanship, the coaches of both teams traditionally shake hands with each other and with the players on the other team. After both of these games, Mr. Mauldin refused to shake hands with any of our team or with our coach. I felt this was a sign of poor sportsmanship, and someone who was not acting as a good role model for players on his team. A teammate later told me that she expressed dismay over this to her parents. She said Mr. Mauldin later told her parents that his attorney advised him not to shake hands with players on the Irmo team, which is why he did not do so.
57. The U.S. Office for Civil Rights came to Irmo High School in late May 2010 to investigate whether the school had conducted a thorough and proper investigation of

parents' concerns, and they interviewed me as part of that process. I told them the truth about concerns I had with Mr. Mauldin. Prior to this, no one at the School (e.g., the Principal, the Athletic Director, or the Human Resources Director) ever contacted me or tried to interview me about the concerns my parents raised.

58. I am aware of and have heard from many other players and parents of players on the soccer team that because of what happened to my parents and the other parents who raised concerns about Mr. Mauldin to the school, they would be afraid to ever speak up about concerns they may have, for fear that they may be sued as well. Other parents and students were afraid that if they said anything, Mr. Mauldin would take it out on the players during the spring season, or any siblings who went to the same school.

Rachael Mitchell

SWORN to before me this 11th day of July, 2011

Jovina S. Chandler

Notary Public for South Carolina

My commission expires: March 18, 2018

I, the undersigned, Mary Katherine Korpita, age 17, of 108 Genessee Rd., Irmo, SC 29063, being duly sworn, state:

1. The matters stated by me herein are known by me of my own knowledge.
2. I was a member of the Irmo Girls' Varsity Soccer Team, during the 2008-2009 school year.
3. During the 2008-2009 soccer season, Mr. Mauldin regularly talked negatively about other members of the team to me and told me that if I ever repeated any of it, he would deny he ever said it.
4. Mr. Maudlin one time told me he could not wait until a particular senior graduated from school, so she would no longer be on the team, and that until then, he thought she should play "right or left bench."
5. Mr. Mauldin one time asked one of the team members what she was doing that evening. The player said she was going to have sex with her boyfriend and Mr. Mauldin said, "I'm down with that."
6. The senior players on the team consistently treated the younger players badly, often swearing at us and making us get them water and retrieve their soccer balls. Mr. Mauldin knew this was going on and refused to do anything about it.
7. One day at practice, one of the seniors swore at Mr. Mauldin and told him he was ruining the team. She said the F word several times, then left practice and yelled that she was quitting the team. She was back at practice the next day and continued to start all the games after that.
8. In May of 2009, Mr. Mauldin, in front of the whole class in study hall, told me I did not make the elite soccer team with the Columbia United Football Club. This was the day before the results were supposed to be posted anonymously on the club's website. He embarrassed me in front of the whole class by saying out loud in front of the whole class something that was supposed to be private.
9. I considered quitting the team several times because I did not respect Mr. Mauldin as a Mr. and I frequently came home upset after practice because of the way he allowed the seniors to treat us and because of the things he said to me about other players.
10. I complained to my mom on numerous occasions about Mr. Mauldin's behavior while I was a player on the team.

11. On several occasions I, and other players, heard Mr. Mauldin say this would be his last year coaching and he would be retiring.
12. During the summer of 2009, I was aware that my mom and the parents of other players had written or called the school administrators about concerns they had with Mr. Mauldin and his conduct with their daughters, and asking the school to look into it.
13. My mom asked me directly about concerns I had with Mr. Mauldin when I was on the team and I told her the truth about my concerns, which she relayed to school administrators.
14. I was aware that my mom had sent the attached letter (Exhibit A) to the school and agree that everything in it was the truth.
15. I was aware that my mom and the other parents who brought concerns about their daughters were later sued by Mr. Mauldin, after he resigned from the school.
16. The U.S. Office for Civil Rights came to Irmo High School in late May 2010 to investigate whether the school had conducted a thorough and proper investigation of parents' concerns, and they interviewed me as part of that process. I told them the truth about concerns I had with Mr. Mauldin. Prior to this, no one at the School (e.g., the Principal, the Athletic Director, or the Human Resources Director) ever contacted me or tried to interview me about the concerns my mother raised.
17. I am aware of and have heard from many other players and parents of players on the soccer team that because of what happened to my parents and the other parents who raised concerns about Mr. Mauldin to the school, they would be afraid to ever speak up about concerns they may have, for fear that they may be sued as well.

Mary Katherine Kopita

Sworn to me this 5 day of July 2011.

Rexue C. Gibson

Notary Public for South Carolina

My commission expires: My Commission Expires March 18, 2018

I, the undersigned, Danielle Werdunn, age 18 of 7 Coldwater Court, Irmo, SC, being duly sworn state:

1. The matters stated herein are known by me of my own knowledge.
2. I am the daughter of Debra and Karl Werdunn, who also reside in Columbia, SC.
3. I was a member of the Irmo Varsity Girls' Soccer Team during 2007-2008 and the 2008-2009 school years when Mr. Mike Mauldin was the head coach of the team.
4. I received text messages from Mr. Mauldin while I was a player on the team.
5. I personally observed or was aware that Mr. Mauldin sent text messages to other players on the team, sometimes about soccer, and sometimes about unrelated activities.
6. I personally observed or was aware that Mr. Mauldin asked other players on the team about their relationship with their boyfriends.
7. I was aware that on one occasion during the Spring 2009 season after a team loss, Mr. Mauldin said something to a teammate, Erica Baskin, about how her "negative attitude" helped lose the game, which caused her to get very upset and consider quitting the team. Mr. Mauldin then spoke to Erica's dad to help calm things down.
8. Mr. Mauldin would often call me up to his desk during study hall to ask me about the behavior or performance of other players on the team.
9. Mr. Mauldin said to me, "If you repeat this, I will deny it."
10. I directly experienced or witnessed times when Mr. Mauldin showed favoritism or treated different players unfairly on the team.
11. In a different situation, other players and I directly observed and were aware that Mr. Mauldin accused another player on the team, Ashley Kosobucki, of disrespecting him,

DW

and that she was kicked off the team, asked to go into anger management, and made to sign a contract before she could return to playing.

12. I saw and was aware of mistreatment by upper classman against myself and other players on the team, while I was a player on the team during the spring 2008 and 2009 seasons. This included girls routinely yelling and cussing at other players during games and practices, and being told we could not drink any water when coming off the field during games until the upper classman drank water first. Mr. Mauldin did not reprimand the upper classman for this behavior.
13. One weekend during the Spring 2009 season, I played in a game against Dutch Fork at the Hungry Howie's tournament in which many of the upper classman were at the prom so only the younger players on the team participated. Right after that, some of the upper classman on the team chose to punish us for talking positively about that game by purposely handing out "goodie bags" (a tradition to give snacks and other treats to players on the buses before away games) to only the senior players on the team, and not the younger players. Mr. Mauldin did not reprimand the upper classman for this behavior.
14. While I was a player on the soccer team during the 2008 and 2009 season, I directly observed and was aware of several upperclassman forcing the new players (rookies) to fetch water for them, put soccer balls at their feet at practices, chase balls that were purposely kicked over bushes, and other tasks. Mr. Mauldin did not stop this behavior.
15. During study hall, Mr. Mauldin told another player, Mary Kate Korpita, and me that a particular senior should play "right bench" or "left bench" and not be starting the game, and that he was glad that he only had another month of this girl being on the team before he got rid of her. He then told us if we told anyone he said this, he would deny it.

DW

16. I either directly heard or was aware that some players and parents had complained about the Irmo Varsity Girls' Rookie Day tradition in which the new girls on the team each year were asked to wear or do outlandish things during one school day. Mr. Mauldin knew about the Rookie Day tradition.
17. I either directly heard or was aware that some players and parents had also complained about another Irmo Varsity Girls' Team tradition in which only the upper classmen had a sleepover and then TP'd or did other things to the property of the houses of the rookies. Only after a parent complained and insisted that we put end to this tradition -- when I was a freshman on the soccer team -- did the tradition stop.
18. Soccer practice was across the street from the school so it was common practice that we girls would drive over to the fields and change in our cars. On several occasions, while I was a player on the varsity team, Mr. Mauldin approached me in the car in the parking lot where I was changing before soccer practice to give me a handout or discuss some other soccer issue. He never announced himself before approaching the car but just walked up to the window. This made me feel uncomfortable.
19. I considered quitting the team because I did not respect Mr. Mauldin as a coach and did not feel he had a good reputation.
20. I was aware that other players had quit the team because they did not respect Mr. Mauldin.
21. I complained to my parents on numerous occasions about Mr. Mauldin's behavior while I was a player on the team.

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22. During the Spring 2009 season, I was aware that Mr. Mauldin called a mandatory meeting for parents in which the parents were not allowed to speak. Both of my parents attended this meeting.
23. During the summer of 2009, I was aware that my parents and the parents of other players had written or called the school administrators about concerns they had with Mr. Mauldin and his conduct with their daughters, and asking the school to investigate.
24. My parents asked me directly about concerns I had with Mr. Mauldin when I was on the team and I told them the truth about my concerns, which they relayed to school administrators.
25. I was aware that my father had sent a letter to the school voicing concerns of coach Mauldin's behavior.
26. I was aware that my mother had sent the a letter to the school voicing concerns of coach Mauldin's behavior.
27. After my parents brought concerns to school administrators about Mr. Mauldin, I felt like Mr. Mauldin intentionally retaliated against me by walking up to me when I was with other players from his team, and purposely not looking at me or speaking to me anymore during the fall club soccer season. I felt uncomfortable during some practices when Mr. Mauldin and Mr. Dherkers, another parent of a soccer player, would directly stare at me and the other players whose parents had brought concerns to the school.
28. I was aware that my parents and the other parents who brought concerns about their daughters were later sued by Mr. Mauldin, after he resigned from the school.

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29. While I was a player on the Irmo Girls Soccer Team during the Spring 2010 season, on two occasions, our team played against the Dutch Fork Varsity Team where Mr. Mauldin was then employed as an assistant coach. After games, as a sign of good sportsmanship, the coaches of both teams traditionally shake hands with each other and with the players on the other team. After both of these games, Mr. Mauldin refused to shake hands with any of our team or with our coach. I did not think this showed good sportsmanship as a soccer coach, or demonstrated someone serving as a good role model for other players.
30. The U.S. Office for Civil Rights came to Irmo High School in late May 2010 to investigate whether the school had conducted a thorough and proper investigation of parents' concerns, and they interviewed me as part of that process. I told them the truth about concerns I had with Mr. Mauldin. Prior to this, no one at the School (e.g., the Principal, the Athletic Director, or the Human Resources Director) ever contacted me or tried to interview me about the concerns my parents raised.
31. I am aware of and have heard from many other players and parents of players on the soccer team that because of what happened to my parents and the other parents who raised concerns about Mr. Mauldin to the school, they would be afraid to ever speak up about concerns they may have, for fear that they may be sued as well.

Danielle Werdum

SWORN to before me this 17th day of July, 2011

Charles B.

Notary Public for South Carolina

My commission expires: ~~My~~ Commission Expires
June 22, 2019

DW

I, the undersigned, Kristen Werdunn, age 21, of 7 Coldwater Court, Irmo, SC, being duly sworn state:

1. The matters stated herein are known by me of my own knowledge.
2. I am the daughter of Debra and Karl Werdunn, who also reside in Columbia, SC.
3. I was a member of the Irmo Varsity Girls' Soccer Team during 2007-2008 school year.
4. I was a captain on the Irmo Varsity Girls' Soccer Team in 2008 when Mr. Mike Mauldin was the head coach of the team.
5. Mr. Mauldin would routinely send text messages to me and the other co-captain, Rachel Wadsworth, during the school day while I was a member of the Irmo Girls' Soccer Team to inform us of game or practice cancellations or changes that we were supposed to communicate to the rest of the team.
6. I personally was aware that Mr. Mauldin sent text messages to other players on the team, sometimes about soccer, and sometimes about unrelated activities.
7. Mr. Mauldin asked me about my relationship with my boyfriend.
8. On one occasion when Mr. Mauldin sent a text message to Rachel Wadsworth during the school day, a teacher took away Rachel's cell phone after she checked it in class. After Rachel's dad came to the school to complain about the coach texting us during the day, Mr. Mauldin no longer texted Rachel or me, but instead texted the younger players on the team.
9. One day at school, Mr. Mauldin called me to his study hall class and asked if I had lost weight. When I replied, "No," he said, "Well you look good." in a way that made me feel uncomfortable. I did not reply.

KW

10. Mr. Mauldin would often call me up to his desk during study hall to ask me about the behavior of other players on the team.
11. Mr. Mauldin would ask me if certain players should or shouldn't make the team before tryouts.
12. I directly experienced or witnessed times when Mr. Mauldin showed favoritism or treated different players unfairly on the team.
13. I directly experienced or witnessed times when Mr. Mauldin applied different punishments to players for the same incidents.
14. One day during the Spring 2008 soccer season, I was present when Mr. Mauldin told the players not to "do stupid things" and a player responded, "Oh yea, like we're going to get naked" and Mr. Mauldin responded, "I'm down with that."
15. After one game against Chapin in which the Irmo team lost, the coach yelled at me and the co-captain, Rachel Wadsworth for "not doing our job of controlling the team." When we responded that it was not our responsibility to run the team, Mr. Mauldin broke down and admitted he was a worse coach than Coach Fred (our old coach).
16. After the loss of a soccer game against Chapin, I saw Mr. Mauldin touch the shoulder of my co-captain, Rachel Wadsworth, and heard Rachel respond, "Please don't touch my shoulder." When she backed away, he put his hand on her shoulder again, and she told him not to touch her again. He continued to do so even though she repeated that this to him several times.
17. During one out of town tournament at Rockhill where the players were all staying overnight at a hotel, Mr. Mauldin asked me and my co-captain, Rachel Wadsworth, to

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meet with him in one of the hotel rooms to talk about issues with the team. During that discussion, he talked to us about the boyfriend of another player on the team, Nicole Merchant, and said things like the boyfriend and Nicole were not right for each other. We found out later that Nicole was standing out in the hall and heard everything being said about her and she became very upset.

18. I either directly heard or was aware that some players and parents had complained about the Irmo Varsity Girls' Rookie Day tradition in which the new girls on the team each year were asked to wear or do silly things during the school day. Mr. Mauldin was aware of this tradition.
19. I either directly heard or was aware that some players and parents had also complained about another Irmo Varsity Girls' Team tradition in which only the upper classmen had a sleepover and then TP'd or did other things to the property of the houses of the rookies. Only after some parents complained and insisted that we put end to this tradition -- when I was a senior and captain on the soccer team -- did the tradition stop.
20. Soccer practice was across the street from school so it was common practice that we girls would drive over to the fields and change in our cars. On several occasions, while I was a player on the varsity team, Mr. Mauldin approached my car in the soccer parking lot where I was changing before soccer practice to give me a handout or discuss some other soccer issue. He never announced himself before approaching the car but just walked up to the window. This made me feel uncomfortable.
21. During my senior year on the varsity soccer team, Mr. Mauldin told Rachel Wadsworth and me that we were terrible captains and the worst captains the team has ever had.

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22. I complained to my parents on numerous occasions about Mr. Mauldin's behavior while I was a player on the team and a captain.
23. During the summer of 2009, I was aware that my parents and the parents of other players had written or called the school administrators about concerns they had with Mr. Mauldin and his conduct with their daughters, and asking the school to investigate.
24. My parents asked me directly about concerns I had with Mr. Mauldin when I was on the team and I told them the truth about my concerns, which they relayed to school administrators.
25. I was aware that my father had sent a letter to the school voicing concerns of coach Mauldin's behavior.
26. I was aware that my mother had sent a letter to the school voicing concern of coach Mauldin's behavior.
27. I was aware that my parents and the other parents who brought concerns about their daughters were later sued by Mr. Mauldin, after he resigned from the school.
28. The U.S. Office for Civil Rights came to Irmo High School in late May 2010 to investigate whether the school had conducted a thorough and proper investigation of parents' concerns, and they interviewed me as part of that process. I told them the truth about concerns I had with Mr. Mauldin. Prior to this, no one at the School (e.g., the Principal, the Athletic Director, or the Human Resources Director) ever contacted me or tried to interview me about the concerns my parents raised.
29. I am aware of and have heard from many other players and parents of players on the soccer team that because of what happened to my parents and the other parents who

KW

raised concerns about Mr. Mauldin to the school, they would be afraid to ever speak up about concerns they may have, for fear that they may be sued as well.

Krista Weidman

SWORN to before me this 14th day of July, 2011

Chantel Br

Notary Public for South Carolina

My commission expires: My Commission Expires
June 22, 2019

KW

STATE OF SOUTH CAROLINA)

IN THE COURT OF COMMON PLEAS

COUNTY OF LEXINGTON)

C/A No. 2009-CP-32-05708

Michael Mauldin,)

Plaintiff,)

vs.)

**DEFENDANT PAMELA WEISS'S REQUESTS
FOR ADMISSION TO PLAINTIFF**

Carol Vander Heide, Murray)

Mitchell, Pamela Weiss, Eileen)

Korpita, Karl Werdunn, Debra)

Werdunn, and Mark E. Kosobucki,)

Defendants.)

TO: J. LEWIS CROMER, ESQ., TANDI D. ROSS, ESQ., AND JULIUS W. BABB, IV, ESQ.,
ATTORNEYS FOR THE PLAINTIFF M. MAULDIN, AND TO THE PLAINTIFF ABOVE
NAMED:

Pursuant to Rule 36a of the South Carolina Rules of Civil Procedure, the following constitute the Defendant Pamela Weiss's First Request for Admissions of fact and genuineness of documents for the purpose of the pending action only. Such requests for admissions, pursuant to the Rule, shall be deemed admitted unless within thirty (30) days from the date hereof, the undersigned at his address receives a written answer or objection. If objection is made, the reasons therefore shall be stated. The answer to each request shall specifically deny the matter or set forth in detail why the answering party cannot truthfully admit or deny the matter. Any such detail shall fairly meet the substance of the requested admissions, and when good faith requires that you qualify an answer or deny only part of the matter which is requested to be admitted, you shall specify so much of the request as being true, and qualify or deny the remainder.

1. Admit that the Plaintiff voluntarily submitted his resignation to Irmo High School on December 11, 2009. See Exhibit A.
2. Admit that the U.S. Department of Education Office for Civil Rights (OCR) reported in its July 23, 2010 Letter of Findings that the Plaintiff told the OCR that he: "*voluntarily submitted his resignation as Irmo Varsity Girls Soccer Coach out of concern for the players, the school, and the soccer program.*" See Exhibit B.
3. Admit that prior to submitting his resignation on December 11, 2009, the Plaintiff was already retired from the SC State Education System and had been working as a Post-TERI (Teacher and Employee Retirement Incentive) Program contract employee and Study Hall Supervisor at Irmo High School with District Five of Lexington Richland School Counties from 2004-2009. See Exhibit C.
4. Admit that prior to submitting his resignation, the Plaintiff was no longer employed as a certified teacher, including during the 2007-2008 and 2008-2009 school years.
5. Admit that after working as the JV Girls Coach and Assistant Coach at Dutch Fork High School for the Spring 2010 season, the Plaintiff successfully competed for and accepted a position as the Varsity Girls' Soccer Head Coach at Blythewood High School in Lexington District II, for the 2010-2011 school year.
6. Admit that following his resignation from Irmo High School, the Plaintiff continued his role as a Club Soccer Coach at the SC (formerly Columbia) United Futbol Club, for which he also receives some income.
7. Admit that he Plaintiff has no written evidence or documentation that his voluntary resignation from Irmo High School *negatively affected his employment status, his ability to*

compete for coaching positions, or caused damage to his reputation by impacting his ability to be hired as a coach.

8. Admit that the Plaintiff has no medical records or documentation to show that he *sustained a loss of reputation, mental anguish and emotional distress* caused by his voluntary resignation that *impacted his future earning capacity and ability to pursue coaching elsewhere.*
9. Admit that the Plaintiff has no written evidence or documentation that the Defendant Pam Weiss *"proximately caused him to lose his job" or "proximately caused him to sustain a loss of possible future employment as a teacher."*
10. Admit that while he was employed at Irmo High School, the Plaintiff was aware of and had received training on District Five of Lexington and Richland County Personnel and Student policies regarding *"harassment, intimidation and bullying," "zero tolerance against retaliation,"* and *"texting in schools."* See Exhibits D and E.
11. Admit that the Plaintiff acknowledged in a letter sent to School Administrators in late August 2009, that Items #1, 2, 4, 5, 7, 8, 9, 10, 12, 13, 15, 16, 17, 19, 21, 22, 23, 24, 25, 26, 27, 28, 30, 31, 32, 33 of the 33 bulleted "Concerns" included in Exhibit A of the Plaintiff's Civil Action Complaint 09-CP320 5708 *were true.* See Exhibit F.
12. Admit that at some point after August 10, 2010, District Five Administrators spoke to the Plaintiff about making changes to some of his soccer policies. See Exhibits C and H.
13. Admit the U.S. Department of Education Office for Civil Rights reported in its July 23, 2010 Letter of Findings that: *"There were a number of discrepancies between the Head Coach's version of events and the versions of the parents and a number of the players."* See Exhibit B.

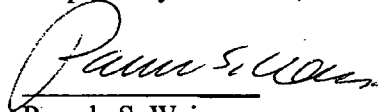
14. Admit that the U.S. Department of Education Office for Civil Rights concluded in its July 23, 2010 Letter of Findings against District Five of Lexington and Richland County Administrators that: *"the District failed to follow its procedures and adequately respond to concerns about the coach that were brought to the attention of District personnel"* See Exhibit B.
15. Admit that the U.S. Department of Education Office for Civil Rights further concluded in its July 23, 2010 Letter of Findings that: *"the Complainants and other parents suffered adverse action"* and that *"the manner in which the Principal handled the parents' concerns would be sufficient to discourage a reasonable person from further protected activity."* See Exhibit B.
16. Admit that the U.S. Department of Education Office for Civil Rights concluded in its July 23, 2010 Letter of Findings that: *"the Complainants and other parents engaged in protected activity by raising concerns to the Principal and ultimately to the Chief Human Resources Services officer."*
17. Admit that that the Plaintiff has no evidence to assert a claim of defamation against Defendant Pam Weiss that the concerns she raised against the Plaintiff *"were false, known to be false and made with reckless disregard for the truth."*
18. Admit that each of the following documents attached as an exhibit to this Requests for Admission are true and an accurate reproduction of a genuine original:
- (a) Exhibit A: Voluntary Resignation of the Plaintiff on December 11, 2009.
 - (b) Exhibit B: U.S. Department of Education Office for Civil Rights Letter of Findings on July 23, 2010: Pages 1, 7-13.
 - (c) Exhibit C: October 12, 2009 Memorandum to File from District Five of Lexington and Richland Counties regarding their report on their investigation of the complaint of the Plaintiff.

- (d) Exhibit D: *Appendix C, Pages 103-106 of District Five of Lexington and Richland Counties Behavior Code Book* re: policies for "*harassment, intimidation & bullying*" and *Appendix F, Page 111*, re: policies against "*texting in schools*"
- (e) Exhibit E: **Personnel Policies GBEBB, GBE, GBEB and GBAA** for School District Five of Lexington and Richland Counties
- (f) Exhibit F: "Response to Concerns by Parents" sent by the Plaintiff to School Administrators in Fall 2009.
- (g) Exhibit G: Policy Changes to Soccer Program provided by the Plaintiff in Fall 2009.

Please take notice that you may not give lack of information or knowledge as a reason for failure to admit or deny, unless you shall state that you have made reasonable inquiry into the information known or readily obtainable by you and it is insufficient to enable you to admit or deny.

You will hereby take notice that if you fail to admit these Requests for Admissions, and if the undersigned hereafter proves the truth of the matter, the undersigned shall apply to the Court for an Order requiring the party to pay the reasonable expenses incurred in making such proof, which shall include reasonable attorney's fees.

Respectfully submitted,



Pamela S. Weiss
240 Wood Moor Place
Columbia, South Carolina 29212
(803) 422-0469

Dated: August 21, 2010

STATE OF SOUTH CAROLINA)
COUNTY OF LEXINGTON)

IN THE COURT OF COMMON PLEAS

Michael Mauldin,)

09-CP-32-5708

Plaintiff,)

**PLAINTIFF'S ANSWERS TO DEFENDANT
WEISS'S REQUESTS FOR ADMISSION**

vs.)

Carol Vander Heide, Murray)

Mitchell, Pamela Weiss, Eileen)

Korpita, Karl Werdunn, Debra)

Werdunn, and Mark E. Kosobucki,)

Defendants.)

TO DEFENDANT PAMELA S. WEISS:

The plaintiff, by and through his undersigned counsel, answers the Defendant Weiss's

Requests for Admission as follows:

General Response: The Plaintiff denies each and every request not herein
specifically admitted.

1. Admit that the Plaintiff voluntarily submitted his resignation to Irmo High School on
December 11, 2009. See Exhibit A.

Answer:

Deny.

2. Admit that the U.S. Department of Education Office for Civil Rights (OCR) reported
in its July 23, 2010 Letter of Findings that the Plaintiff told the OCR that he: "*voluntarily
submitted his resignation as Irmo Varsity Girls Soccer Coach out of concern for the players, the*

school, and the soccer program. " See Exhibit B.

Answer:

The Plaintiff objects to this Request on the grounds that the Plaintiff is unable to locate the quoted language in Exhibit B. Subject to and without waiving this objections, Plaintiff answers as follows:

Admitted that Exhibit, page 7 contains language similar to that quoted in this Request. However, the Plaintiff denies that he told used the term "voluntary" in reference to his resignation and he denies using the specific terminology stated in Exhibit B.

3. Admit that prior to submitting his resignation on December 11, 2009, the Plaintiff was already retired from the SC State Education System and had been working as a Post-TERI (Teacher and Employee Retirement Incentive) Program contract employee and Study Hall Supervisor at Irmo High School with District Five of Lexington Richland School Counties from 2004-2009. See Exhibit C.

Answer:

Admit.

4. Admit that prior to submitting his resignation, the Plaintiff was no longer employed as a certified teacher, including during the 2007-2008 and 2008-2009 school years.

Answer:

Admit.

5. Admit that after working as the JV Girls Coach and Assistant Coach at Dutch Fork High School for the Spring 2010 season, the Plaintiff successfully competed for and accepted a position as the Varsity Girls' Soccer Head Coach at Blythewood High School in Lexington District II, for the 2010-2011 school year.

Answer:

Deny. However, Plaintiff admits that he applied for this position at Richland District II, received an interview for the position, was offered the position, and he accepted the position.

6. Admit that following his resignation from Irmo High School, the Plaintiff continued his role as a Club Soccer Coach at the SC (formerly Columbia) United Futbol Club, for which he also receives some income.

Answer:

Admit.

7. Admit that he Plaintiff has no written evidence or documentation that his voluntary resignation from Irmo High School *negatively affected his employment status, his ability to compete for coaching positions, or caused damage to his reputation by impacting his ability to be hired as a coach.*

Answer:

Deny.

8. Admit that the Plaintiff has no medical records or documentation to show that he *sustained a loss of reputation, mental anguish and emotional distress* caused by his voluntary resignation that *impacted his future earning capacity and ability to pursue coaching elsewhere.*

Answer:

Deny.

9. Admit that the Plaintiff has no written evidence or documentation that the Defendant Pam Weiss *"proximately caused him to lose his job" or "proximately caused him to sustain a loss of possible future employment as a teacher."*

Answer:

Deny.

10. Admit that while he was employed at Irmo High School, the Plaintiff was aware of and had received training on District Five of Lexington and Richiand County Personnel and Student policies regarding *"harassment, intimidation and bullying," "zero tolerance against retaliation,"* and *"texting in schools."* See Exhibits D and E.

Answer:

Admitted to the extent that the Plaintiff was aware of similarly titled policies and

did receive training on some of the policies. However, the Plaintiff cannot admit nor deny that Exhibits D and E are these same policies.

11. Admit that the Plaintiff acknowledged in a letter sent to School Administrators in late August 2009, that Items #1, 2, 4, 5, 7, 8, 9, 10, 12, 13, 15, 16, 17, 19, 21, 22, 23, 24, 25, 26, 27, 28, 30, 31, 32, 33 of the 33 bulleted "Concerns" included in Exhibit A of the Plaintiffs Civil Action Complaint 09-CP320 5708 were true. See Exhibit F.

Answer:

Deny.

12. Admit that at some point after August 10, 2010, District Five Administrators spoke to the Plaintiff about making changes to some of his soccer policies. See Exhibits C and H.

Answer:

There is not an Exhibit H attached to these Requests. However, the Plaintiff admits this Request to the extent it should reference Exhibit G instead of Exhibit H.

13. Admit the U.S. Department of Education Office for Civil Rights reported in its July 23, 2010 Letter of Findings that: *"There were a number of discrepancies between the Head Coach's version of events and the versions of the parents and a number of the players."*
See Exhibit B.

Answer:

Admitted to the extent that Exhibit B appears to be a Letter of Findings from the U.S. Department of Education Office of Civil Rights and includes the quoted language.

14. Admit that the U.S. Department of Education Office for Civil Rights concluded in its July 23, 2010 Letter of Findings against District Five of Lexington and Richiand County Administrators that: *"the District failed to follow its procedures and adequately respond to concerns about the coach that were brought to the attention of District personnel"* See Exhibit B.

Answer:

Admitted to the extent that Exhibit B appears to be a Letter of Findings from the U.S. Department of Education Office of Civil Rights and includes the quoted language.

15. Admit that the U.S. Department of Education Office for Civil Rights further concluded in its July 23, 2010 Letter of Findings that: *"the Complainants and other parents suffered adverse action"* and that *"the manner in which the Principal handled the parents' concerns would be sufficient to discourage a reasonable person from further protected activity."* See Exhibit B.

Answer:

Admitted to the extent that Exhibit B appears to be a Letter of Findings from the U.S. Department of Education Office of Civil Rights and includes the quoted language.

16. Admit that the U.S. Department of Education Office for Civil Rights concluded in its July 23, 2010 Letter of Findings that: *"the Complainants and other parents engaged in protected activity by raising concerns to the Principal and ultimately to the Chief Human Resources Services officer."*

Answer:

Admitted to the extent that Exhibit B appears to be a Letter of Findings from the U.S. Department of Education Office of Civil Rights and includes the quoted language.

17. Admit that that the Plaintiff has no evidence to assert a claim of defamation against Defendant Pam Weiss that the concerns she raised against the Plaintiff *"were false, known to be false and made with reckless disregard for the truth."*

Answer:

Deny.

18. Admit that each of the following documents attached as an exhibit to this Requests for Admission are true and an accurate reproduction of a genuine original:

(a) Exhibit A: Voluntary Resignation of the Plaintiff on December 11, 2009.

(b) Exhibit B: U.S. Department of Education Office for Civil Rights *Letter of Findings* on July 23, 2010: Pages 1, 7-13.

(c) Exhibit C: October 12, 2009 Memorandum to File from District Five of Lexington and Richland Counties regarding their report on their investigation of the complaint of the

Plaintiff.

(d) Exhibit D: *Appendix C, Pages 103406* of District Five of Lexington and Richland Counties Behavior Code Book re: policies for "*harassment, intimidation & bullying*" and *Appendix F, Page 111*, re: policies against "*texting in schools*"

(e) Exhibit E: Personnel Policies *GBEBB, GBE, GBEB and GBAA* for School District Five of Lexington and Richland Counties

(f) Exhibit F: "Response to Concerns by Parents" sent by the Plaintiff to School Administrators in Fall 2009.

(g) Exhibit G: Policy Changes to Soccer Program provided by the Plaintiff in Fall 2009.

Answer:

(a) Admit, however the copy attached as Exhibit A contains unknown markings.

(b) The Plaintiff can not admit nor deny, because he has never seen the original.

(c) Admit.

(d) The Plaintiff can not admit nor deny, because he is unable to compare to originals.

(e) The Plaintiff can not admit nor deny, because he is unable to compare to originals.

(f) Admit.

(g) Admit.

CROMER & MABRY

BY: Julius W. Babb
J. Lewis Cromer (#1470)
Tandi D. Ross (#76623)
Julius W. Babb, IV (#77216)
1522 Lady Street
Post Office Box 11675
Columbia, South Carolina 29211
Phone 803-799-9530
Fax 803-799-9533

Attorneys for Plaintiff

September 16, 2010

Certificate of Service

I hereby certify that on the date indicated above, I served on counsel of record a true and correct copy of this by U.S. Mail.

Julius W. Babb
Julius W. Babb, IV

STATE OF SOUTH CAROLINA)

IN THE COURT OF COMMON PLEAS

COUNTY OF LEXINGTON)

C/A No. 2009-CP-32-05708

Michael Mauldin,)

Plaintiff,)

vs.)

**DEFENDANT MURRAY MITCHELL's
REQUESTS FOR ADMISSION TO
PLAINTIFF**

Carol Vander Heide, Murray)

Mitchell, Pamela Weiss, Eileen)

Korpita, Karl Werdunn, Debra)

Werdunn, and Mark E. Kosobucki,)

Defendants.)

TO: J. LEWIS CROMER, ESQ., TANDI D. ROSS, ESQ., AND JULIUS W. BABB, IV, ESQ.,
ATTORNEYS FOR THE PLAINTIFF M. MAULDIN, AND TO THE PLAINTIFF ABOVE
NAMED:

Pursuant to Rule 36a of the South Carolina Rules of Civil Procedure, the following constitutes the Defendant Murray Mitchell's First Request for Admissions of fact and genuineness of documents for the purpose of the pending action only. Such requests for admissions, pursuant to the Rule, shall be deemed admitted unless within thirty (30) days from the date hereof, the undersigned at his address receives a written answer or objection. If objection is made, the reasons therefore shall be stated. The answer to each request shall specifically deny the matter or set forth in detail why the answering party cannot truthfully admit or deny the matter. Any such detail shall fairly meet the substance of the requested admissions, and when good faith requires that you qualify an answer or deny only part of the matter which is requested to be admitted, you shall specify so much of the request as being true, and qualify or deny the remainder.

1. Admit that Defendant Pam Weiss spoke to the Plaintiff at least once during the Spring 2008 soccer season while her daughter, Rachael Mitchell, was a varsity soccer player at Irmo High School and the Plaintiff was head coach, about concern for the mistreatment of younger players by older players on the team and Rookie activities.
2. Admit that the Defendant's daughter, Rachael Mitchell, spoke to the Plaintiff on one or more occasions while she was a Varsity Soccer player and while he was head coach of the Irmo Girls' Varsity Program, about being upset about mistreatment by older players on the team.
3. Admit that Defendant Murray Mitchell emailed the Plaintiff on April 19, 2009, to ask if anything could be done to stop the mistreatment of younger players by older players which was impacting team morale, to which the Plaintiff later responded via email: "I will not answer anything from you in the future." Exhibit A
4. Admit that the Plaintiff spoke to Rachael Mitchell and other players in study hall on April 20, 2009, while he was head of the Irmo Girls Varsity Soccer program and Study Hall Supervisor, about receiving an email from a parent which Plaintiff characterized as being critical of Plaintiff's program and in which the parent suggested that younger players were being treated like slaves.
5. Admit that the Plaintiff called a mandatory parent meeting on April 22, 2009 while he was head of the Irmo Girls Varsity Soccer program in which he told parents they would not be allowed to speak and that it was their job to support, not criticize, the program.
6. Admit that the Plaintiff commented to the Defendant's Daughter, Varsity soccer player Rachael Mitchell, on at least one occasion, about her underwear being visible underneath her white shorts, while he was head of the Irmo Girls' Varsity Soccer team.

7. Admit that the Plaintiff spoke to the Defendant's Daughter, Rachael Mitchell one day about which of two siblings on the Irmo JV girls' soccer team – Madison or Callahan Taylor – was more mature, while he was Study Hall Supervisor and Head of the Irmo Girls' Varsity Program.
8. Admit that the Plaintiff was given a copy of a letter and attached list of concerns that the Defendants, Pamela Weiss and Murray Mitchell sent to the Plaintiff's immediate supervisors Principal Eddie Walker and Athletic Director Robert Hanna, on June 11, 2009, in which a meeting was requested with the supervisors to discuss the concerns.
9. Admit that the Plaintiff shared the letter and list of concerns, sent in confidence by Defendants Mitchell and Weiss to the Principal and Athletic Director, with others.
10. Admit that nowhere in the list of 33 concerns presented by the Defendants Pam Weiss and Murray Mitchell are the words "sexual harassment" used. Exhibit B
11. Admit that the Plaintiff told the Office for Civil Rights (when they interviewed him in May 2010 and asked him about the nature of the 33 concerns raised by Pam Weiss and Murray Mitchell) that: *"they mentioned all kinds of things but nothing in his mind that was sexual harassment in nature."* Exhibit C
12. Admit that at some point during their investigation of the Plaintiff, one or more representatives of District 5 of Lexington and Richland County spoke to the Plaintiff about texting, about white shorts, and about "Rookie" activities, and in response, the Plaintiff presented a flyer to students during Fall 2009 titled: "Irmo Girls' Soccer Policy Changes for the 2010 Season" that included 6 bulleted items covering changes in texting policies, team uniforms, and Rookie activities. Exhibit D

13. Admit that the Plaintiff has no written documentation of anything that the Defendants Pam Weiss and Murray Mitchell did other than raise concerns on behalf of their adolescent daughter and others members of the Irmo Varsity girls' soccer team regarding a public official in a public school setting and request that the appropriate authorities in the District address those concerns according to District guidelines.
14. Admit that the Plaintiff has no written documentation of anywhere outside of the appropriate administrative channels of District Five of Lexington and Richland School or the U.S. Office for Civil Rights where concerns raised by the Defendants Pam Weiss and Murray Mitchell by their daughter and by other students and parents of players on a high school girls' varsity soccer team about a public school official in a public setting were ever published or disseminated.
15. Admit that the Plaintiff is aware that District 5 has very specific code of conduct guidelines that clearly identify that parents, students, and teachers have a protected right to bring concerns to school administrators about employees or students that they feel may violate school policies, without fear of retaliation.
16. Admit that while he was a coach of the Irmo Varsity Girls' Soccer Team, the Plaintiff himself, on more than one occasion, brought concerns he had observed or heard by students/players that he felt might violate school policy to the attention of administrators in the District so they could investigate those concerns and take appropriate action.
17. Admit that the Plaintiff has no written documentation that the Defendants Pam Weiss or Murray Mitchell have now, or at any time prior had, any authority to require the Plaintiff's resignation.

18. Admit that when the Plaintiff chose to resign from his job as Varsity Girls' Soccer Coach at Irmo High School by submitting his written resignation, it was in lieu of being terminated.

19. Admit that the Plaintiff, when specifically asked by the Office for Civil Rights (during their interview of him in May 2010) if he voluntarily resigned from his position, responded:

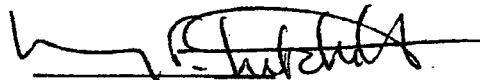
"That's accurate," and added, *"It was voluntary and done after discussion with Angela Bain."* Exhibit E

20. Admit that when the Plaintiff applied for a job at Blythewood High School in Richland District II, he indicated on his application that he had never resigned from any employment in lieu of being terminated. Exhibit F

Please take notice that you may not give lack of information or knowledge as a reason for failure to admit or deny, unless you shall state that you have made reasonable inquiry into the information known or readily obtainable by you and it is insufficient to enable you to admit or deny.

You will hereby take notice that if you fail to admit these Requests for Admissions, and if the undersigned hereafter proves the truth of the matter, the undersigned shall apply to the Court for an Order requiring the party to pay the reasonable expenses incurred in making such proof, which shall include reasonable attorney's fees.

Respectfully submitted,



Murray F. Mitchell
240 Wood Moor Place
Columbia, South Carolina 29212
(803) 422-8843

Dated: November 10, 2010

STATE OF SOUTH CAROLINA	)	
	)	IN THE COURT OF COMMON PLEAS
COUNTY OF LEXINGTON	)	
Michael Mauldin,	)	09-CP-32-5708
	)	
Plaintiff,	)	PLAINTIFF'S ANSWERS TO DEFENDANT
	)	MITCHELL'S REQUESTS FOR ADMISSION
vs.	)	
	)	
Carol Vander Heide, Murray	)	
Mitchell, Pamela Weiss, Eileen	)	
Korpita, Karl Werdunn, Debra	)	
Werdunn, and Mark E. Kosobucki,	)	
	)	
Defendants.	)	
	)	

TO DEFENDANT MURRAY MITCHELL:

The plaintiff, by and through his undersigned counsel, answers the Defendant Mitchell's Requests for Admission as follows:

General Response: The Plaintiff denies each and every request not herein specifically admitted.

1. Admit that Defendant Pam Weiss spoke to the Plaintiff at least once during the Spring 2008 soccer season while her daughter, Rachael Mitchell, was a varsity soccer player at Irmo High School and the Plaintiff was head coach, about concern for the mistreatment of younger players by older players on the team and Rookie activities.

Answer:

Admit that the Plaintiff spoke to Weiss in or around the Spring 2008 regarding "rookie activities." However, the Plaintiff denies discussion about the "mistreatment" of players.

2. Admit that the Defendant's daughter, Rachael Mitchell, spoke to the Plaintiff on one or

more occasions while she was a Varsity Soccer player and while he was head coach of the Irmo Girls' Varsity Program, about being upset about mistreatment by older players on the team.

Answer:

Admit that Rachael Mitchell had a discussion with the Plaintiff concerning other players criticizing her performance on the field. However, the Plaintiff denies discussion about the "mistreatment" of players.

3. Admit that Defendant Murray Mitchell emailed the Plaintiff on April 19, 2009, to ask if anything could be done to stop the mistreatment of younger players by older players which was impacting team morale, to which the Plaintiff later responded via email: "I will not answer anything from you in the future." Exhibit A

Answer:

Admit the Plaintiff received the email dated April 19, 2009. Further admit that the Plaintiff emailed Murray Mitchell on April 20, 2009, which contained the quoted language. Otherwise, deny any characterizations or inferences in request no. 3.

4. Admit that the Plaintiff spoke to Rachael Mitchell and other players in study hall on April 20, 2009, while he was head of the Irmo Girls Varsity Soccer program and Study Hall Supervisor, about receiving an email from a parent which Plaintiff characterized as being critical of Plaintiff's program and in which the parent suggested that younger players were being treated like slaves.

Answer:

Admit the Plaintiff spoke privately with freshmen players to address whether they

felt like they were treated as "slaves" per an email from a parent. Deny disclosing the identity of the parent or discussing any other contents of the email. Further deny any characterizations or inferences in request no. 4.

5. Admit that the Plaintiff called a mandatory parent meeting on April 22, 2009 while he was head of the Irmo Girls Varsity Soccer program in which he told parents they would not be allowed to speak and that it was their job to support, not criticize, the program.

Answer:

Admit the Plaintiff called a meeting to inform parents to support the program and players and not to criticize or become overly involved in coaching decisions. Further admit that the Plaintiff refused to take questions during the meeting due to a pre-meeting warning from a parent. Otherwise, deny.

6. Admit that the Plaintiff commented to the Defendant's Daughter, Varsity soccer player Rachael Mitchell, on at least one occasion, about her underwear being visible underneath her white shorts, while he was head of the Irmo Girls' Varsity Soccer team.

Answer:

Admit to the extent the Plaintiff told Rachael Mitchell that she was in violation of team rules, after the Plaintiff was informed that derogatory remarks about Rachael were being made by other students in the stands during the games.

7. Admit that the Plaintiff spoke to the Defendant's Daughter, Rachael Mitchell one day about which of two siblings on the Irmo JV girls' soccer team — Madison or Callahan Taylor — was more mature, while he was Study Hall Supervisor and Head of the Irmo Girls' Varsity Program.

Answer:

Admit to the extent that the Plaintiff dealt with a discipline issue regarding Madison Taylor during study hall.

8. Admit that the Plaintiff was given a copy of a letter and attached list of concerns that the Defendants, Pamela Weiss and Murray Mitchell sent to the Plaintiffs immediate supervisors Principal Eddie Walker and Athletic Director Robert Hanna, on June 11, 2009, in which a meeting was requested with the supervisors to discuss the concerns.

Answer:

Admit.

9. Admit that the Plaintiff shared the letter and list of concerns, sent in confidence by Defendants Mitchell and Weiss to the Principal and Athletic Director, with others.

Answer:

Deny to the extent that the Plaintiff has no knowledge of the letter and list being "sent in confidence by Defendants Mitchell and Weiss to the Principal and Athletic Director."

10. Admit that nowhere in the list of 33 concerns presented by the Defendants Pam Weiss and Murray Mitchell are the words "sexual harassment" used. Exhibit B

Answer:

Admit that the phrase "sexual harassment" does not appear in Exhibit B.

11. Admit that the Plaintiff told the Office for Civil Rights (when they interviewed him in May 2010 and asked him about the nature of the 33 concerns raised by Pam Weiss and Murray Mitchell) that: *"they mentioned all kinds of things but nothing in his mind that*

was sexual harassment in nature.” Exhibit C

Answer:

Deny that the Plaintiff stated verbatim the above-reference quote.

12. Admit that at some point during their investigation of the Plaintiff, one or more representatives of District 5 of Lexington and Richland County spoke to the Plaintiff about texting, about white shorts, and about “Rookie” activities, and in response, the Plaintiff presented a flyer to students during Fall 2009 titled: “Irmo Girls’ Soccer Policy Changes for the 2010 Season” that included 6 bulleted items covering changes in texting policies, team uniforms, and Rookie activities. Exhibit D

Answer:

Admit that the Plaintiff made the policy changes in Exhibit D. Deny any characterizations or inferences in request no. 12.

13. Admit that the Plaintiff has no written documentation of anything that the Defendants Pam Weiss and Murray Mitchell did other than raise concerns on behalf of their adolescent daughter and others members of the Irmo Varsity girls’ soccer team regarding a public official in a public school setting and request that the appropriate authorities in the District address those concerns according to District guidelines.

Answer:

Plaintiff objects to this request on the grounds it is vague, ambiguous and unclear.

Subject to and without waiving the foregoing objection, the Plaintiff responds as follows:

Deny.

14. Admit that the Plaintiff has no written documentation of anywhere outside of the

appropriate administrative channels of District Five of Lexington and Richland School or the U.S. Office for Civil Rights where concerns raised by the Defendants Pam Weiss and Murray Mitchell by their daughter and by other students and parents of players on a high school girls' varsity soccer team about a public school official in a public setting were ever published or disseminated.

Answer:

Plaintiff objects to this request on the grounds it is vague, ambiguous and unclear.

Subject to and without waiving the foregoing objection, the Plaintiff responds as follows:

Deny.

15. Admit that the Plaintiff is aware that District 5 has very specific code of conduct guidelines that clearly identify that parents, students, and teachers have a protected right to bring concerns to school administrators about employees or students that they feel may violate school policies, without fear of retaliation.

Answer:

Admit only to the extent the Plaintiff is aware that District 5 does have policies.

Otherwise deny.

16. Admit that while he was a coach of the Irmo Varsity Girls' Soccer Team, the Plaintiff himself, on more than one occasion, brought concerns he had observed or heard by students/players that he felt might violate school policy to the attention of administrators in the District so they could investigate those concerns and take appropriate action.

Answer:

The Plaintiff objects to this request on the grounds that it is vague, ambiguous and

unclear, and the request does not identify a specific "occasion" or "concern" or "policy."

Subject to and without waiving the foregoing objections, the Plaintiff responds as follows:

The Plaintiff is unable to admit or deny based on the above objections.

17. Admit that the Plaintiff has no written documentation that the Defendants Pam Weiss or Murray Mitchell have now, or at any time prior had, any authority to require the Plaintiff's resignation.

Answer:

The Plaintiff objects to this request on the grounds that it is vague, ambiguous and the term "authority" is undefined. Subject to and without waiving the foregoing objections, the Plaintiff responds as follows:

The Plaintiff is unable to admit or deny based on the above objections.

18. Admit that when the Plaintiff chose to resign from his job as Varsity Girls' Soccer Coach at Irmo High School by submitting his written resignation, it was in lieu of being terminated.

Answer:

Admit to the extent the Plaintiff involuntarily resigned. Otherwise, deny.

19. Admit that the Plaintiff, when specifically asked by the Office for Civil Rights (during their interview of him in May 2010) if he voluntarily resigned from his position, responded: "That's accurate," and added, "It was voluntary and done after discussion with Angela Bain." Exhibit E

Answer:

Deny.

20. Admit that when the Plaintiff applied for a job at Blythewood High School in Richland District II, he indicated on his application that he had never resigned from any employment in lieu of being terminated. Exhibit F

Answer:

The Plaintiff is unable to admit or deny. While the Plaintiff did submit an application for a position in Richland District II, he does not know if this is a true and correct copy.

CROMER & MABRY

BY: Julius W. Babb
Julius W. Babb, IV (#77216)
J. Lewis Cromer (#1470)
Tandi D. Ross (#76623)
1522 Lady Street
Post Office Box 11675
Columbia, South Carolina 29211
Phone 803-799-9530
Fax 803-799-9533

Attorneys for Plaintiff

December 9, 2010

Certificate of Service

I hereby certify that on the date indicated above, I served on counsel of record a true and correct copy of this by U.S. Mail.

Julius W. Babb
Julius W. Babb, IV

STATE OF SOUTH CAROLINA)
)
COUNTY OF LEXINGTON)
)
Michael Mauldin,)
)
Plaintiff,)
)
vs.)
)
Carol Vander Heide, Murray)
Mitchell, Pamela Weiss, Eileen)
Korpita, Karl Werdunn, Debra)
Werdunn, and Mark E. Kosobucki,)
)
Defendants.)

IN THE COURT OF COMMON PLEAS

C/A No. 2009-CP-32-05708

**DEFENDANT EILEEN KORPITA'S REQUESTS
FOR ADMISSION TO PLAINTIFF**

TO: J. LEWIS CROMER, ESQ., TANDI D. ROSS, ESQ., AND JULIUS W. BABB, IV, ESQ.,
ATTORNEYS FOR THE PLAINTIFF M. MAULDIN, AND TO THE PLAINTIFF ABOVE
NAMED:

Pursuant to Rule 36a of the South Carolina Rules of Civil Procedure, the following constitute the Defendant Eileen Korpita's First Request for Admissions of fact and genuineness of documents for the purpose of the pending action only. Such requests for admissions, pursuant to the Rule, shall be deemed admitted unless within thirty (30) days from the date hereof, the undersigned at his address receives a written answer or objection. If objection is made, the reasons therefore shall be stated. The answer to each request shall specifically deny the matter or set forth in detail why the answering party cannot truthfully admit or deny the matter. Any such detail shall fairly meet the substance of the requested admissions, and when good faith requires that you qualify an answer or deny only part of the matter which is requested to be admitted, you shall specify so much of the request as being true, and qualify or deny the remainder.

1. Admit that the Plaintiff occasionally gave handouts to girls while they were changing in their cars in the parking lot after school and before soccer practices began, while he was head of the Irmo Girls' Varsity Soccer Program.
2. Admit that the Plaintiff occasionally sent text messages to girls on the soccer team before, during, and after school, while he was head of the Irmo Girls' Varsity Soccer Program.
3. Admit that, contrary to Columbia United FC policy, the Plaintiff told Mary Kate Korpita in study hall after club tryouts in late May 2009 what club team she made (Palmetto versus Elite) – a day *before* the rosters were to be posted anonymously online—while he was head coach of the Irmo Girls' Varsity Soccer Team.
4. Admit that the Plaintiff texted a varsity soccer player, Alicia Baxter, about her breakup with her boyfriend, while he was head coach of the Irmo Varsity Girls' Soccer Program.
5. Admit that one varsity player, Stephanie Funderbirk, once cussed out the Plaintiff before practice one day after which she told the other players on the players she was quitting, but she ended up remaining on the team and playing the remainder of the games that season, while the Plaintiff was head coach of the Irmo Varsity Girls' Soccer team.
6. Admit that the Plaintiff once said, "I'm down with that" after he told players the day before the prom not to do anything stupid, and a player said she was going to make out with her boyfriend and get naked. Exhibit
7. Admit that after several Soccer players vandalized the Plaintiff's house while he was head coach of the Irmo Girls Varsity Soccer Team, the Plaintiff threatened to press charges against some of the players, and later the School suspended some of the players for a week.

8. Admit that the Plaintiff made people in his study hall one day set up chairs in a semicircle while he made some of the players who had vandalized his home come to his study hall and apologize to him in front of everyone.
9. Admit that the Plaintiff told several players and parents that he planned to retire at the end of the Spring 2009 soccer season and that would be his last year coaching.
10. Admit that June 2009 was not the first time that the Plaintiff had ever heard that parents had raised concerns about his interactions with players and students while he was an employee at District 5 in Lexington and Richland Counties.
11. Admit that while he was head coach of the Irmo Varsity Soccer Team, the Plaintiff had heard parents and players complain to him, prior to June 2009, about "Rookie Day" activities (tradition of having kids dress up and say or do things in front of other students); about older players having a sleepover and toilet papering ("rolling") younger players' homes; and about older players requiring rookies to do things for them (i.e., fetch them water, get their soccer balls, etc).
12. Admit that the Defendant, Eileen Korpita, had contacted the Plaintiff prior to June 2008 about player concerns regarding perceived favoritism by the Coach toward certain players while he was head of the Irmo Girls' Varsity Soccer Program, when her daughter, Meghan Korpita, played on the Irmo Girls' Varsity Team.
13. Admit that in 1995-1996, the Plaintiff was aware that parents had sent concerns to Irmo School Administrators about the Plaintiff while he was coach of the Girls' Tennis program.

Exhibit

14. Admit that the Plaintiff was aware that in January 2004, a parent had called the Principal at Leaphart Elementary School to say she was concerned about some things the Plaintiff was

saying and doing with her daughter, including kissing and hugging, while he was the PE teacher at Leaphart Elementary School. Exhibit

15. Admit that in January 2004, the Plaintiff was put on administrative leave with pay by the Principal at Leaphart Elementary School, while the Plaintiff was a PE teacher there, following concerns raised by a parent regarding inappropriate contact with their daughter and an incident report filed with the Lexington County Sheriff's Department, while an investigation into concerns was undertaken. Exhibit
16. Admit that in May 3, 2004, prior to the end of the academic year, the Plaintiff submitted his resignation as PE teacher at Leaphart Elementary School. Exhibit
17. Admit that during one summer soccer trip to Europe when the Plaintiff chaperoned a soccer team of high school-aged females, Plaintiff struck a deal with the female players that they could shave Plaintiff's legs depending on the result of a game, and the female players subsequently did shave Plaintiff's legs, in a hotel room.
18. Admit that while the Plaintiff was JV Girls' Coach at Dutch Fork High School, he refused to shake hands with either the Coach or the players on the Irmo Varsity Soccer Team after the Dutch Fork HS soccer team played the Irmo HS soccer team during the Spring 2010 soccer season.
19. Admit that the Plaintiff has remained gainfully employed as both a school soccer coach (first at Dutch Fork High School, and then at Blythewood High School) and as a club soccer coach, following his resignation as coach at Irmo High School in December 2009, with no unusual or atypical break in his employment record.
20. Admit that the Plaintiff has no written documentation of anywhere outside of the appropriate administrative channels of District Five of Lexington and Richland School or

the U.S. Office for Civil Rights where concerns raised by the Defendant Eileen Korpita by her daughters and by other students and parents of players on a high school girls' varsity soccer team about a public school official were published or disseminated.

Please take notice that you may not give lack of information or knowledge as a reason for failure to admit or deny, unless you shall state that you have made reasonable inquiry into the information known or readily obtainable by you and it is insufficient to enable you to admit or deny.

You will hereby take notice that if you fail to admit these Requests for Admissions, and if the undersigned hereafter proves the truth of the matter, the undersigned shall apply to the Court for an Order requiring the party to pay the reasonable expenses incurred in making such proof, which shall include reasonable attorney's fees.

Respectfully submitted,

Dated: November ??, 2010

Eileen Korpita
108 Genessee Road
Irmo, SC 29063

STATE OF SOUTH CAROLINA)
COUNTY OF LEXINGTON)

IN THE COURT OF COMMON PLEAS

Michael Mauldin,)
Plaintiff,)

09-CP-32-5708

vs.)

**PLAINTIFF'S ANSWERS TO DEFENDANT
KORPITA'S REQUESTS FOR ADMISSION**

Carol Vander Heide, Murray)
Mitchell, Pamela Weiss, Eileen)
Korpita, Karl Werdunn, Debra)
Werdunn, and Mark E. Kosobucki,)
Defendants.)

TO DEFENDANT EILEEN KORPITA:

The plaintiff, by and through his undersigned counsel, answers the Defendant Korpita's Requests for Admission as follows:

General Response: The Plaintiff denies each and every request not herein specifically admitted.

1. Admit that the Plaintiff, on more than one occasion, gave handouts to girls while they were changing in their cars in the parking lot after school and before soccer practices began, while he was head of the Irmo Girls' Varsity Soccer Program.

Answer:

Deny.

2. Admit that the Plaintiff, on more than one occasion, sent text messages to girls on the soccer team before, during, and after school, while he was head of the Irmo Girls' Varsity Soccer Program.

Answer:

Admit to the extent the Plaintiff sent school and soccer related text messages.

3. Admit that, contrary to Columbia United FC policy, the Plaintiff told Mary Kate Korpita in study hall after club tryouts in late May 2009 what club team she made (Palmetto versus Elite) — a day before the rosters were to be posted anonymously online—while he was head coach of the Irmo Girls' Varsity Soccer Team.

Answer:

Deny.

4. Admit that the Plaintiff texted a varsity soccer player, Alicia Baxter, about her breakup with her boyfriend, while he was head coach of the Irmo Varsity Girls' Soccer Program.

Answer:

Deny.

5. Admit that one varsity player, Stephanie Funderbirk, once cussed out the Plaintiff before practice one day after which she told the other players on the players she was quitting, but she ended up remaining on the team and playing the remainder of the games that season, while the Plaintiff was head coach of the Irmo Varsity Girls' Soccer team.

Answer:

Plaintiff objects to this request on the grounds that it is vague and ambiguous.

Subject to and without waiving the foregoing objections, the Plaintiff answers as follows:

Deny.

6. Admit that the Plaintiff once said, "I'm down with that" after he told players the day before the prom not to do anything stupid, and a player said she was going to make out with her

boyfriend and get naked. Exhibit

Answer:

Plaintiff is unable to admit nor deny this request. Plaintiff is not in the possession of any exhibits attached to these requests and is uncertain as to what "Exhibit" is referring to.

7. Admit that after several Soccer players vandalized the Plaintiff's house while he was head coach of the Irmo Girls Varsity Soccer Team, the Plaintiff threatened to press charges against some of the players, and later the School suspended some of the players for a week.

Answer:

Deny.

8. Admit that the Plaintiff made people in his study hall one day set up chairs in a semicircle while he made some of the players who had vandalized his home come to his study hall and apologize to him in front of everyone.

Answer:

Deny.

9. Admit that the Plaintiff told several players and parents that he planned to retire at the end of the Spring 2009 soccer season and that would be his last year coaching.

Answer:

Deny.

10. Admit that June 2009 was not the first time that the Plaintiff had ever heard that parents had raised concerns about his interactions with players and students while he was an employee at District 5 in Lexington and Richland Counties.

Answer:

Deny.

11. Admit that while he was head coach of the Irmo Varsity Soccer Team, the Plaintiff had heard parents and players complain to him, prior to June 2009, about "Rookie Day" activities (tradition of having kids dress up and say or do things in front of other students); about older players having a sleepover and toilet papering ("rolling") younger players' homes; and about older players requiring rookies to do things for them (i.e., fetch them water, get their soccer balls, etc).

Answer:

Plaintiff objects to this request on the grounds that it is vague and ambiguous.

Subject to and without waiving the foregoing objections, the Plaintiff answers as follows:

Admit to the extent the Plaintiff spoke to a parent(s) regarding "rookie activities."

Otherwise, deny.

12. Admit that the Defendant, Eileen Korpita, had contacted the Plaintiff prior to June 2008 about player concerns regarding perceived favoritism by the Coach toward certain players while he was head of the Irmo Girls' Varsity Soccer Program, when her daughter, Meghan Korpita, played on the Irmo Girls' Varsity Team.

Answer:

Plaintiff objects to this request on the grounds that it is vague and ambiguous.

Subject to and without waiving the foregoing objections, the Plaintiff answers as follows:

Deny.

13. Admit that in 1995-1996, the Plaintiff was aware that parents had sent concerns to Irmo School Administrators about the Plaintiff while he was coach of the Girls' Tennis program.

Exhibit

Answer:

Plaintiff is unable to admit nor deny this request. Plaintiff is not in the possession of any exhibits attached to these requests and is uncertain as to what "Exhibit" is referring to.

14. Admit that the Plaintiff was aware that in January 2004, a parent had called the Principal at Leaphart Elementary School to say she was concerned about some things the Plaintiff was saying and doing with her daughter, including kissing and hugging, while he was the PE teacher at Leaphart Elementary School.

Answer:

Plaintiff objects to this request on the grounds that it is vague and ambiguous. Plaintiff further objects on the grounds that the request is not relevant or likely to lead to admissible evidence.

15. Admit that in January 2004, the Plaintiff was put on administrative leave with pay by the Principal at Leaphart Elementary School, while the Plaintiff was a PE teacher there, following concerns raised by a parent regarding inappropriate contact with their daughter and an incident report was taken by an official from the Lexington County Sheriff's Department, while an investigation into concerns was undertaken.

Answer:

Plaintiff objects to this request on the grounds that it is vague and ambiguous. Plaintiff further objects on the grounds that the request is not relevant or likely to lead to admissible evidence. Subject to and without waiving the foregoing objections, the Plaintiff answers as follows:

Deny, based on information and belief. The Plaintiff is unaware of an incident report.

16. Admit that in May 3, 2004, prior to the end of the academic year, the Plaintiff submitted his resignation as PE teacher at Leaphart Elementary School.

Answer:

Plaintiff objects on the grounds that the request is not relevant or likely to lead to admissible evidence. Subject to and without waiving the foregoing objections, the Plaintiff answers as follows:

Admit to the extent that the Plaintiff gave advanced notice that he would resign at the end of the school year. Plaintiff is unsure of the exact date the advanced notice was given.

17. Admit that during one summer soccer trip to Europe when the Plaintiff chaperoned a soccer team of high school-aged females, Plaintiff struck a deal with the female players that they could shave Plaintiff's legs depending on the result of a game, and the female players subsequently did shave Plaintiff's legs, in a hotel room.

Answer:

Plaintiff objects to this request on the grounds that it is vague and ambiguous. Plaintiff further objects on the grounds that the request is not relevant or likely to lead to admissible evidence. Subject to and without waiving the foregoing objections, the Plaintiff answers as follows:

Deny to the extent the request infers only the Plaintiff's participation or that the Plaintiff "struck a deal."

18. Admit that while the Plaintiff was JV Girls' Coach at Dutch Fork High School, he refused to shake hands with either the Coach or the players on the Irmo Varsity Soccer Team after the Dutch Fork HS soccer team played the Irmo HS soccer team during the Spring 2010 soccer season.

Answer:

Deny.

19. Admit that the Plaintiff has remained gainfully employed as both a school soccer coach (first at Dutch Fork High School, and then at Blythewood High School) and as a club soccer coach, following his resignation as coach at Irmo High School in December 2009, with no unusual or atypical break in his employment record.

Answer:

Plaintiff objects to this request on the grounds that it is vague and ambiguous.

Subject to and without waiving the foregoing objections, the Plaintiff answers as follows:

Admit to the extent the Plaintiff has retained employment as a coach with different schools.

20. Admit that the Plaintiff has no written documentation of anywhere outside of the appropriate administrative channels of District Five of Lexington and Richland School or the U.S. Office for Civil Rights where concerns raised by the Defendant Eileen Korpita by her daughters and by other students and parents of players on a high school girls' varsity soccer team about a public school official were published or disseminated.

Answer:

Plaintiff objects to this request on the grounds it is vague, ambiguous and unclear.

Subject to and without waiving the foregoing objection, the Plaintiff responds as follows:

Deny.

CROMER & MABRY

BY: Julius W. Babb
Julius W. Babb, IV (#77216)
J. Lewis Cromer (#1470)
Tandi D. Ross (#76623)
1522 Lady Street
Post Office Box 11675
Columbia, South Carolina 29211
Phone 803-799-9530
Fax 803-799-9533

Attorneys for Plaintiff

December 16, 2010

Certificate of Service

I hereby certify that on the date indicated above, I served on counsel of record a true and correct copy of this by U.S. Mail.

Julius W. Babb
Julius W. Babb, IV

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF LEXINGTON	)	C/A No. 2009-CP-32-05708
	)	
Michael Mauldin,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	DEFENDANTS PAMELA WEISS'S
	)	AND MURRAY MITCHELL'S FIRST
	)	SET OF INTERROGATORIES TO THE
	)	PLAINTIFF
Carol Vander Heide, Murray	)	
Mitchell, Pamela Weiss, Eileen	)	
Korpita, Karl Werdunn, Debra	)	
Werdunn, and Mark E. Kosobucki,	)	
	)	
<u>Defendants.</u>	)	

TO: J. LEWIS CROMER, ESQUIRE, TANDI D. ROSS, ESQUIRE AND JULIUS W. BABB,
IV, ESQUIRE, ATTORNEYS FOR PLAINTIFF M. MAULDIN:

YOU ARE HERBY SERVED the following First Set of Written Interrogatories on behalf of married Defendants Pamela Weiss and Murray Mitchell as follows. Please take notice that the Defendants request, pursuant to Rule 33 of the South Carolina Rules of Civil Procedure, that the Plaintiff answer under oath the following written interrogatories within 30 days of service herof.

1. List all persons that you plan to call as witnesses who will testify to the allegations in your Complaint against Defendants Pamela Weiss and Murray Mitchell, and set forth either a summary sufficient of the important facts known to or observed by such witness, or provide a copy of any written or recorded statements taken from such witnesses.
2. List the names and addresses of any expert witness whom the party proposes to use as a witness at the trial of the case.
3. Set forth with specificity an itemized statement of all damages claimed to have been

sustained by the Plaintiff related to loss of employment as a soccer coach at Irmo High School and a loss of earning capacity following his resignation at Irmo High School.

4. Set forth with specificity an itemized statement of all damages claimed to have been sustained by the Plaintiff that showed he suffered a loss of reputation, embarrassment, humiliation, and mental anguish related to the Plaintiff's resignation as a soccer coach at Irmo High School.

5. State whether the Plaintiff voluntarily resigned his position at Irmo High School on December 11, 2009.

6. Please state with specificity what date the Plaintiff was hired at Dutch Fork High School as Coach of the JV Girls' Soccer team and Assistant Coach of the Girls' Varsity soccer team.

7. Please state with specificity the name and title of any representative in District Five of Richland Counties who had knowledge about the date in December 2009 that the Plaintiff was hired as Coach of the JV Girls' soccer team and Assistant Coach of the Girls' Varsity soccer team at Dutch Fork High School.

8. Please state any income the Plaintiff's currently receives (for 2010) as a soccer coach for the SC United Futbol Club (SCUFC).

9. Please state any income the Plaintiff's received in 2009 as a soccer coach for the SC United Futbol Club (SCUFC) (previously called Columbia United Futbol Club).

10. Set forth with specificity a statement indicating any gap in employment as a school soccer coach that the Plaintiff experienced following his resignation from Irmo High School.

11. Please state with specificity a statement indicating any gap in employment as a club soccer coach that the Plaintiff experienced following his resignation from Irmo High School.

12. Please describe with specificity the documentary evidence which you contend exists and further indicate the name and address of the person or entity in possession of such evidence that the Defendants Pamela Weiss and Murray Mitchell did not at all times follow proper guidelines in bringing concerns about their daughter or other players to School District Personnel and to the US Department of Education Office for Civil Rights.

13. Please state with specificity the factual basis for the Plaintiff's claim against the Defendants Pamela Weiss and Murray Mitchell that the Defendants interfered with the Plaintiff's contractual relations as soccer coach with the school district employment at Irmo High School and proximally caused the Plaintiff to resign from his position as a soccer coach at Irmo High School.

14. Please include the name and the title of any representative who requested the Plaintiff's resignation as a soccer coach.

15. Please state with specificity the factual basis for the Plaintiff's claim that the Defendants Pamela Weiss and Murray Mitchell filed false and unfounded concerns about their daughter's and other players' interactions with the Plaintiff.

16. Please identify each and every specific written portion of any document which the Plaintiff contends is defamatory by the Defendants Pamela Weiss and Murray Mitchell.

17. Please state with specificity which statements, letters, emails, comments or other communications by Defendants Pamela Weiss and Murray Mitchell regarding the case did not follow the proper procedures and guidelines as identified by District Five of Lexington

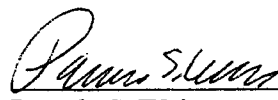
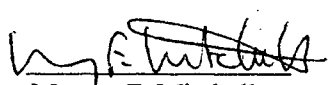
and Richland Counties and the U.S. Office for Civil Rights policies, and as requested by District Five Personnel, for how to address concerns about a District employee.

18. Please state with specificity which of the allegations contained in Attachment A to the Plaintiff's Complaint 09-CP320 5708, and which of the allegations included in letters sent by parents to the District and submitted by the Plaintiff in response to previous requests for production produced by the Plaintiff through Bates Nos. P 1-52, are false.

19. Please state with specificity the factual basis for the Plaintiff's claim against Defendants Pamela Weiss and Murray Mitchell regarding how bringing concerns to the Coach's supervisors at Irmo High School and to the U.S. Office for Civil Rights rises to the level of defamation.

Respectfully submitted,

Dated: August 21, 2010

 
Pamela S. Weiss, and Murray F. Mitchell
240 Wood Moor Place
Columbia, South Carolina 29212
(803) 422-0469

STATE OF SOUTH CAROLINA)
COUNTY OF LEXINGTON)

IN THE COURT OF COMMON PLEAS

Michael Mauldin,)
Plaintiff,)

09-CP-32-5708

vs.)

**PLAINTIFF'S ANSWERS TO DEFENDANTS
WEISS' AND MITCHELL'S FIRST SET OF
INTERROGATORIES**

Carol Vander Heide, Murray)
Mitchell, Pamela Weiss, Eileen)
Korpita, Karl Werdunn, Debra)
Werdunn, and Mark E. Kosobucki,)
Defendants.)

TO DEFENDANT MURRAY MITCHELL AND DEFENDANT PAMELA WEISS:

The plaintiff, by and through his undersigned counsel, answers the Defendants Weiss' and Mitchell's First Set of Interrogatories as follows:

1. List all persons that you plan to call as witnesses who will testify to the allegations in your Complaint against Defendants Pamela Weiss and Murray Mitchell, and set forth either a summary sufficient of the important facts known to or observed by such witness, or provide a copy of any written or recorded statements taken from such witnesses.

ANSWER

- a) **Michael Mauldin: Plaintiff in this action and expected to testify as to the allegations in his Complaint. Plaintiff may be contacted through his counsel.**
- b) **Carol Vander Heide: Defendant in this action and believed to have knowledge regarding the allegations in plaintiff's Complaint and in her Answer.**
- c) **Murray Mitchell: Defendant in this action and believed to have knowledge**

regarding the allegations in plaintiff's Complaint and in his Answer.

- d) Pamela Weiss: Defendant in this action and believed to have knowledge regarding the allegations in plaintiff's Complaint and in her Answer.
- e) Eileen Korpita: Defendant in this action and believed to have knowledge regarding the allegations in plaintiff's Complaint and in her Answer.
- f) Karl Werdunn: Defendant in this action and believed to have knowledge regarding the allegations in plaintiff's Complaint and in his Answer.
- g) Debra Werdunn: Defendant in this action and believed to have knowledge regarding the allegations in plaintiff's Complaint and in her Answer.
- h) Mark E. Kosobucki: Defendant in this action and believed to have knowledge regarding the allegations in plaintiff's Complaint and in his Answer.
- I) Bob Hanna: Athletic Director of Irmo High School. Believed to have knowledge of the alleged complaints and meetings with defendants.
- j) Ralph Garofano: Parent and former assistant coach. Believed to have knowledge regarding communications and alleged complaints by the defendants.
- k) Allan Baxter: Parent and "B Team" coach. Believed to have knowledge regarding communications and alleged complaints by the defendants.
- l) Kevin Dherckers: Parent. Believed to have knowledge regarding communications and alleged complaints by the defendants.
- m) Paul Armstrong: Former assistant coach. Believed to have knowledge of the alleged complaints and meetings with defendants.

- u) Rebecca Burnside: Assistant coach. Believed to have knowledge of the alleged complaints and meetings with defendants.
- o) Andrew Hammer: Junior Varsity coach. Believed to have knowledge regarding communications and alleged complaints by the defendants.
- p) Katie Frick: Parent. Believed to have knowledge regarding communications and alleged complaints by the defendants.
- q) Eddie Walker: Principal of Irmo High School. Believed to have knowledge of the alleged complaints and meetings with defendants.
- r) Karen Zobel: Parent. Believed to have been contacted by one or more of the defendants regarding the Plaintiff.
- s) Lewis Gossett: Parent. Believed to have knowledge regarding plaintiff's performance as soccer coach.
- t) Heather Herron: Parent. Believed to have knowledge regarding plaintiff's performance as soccer coach.
- u) Sue Vodicka: USC Aiken Women's Soccer Coach. Believed to have knowledge of communications between herself and plaintiff.
- v) Helen Anderson: School District Employee. Believed to have knowledge of the circumstances surrounding the Defendants' allegations against plaintiff and plaintiff's departure from the District.
- w) Angela Bain: School District Employee. Believed to have knowledge of the circumstances surrounding the Defendants' allegations against plaintiff and plaintiff's departure from the District.

Plaintiff reserves the right to call any witness identified by any of the defendants. Plaintiff also reserves the right to supplement this interrogatory should additional witnesses be discovered.

2. List the names and addresses of any expert witness whom the party proposes to use as a witness at the trial of the case.

ANSWER

None at this time.

3. Set forth with specificity an itemized statement of all damages claimed to have been sustained by the Plaintiff related to loss of employment as a soccer coach at Irmo High School and a loss of earning capacity following his resignation at Irmo High School.

ANSWER

Plaintiff objects to this interrogatory to the extent that discovery is ongoing and the facts are still being developed in this case. Plaintiff also objects to the extent the term "resignation" is used. Subject to and without waiving the foregoing objections, plaintiff answers as follows:

Plaintiff earned approximately \$1200.00 less at Dutch Fork High School than he was previously earning while employed at Irmo High School, and he also incurred additional expenses and frustration due to a longer commute—all of which will continue into the future.

4. Set forth with specificity an itemized statement of all damages claimed to have been sustained by the Plaintiff that showed he suffered a loss of reputation, embarrassment, humiliation, and mental anguish related to the Plaintiff's resignation as a soccer coach at Irmo

High School.

ANSWER

Plaintiff objects to this interrogatory to the extent that discovery is ongoing and the facts are still being developed in this case. Plaintiff also objects to the extent the term "resignation" is used. Subject to and without waiving the foregoing objections, plaintiff answers as follows:

Plaintiff suffered a loss of reputation, embarrassment, humiliation and mental anguish due to the actions of the defendants, all of which will continue into the future. These damages are to be determined by a jury.

5. State whether the Plaintiff voluntarily resigned his position at Irmo High School on December 11, 2009.

ANSWER

Plaintiff involuntarily resigned from his position at Irmo High School. Although Dr. Bain clearly stated that the District found no sexual harassment and the allegations were unfounded, she repeatedly encouraged Plaintiff to resign. Dr. Bain told Plaintiff that it would tarnish his record if the District had to fire him, and that the District would not continue to represent him since he is only a part-time employee. Dr. Bain informed Plaintiff that it was getting costly for the District and, eventually, they would have to cut their losses. When Plaintiff asked if she meant "get rid of me," Dr. Bain said "yes."

6. Please state with specificity what date the Plaintiff was hired at Dutch Fork High School as Coach of the JV Girls' Soccer team and Assistant Coach of the Girls' Varsity soccer team.

ANSWER

Plaintiff believes he was hired on or around December 18, 2009.

7. Please state with specificity the name and title of any representative in District Five of Richland Counties who had knowledge about the date in December 2009 that the Plaintiff was hired as Coach of the JV Girls' soccer team and Assistant Coach of the Girls' Varsity soccer team at Dutch Fork High School.

ANSWER

Plaintiff believes that the District Office has this information, presumably Dr. Angela Bain.

8. Please state any income the Plaintiff's currently receives (for 2010) as a soccer coach for the SC United Futbol Club (SCUFC).

ANSWER

Plaintiff received a pre-tax amount of approximately \$6050.00 for 2010.

9. Please state any income the Plaintiff's received in 2009 as a soccer coach for the SC United Futbol Club (SCUFC) (previously called Columbia United Futbol Club).

ANSWER

Plaintiff received a pre-tax amount of approximately \$5000.00 for 2009.

10. Set forth with specificity a statement indicating any gap in employment as a school soccer coach that the Plaintiff experienced following his resignation from Irmo High School.

ANSWER

Plaintiff did not have a gap in employment.

11. Please state with specificity a statement indicating any gap in employment as a club soccer coach that the Plaintiff experienced following his resignation from Irmo High School.

ANSWER

Plaintiff did not have a gap in employment.

12. Please describe with specificity the documentary evidence which you contend exists and further indicate the name and address of the person or entity in possession of such evidence that the Defendants Pamela Weiss and Murray Mitchell did not at all times follow proper guidelines in bringing concerns about their daughter or other players to School District Personnel and to the US Department of Education Office for Civil Rights.

ANSWER

Plaintiff objects to this interrogatory on the basis that it is unclear what "guidelines" the Defendants are referring to. Subject to and without waiving the foregoing objections, Plaintiff answers as follows:

Please see documents previously produced by the Plaintiff.

13. Please state with specificity the factual basis for the Plaintiffs claim against the Defendants Pamela Weiss and Murray Mitchell that the Defendants interfered with the Plaintiff's contractual relations as soccer coach with the school district employment at Irmo High School and proximately caused the Plaintiff to resign from his position as a soccer coach at Irmo High School.

ANSWER

Plaintiff objects to this interrogatory to the extent that discovery is ongoing and the facts are still being developed in this case. Subject to and without waiving the foregoing objections, plaintiff answers as follows:

Based on information and belief, the Defendants began a ruthless campaign to vilify

and ultimately remove the Plaintiff from his coaching position at Irmo High School by publishing false and misleading statements to parents and others in the community and ultimately to the District. The Defendants proceeded to submit false and misleading complaints to the District, which accused the Plaintiff of sexual harassment toward his players, unprofessional activities and unfitness to serve as a high school coach.

Despite the District finding that the claims had no merit, the Defendants continued to pursue false and frivolous charges against the Plaintiff with the Office of Civil Rights.

14. Please include the name and the title of any representative who requested the Plaintiff's resignation as a soccer coach.

ANSWER

Please see Plaintiff's response to Interrogatory No. 5.

15. Please state with specificity the factual basis for the Plaintiffs claim that the Defendants Pamela Weiss and Murray Mitchell filed false and unfounded concerns about their daughter's and other players' interactions with the Plaintiff.

ANSWER

Plaintiff objects to this interrogatory to the extent that discovery is ongoing and the facts are still being developed in this case. Subject to and without waiving the foregoing objections, plaintiff answers as follows:

Please see documents previously produced by the Plaintiff, Bates numbered P1-P52. Plaintiff also believes that the Defendants communicated false and unfounded claims to other parents and members of the community.

16. Please identify each and every specific written portion of any document which the

Plaintiff contends is defamatory by the Defendants Pamela Weiss and Murray Mitchell.

ANSWER

Plaintiff objects to this interrogatory on the basis that it is vague and overly broad.

Subject to and without waiving the foregoing objections, plaintiff answers as follows:

Please see documents previously produced by the Plaintiff, Bates numbered P1-P52. Specifically, Plaintiff addressed the Defendants' allegations in documents marked P21-P23.

17. Please state with specificity which statements, letters, emails, comments or other communications by Defendants Pamela Weiss and Murray Mitchell regarding the case did not follow the proper procedures and guidelines as identified by District Five of Lexington and Richiand Counties and the U.S. Office for Civil Rights policies, and as requested by District Five Personnel, for how to address concerns about a District employee.

ANSWER

Plaintiff objects to this interrogatory on the basis that it is vague and overly broad.

Plaintiff also objects to the extent it is unclear as to what "proper procedures and guidelines" the interrogatory refers. Subject to and without waiving the foregoing objections, plaintiff answers as follows:

Based on information and belief, the Defendants knowingly and with a reckless disregard for the truth made false and misleading statements to the District and the Office of Civil Rights. (See documents previously produced by the Plaintiff, P1-P52). These false and frivolous charges were made in an effort to further their agenda to vilify and ultimately remove the Plaintiff from his coaching position at Irmo High School.

18. Please state with specificity which of the allegations contained in Attachment A to the

Plaintiff's Complaint 09-CP320 5708, and which of the allegations included in letters sent by parents to the District and submitted by the Plaintiff in response to previous requests for production produced by the Plaintiff through Bates Nos. P 1-52, are false.

ANSWER

Plaintiff objects to this interrogatory on the basis that it is vague and overly broad. Subject to and without waiving the foregoing objections, plaintiff answers as follows:

Please see documents previously produced by the Plaintiff, Bates numbered P1-P52. Specifically, Plaintiff addressed the Defendants' allegations in documents marked P21-P23. Plaintiff also believes that the Defendants communicated false and unfounded claims to other parents and members of the community.

19. Please state with specificity the factual basis for the Plaintiffs claim against Defendants Pamela Weiss and Murray Mitchell regarding how bringing concerns to the Coach's supervisors at Irmo High School and to the U.S. Office for Civil Rights rises to the level of defamation.

ANSWER

Plaintiff objects to the extent this interrogatory seeks a legal conclusion. Subject to and without waiving the foregoing objection, plaintiff answers as follows:

Based on information and belief, the Defendants knowingly and with reckless disregard for the truth made charges against the Plaintiff to further their agenda. Their actions were malicious and done with the intent to injure the Plaintiff's reputation. Moreover, the Defendants communicated false and unfounded claims to other parents and members of the community.

[Signature Block on Following Page]

CROMER & MABRY

BY: Julius W. Babb

Julius W. Babb, IV (#77216)

J. Lewis Cromer (#1470)

Tandi D. Ross (#76623)

1522 Lady Street

Post Office Box 11675

Columbia, South Carolina 29211

Phone 803-799-9530

Fax 803-799-9533

Attorneys for Plaintiff

March 11, 2011

Certificate of Service

I hereby certify that on the date indicated above, I served on counsel of record a true and correct copy of this by U.S. Mail.

Julius W. Babb
Julius W. Babb, IV

STATE OF SOUTH CAROLINA)
)
COUNTY OF LEXINGTON)
)
Michael Mauldin,)
)
Plaintiff,)
)
vs.)
)
Carol Vander Heide, Murray)
Mitchell, Pamela Weiss, Eileen)
Korpita, Karl Werdunn, Debra)
Werdunn, and Mark E. Kosobucki,)
)
Defendants.)

IN THE COURT OF COMMON PLEAS

C/A No. 2009-CP-32-05708

**DEFENDANTS PAMELA WEISS'S
AND MURRAY MITCHELL'S FIRST
SET OF REQUESTS FOR PRODUCTION
TO THE PLAINTIFF**

TO: J. LEWIS CROMER, ESQUIRE, TANDI D. ROSS, ESQUIRE AND JULIUS W. BABB,
IV, ESQUIRE, ATTORNEYS FOR PLAINTIFF M. MAULDIN:

YOU ARE HERBY SERVED the following First Set of Requests for Production on behalf
of married Defendants Pamela Weiss and Murray Mitchell as follows. Please take notice that the
Defendants request, pursuant to Rule 34 of the South Carolina Rules of Civil Procedure, that the
Plaintiff answer under oath the following written interrogatories within 30 days of service herof.

1. All copies of documents, materials, reports, correspondence, memorandums,
notes, electronically stored information, electronic messages, drafts, metadata or other
communications of any kind that relate to or refer in any way to the allegations made in the
Complaint, the defenses raised in the Answer, or issues in this litigation, or the Plaintiff
and/or Plaintiff's employment with Irmo High School which the Plaintiff has relating to the
incident set forth in the Complaint, other than those already submitted by Plaintiff in
response to previous requests for production produced by the Plaintiff through Bates Nos. P
1-52 and Bates Nos. P53-217.

2. All statements of possible witnesses, whether written or summarized or otherwise reproduced in any manner relating to the incidents set forth in the Complaint, other than those already submitted by Plaintiff in response to previous requests for production produced by the Plaintiff through Bates Nos. P 1-52 and Bates Nos. P53-217.

3. All copies of documents, materials, reports, correspondence, memorandums, notes, electronically stored information, electronic messages, drafts, metadata or other communications of any kind that specifically state that the Plaintiff was forced to resign his position from Irmo High School as a result of the actions of Pamela Weiss and Murray Mitchell as alleged by the Complaint.

5. All copies of documents, materials, reports, correspondence, memorandums, notes, electronically stored information, electronic messages, drafts, metadata or other communications of any kind, other than those already submitted by Plaintiff in response to previous requests for production produced by the Plaintiff through Bates Nos. P 1-52, that show that the District conducted a *"thorough and comprehensive review of charges made"* by parents according to District Five policies and guidelines, as alleged by the Complaint.

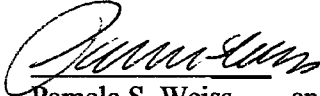
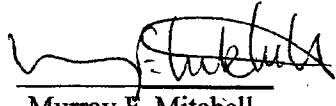
6. All copies of documents, materials, reports, correspondence, memorandums, notes, electronically stored information, electronic messages, drafts, metadata or other communications of any kind, other than those already submitted by Plaintiff in response to previous requests for production produced by the Plaintiff through Bates Nos. P 1-52, that show that *"none of the charges had any basis or were absolutely false,"* as alleged by the Complaint.

7. All copies of documents, materials, reports, correspondence, memorandums, notes, electronically stored information, electronic messages, drafts, metadata or other communications of any kind, other than those already submitted by Plaintiff in response to previous requests for production produced by the Plaintiff through Bates Nos. P 1-52, that show that show the Defendants Pamela Weiss and Murray Mitchell did not at all times act in good faith by bringing concerns about their daughters to the proper parties through procedures established for the purpose of pursuing such complaints, and at the specific requests of District Five of Lexington and Richland County School Administrators for how to bring concerns to them.

8. All copies of the Plaintiff's complete employment contracts for the following schools and years: Irmo High School during 2009-2010; Dutch Fork High School during 2009-2010; and Blythewood High School for 2010-2011.

Respectfully submitted,

Dated: August 21, 2010

 
Pamela S. Weiss and Murray F. Mitchell
240 Wood Moor Place
Columbia, South Carolina 29212
(803) 422-0469

CROMER & MABRY
Attorneys and Counselors at Law

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TANDI D. ROSS
JULIUS W. BABB, IV
JANET E. RHODES

March 11, 2011

TDR Fax No. 803-799-9533
JWB Fax No. 803-799-9533
JER Fax No. 803-255-0238

Via U.S. mail and email

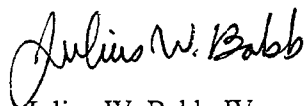
Pamela Weiss and Murray Mitchell
240 Wood Moor Place
Columbia, South Carolina 29212

**Re: *Mauldin v. Vander Heide, Mitchell, Weiss, Korpita, K. Werdunn, D. Werdunn
and Kosobucki (09-CP-32-5708)***

Dear Ms. Weiss and Mr. Mitchell:

Please find enclosed the Plaintiff's responses to Defendants Weiss' and Mitchell's First Set of Interrogatories and Requests for Production in the above-referenced case.

Sincerely,


Julius W. Babb, IV

cc: Eileen Korpita
Mike Mauldin

STATE OF SOUTH CAROLINA	)	
	)	IN THE COURT OF COMMON PLEAS
COUNTY OF LEXINGTON	)	
Michael Mauldin,	)	09-CP-32-5708
	)	
Plaintiff,	)	PLAINTIFF'S RESPONSES TO
	)	DEFENDANTS WEISS' AND MITCHELL'S
vs.	)	FIRST SET OF REQUESTS FOR
	)	PRODUCTION
Carol Vander Heide, Murray	)	
Mitchell, Pamela Weiss, Eileen	)	
Korpita, Karl Werdunn, Debra	)	
Werdunn, and Mark E. Kosobucki,	)	
	)	
Defendants.	)	
	)	

TO DEFENDANT MURRAY MITCHELL AND DEFENDANT PAMELA WEISS:

The plaintiff, by and through his undersigned counsel, answers the Defendants Weiss' and Mitchell's First Set of Requests for Production as follows:

1. All copies of documents, materials, reports, correspondence, memorandums, notes, electronically stored information, electronic messages, drafts, metadata or other communications of any kind that relate to or refer in any way to the allegations made in the Complaint, the defenses raised in the Answer, or issues in this litigation, or the Plaintiff and/or Plaintiff's employment with Irmo High School which the Plaintiff has relating to the incident set forth in the Complaint, other than those already submitted by Plaintiff in response to previous requests for production produced by the Plaintiff through Bates Nos. P 1-52 and Bates Nos. P53-217.

RESPONSE

Plaintiff objects to this interrogatory to the extent it seeks information protected by attorney-client privilege or the work product doctrine. Subject to and without waiving the foregoing objections, Plaintiff responds as follows:

None other than documents produced by the Defendants.

2. All statements of possible witnesses, whether written or summarized or otherwise reproduced in any manner relating to the incidents set forth in the Complaint, other than those already submitted by Plaintiff in response to previous requests for production produced by the Plaintiff through Bates Nos. P 1-52 and Bates Nos. P53-217.

RESPONSE

None other than the affidavits produced by the Defendants Mitchell, Weiss and Korpita.

3. All copies of documents, materials, reports, correspondence, memorandums, notes, electronically stored information, electronic messages, drafts, metadata or other communications of any kind that specifically state that the Plaintiff was forced to resign his position from Irmo High School as a result of the actions of Pamela Weiss and Murray Mitchell as alleged by the Complaint.

RESPONSE

Plaintiff objects to this interrogatory to the extent it seeks information protected by attorney-client privilege or the work product doctrine. Subject to and without waiving the foregoing objections, Plaintiff responds as follows:

None.

5. All copies of documents, materials, reports, correspondence, memorandums, notes, electronically stored information, electronic messages, drafts, metadata or other communications of any kind, other than those already submitted by Plaintiff in response to previous requests for production produced by the Plaintiff through Bates Nos. P 1-5 2, that show that the District

conducted a "thorough and comprehensive review of charges made" by parents according to District Five policies and guidelines, as alleged by the Complaint.

RESPONSE

Plaintiff objects to this interrogatory to the extent it seeks information protected by attorney-client privilege or the work product doctrine. Subject to and without waiving the foregoing objections, Plaintiff responds as follows:

None.

6. All copies of documents, materials, reports, correspondence, memorandums, notes, electronically stored information, electronic messages, drafts, metadata or other communications of any kind, other than those already submitted by Plaintiff in response to previous requests for production produced by the Plaintiff through Bates Nos. P 1-52, that show that "none of the charges had any basis or were absolutely false," as alleged by the Complaint.

RESPONSE

Plaintiff objects to this interrogatory to the extent it seeks information protected by attorney-client privilege or the work product doctrine. Subject to and without waiving the foregoing objections, Plaintiff responds as follows:

None.

7. All copies of documents, materials, reports, correspondence, memorandums, notes, electronically stored information, electronic messages, drafts, metadata or other communications of any kind, other than those already submitted by Plaintiff in response to previous requests for production produced by the Plaintiff through Bates Nos. P 1-5 2, that show that show the Defendants Pamela Weiss and Murray Mitchell did not at all times act in good faith by bringing

concerns about their daughters to the proper parties through procedures established for the purpose of pursuing such complaints, and at the specific requests of District Five of Lexington and Richland County School Administrators for how to bring concerns to them.

RESPONSE

Plaintiff objects to this interrogatory to the extent it seeks information protected by attorney-client privilege or the work product doctrine. Subject to and without waiving the foregoing objections, Plaintiff responds as follows:

None.

8. All copies of the Plaintiff's complete employment contracts for the following schools and years: Irmo High School during 2009-2010; Dutch Fork High School during 2009-2010; and Blythewood High School for 2010-2011.

RESPONSE

Plaintiff does not have any such contracts in his possession.

[Signature Block on Following Page]

CROMER & MABRY

BY: Julius W. Babb
Julius W. Babb, IV (#77216)
J. Lewis Cromer (#1470)
Tandi D. Ross (#76623)
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Phone 803-799-9530
Fax 803-799-9533

Attorneys for Plaintiff

March 11, 2011

Certificate of Service

I hereby certify that on the date indicated above, I served on counsel of record a true and correct copy of this by U.S. Mail.

Julius W. Babb
Julius W. Babb, IV



December 21, 2009

Mr. Mike Mauldin
202 Clearview Drive
Columbia, SC 29212

Dear Mr. Mauldin:

Per your request, I am writing to confirm the results of an investigation I and other district administrators conducted from June 2009 until most recently in October and at the conclusion of the Office of Civil Rights mediation efforts. As you know, several parents filed a complaint in November with that federal office alleging sexual harassment. The district's investigation resulted in no findings of sexual harassment towards any of the girls on the Irmo High School soccer team on your part.

I have enclosed a copy of the Memorandum to File relative to that investigation. You will see the detailed report in that memo. I have also included the findings below.

After corresponding with the parents who reported the issues, interviewing Irmo High School's principal, Mr. Walker, interviewing Mr. Mauldin, reviewing Mr. Mauldin's school and personnel files, and considering all interview responses and written statements in the file, statements from the coach, the following seems evident:

1. There is evidence from a report that a group of parents class perceived that Mr. Mauldin's behavior towards their daughters on his soccer team were unprofessional.
2. There is no clear line of evidence that the unprofessional incidents occurred other than the parents' reports from their children.
3. Mr. Mauldin denies any wrongdoing and showed concern that he was being accused of something he did not do.
4. Mr. Mauldin has revised procedures, responded to each accusation and was cooperative in the investigation process.

Sincerely,

Angela H. Bain
Chief Human Resources Officer

Cc: Dr. Herb Berg, Superintendent
Ms. Helen Anderson, Chief Instructional Services Officer
Mr. Eddie Walker, Principal

www.lex5.k12.sc.us
1020 Dutch Fork Road • Irmo, South Carolina 29063 • (803) 732-8000

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December 8, 2009

RESPONSE TO EMAIL FROM DR. ANGELA BAIN

On December 4, 2009, I received an Email from Dr. Angela Bain, Director of Human Resources for Lexington/Richland School District #5. She said that she needed me to supply her with some information because a parent that had previously filed a sexual harassment complaint against me with the OCR (the investigation found no evidence of any sexual harassment) had now filed another complaint alleging that I had retaliated against the players whose parents were involved in the sexual harassment complaint against me.

This retaliation complaint evolved after I called a meeting of all girls who were interested in trying out for the 2010 Irmo Girls Soccer Teams. This meeting was held on Wednesday, October 14. Announcements were made by Ms. Mars, secretary at Irmo High School, during the last block of the day on October 9, 12, 13, and 14—the same method used in past years to notify students about this meeting. Three coaches were present at this meeting (myself, Coach Armstrong, and Coach Burnside). There were 9 girls from last year's varsity team that did not attend this meeting. Four of these have now contacted me and attended conditioning sessions, the parent of one had previously informed me that she would not be trying out, one has had 3 knee surgeries in the past two years, and the other 3 have had no communication with me regarding their desire to try out for the team.

Seven of the girls that missed the meeting on October 14 were still playing on club teams so I was not concerned that they were not at the meeting. The policy is, and always has been, that players are not required to come to conditioning as long as their team is still in the state playoffs (although some choose to do so). I see 3 of these girls two nights a week at club practice (my teams practice at the same facility as their teams do) so I assumed they would see me for the information if they were going to play. I did not want to put pressure on these players if they had decided not to play, so I did not approach them. Furthermore, I was told by district office personnel that my only communication with players was to be through Email, except during practices and games. I did not have Email addresses for any of these girls that missed the meeting on October 14.

I did contact the parent of one of the 9 girls who missed the meeting. She is a senior and is one of the team captains for 2010. The only reason I contacted her parent was because I was nominating her for a national award (NSCAA All-American), needed information from her, and had a deadline to meet in submitting the nomination. In the Email to this parent, I mentioned the meeting the player had missed and informed her that I wanted to be sure she was going to play before sending in the nomination. This parent then

P16

informed me that because the player is a senior, she gets out of school everyday at 11:30 and did not hear the announcements, which were made during the last block of the day. Shortly after this Email, the player contacted me to explain why she missed the meeting. I then informed her of the dates/requirements for preseason conditioning, eligibility requirements, and policy changes for 2010. I then asked her if she would contact the other girls who were still playing club ball and missed the meeting and let them know about the conditioning schedule. She did so. She then asked if she could have written information to give these girls. My response was for her to tell the girls to see me (I am at the same practice facility as they are 2 nights a week) and I would go over the information with them because I did not have a written handout with all the information on it. The only handout I gave out at the first meeting was a copy of the "new and revised" rules and policies for 2010. I personally gave a copy of these to each girl who attended the meeting on October 14 and it was my intention to do the same with those who missed the meeting when they contacted me. At the present time, only 2 of the girls from last year's team who play club ball have failed to communicate with me.

I met with Mr. Eddie Walker, principal of Irmo High School, on Monday, December 7, to discuss the best way to communicate with those players who missed the first meeting. He suggested that I have the two team captains distribute the information to all returning varsity players again—this time in written form. I typed up the information and took the handouts, along with last year's roster, to Ms. Mars at Irmo High School. Ms. Mars called the two captains to the office, gave them the handouts and the roster, and instructed them to give the written information to each girl on the roster. Each captain is to report back to Ms. Mars with the roster and the names of those who received the handout checked off.

10/21/09

Copy for Mike Mauldin

MEMORANDUM TO FILE
Report on Investigation of Complaint on Mike Mauldin
IRMO HIGH SCHOOL
Girls' Soccer Coach
October 12, 2009

The following are results of an investigation of concerns reported to my office June 16, 2009 from Eddie Walker, Principal at Irmo High School and a parent (Werdunn). The report was made that the girls' soccer coach, Mr. Mike Mauldin, at Irmo High School "was unprofessional in his interaction with the girls of the team." A list of 33 concerns was reviewed.

I responded to the parent's email and asked when I could call her. (See attached timeline for details of interactions, for Mr. Mauldin's response to the parents' complaints and the resulting changes in procedures for girls' soccer for the 2010 season.) At that point, I launched the investigation from the Human Resource Office.

In the course of the next few weeks, 4 other parents of girls on the Irmo High soccer team called or emailed Helen Anderson and me. We responded and continued the investigation. Between June 16 and September 29, Helen and I fielded emails and calls from these parents. We also met with Mr. Mauldin on August 21 where he, Mr. Walker, Helen, and I met along with Mr. Mauldin's SCEA representative, Noelle Enoche.

In the conference, we reviewed the list of 33 concerns by the group of parents and asked Mr. Mauldin to respond to each in writing and suggested changes to his procedures of contacting the students. Mr. Mauldin complied with this request and was visibly upset by these accusations. He was shocked and upset that this group was accusing him of doing something he did not do and tarnishing his reputation. In the course of the investigation, I found that Mr. Mauldin has been a PE teacher in our district from 1975 - 2004. He has also coached various sports including boys and girls track and cross country. In 2006, he became the head coach for girls' soccer at Irmo High. He was the study hall assistant from 2004 until 2009. He is now only coaching the soccer team. I also reviewed his personnel file and found no issues during his employment with us.

In the conference on August 21, he also shared with us that his home had been vandalized in May 2009 by one of the girls on his team and that he had retained an attorney to combat this and the fact that he sees this as a form of slander on the part of these parents. He stated in our conference that he feels this is a "witch hunt" against him and that this group of parents wants the former girls' soccer coach, Ms. Frederick, to come back to coach. He thought this group of parents were friends of hers and knew that she wanted to return to coaching at Irmo High.

Upon receipt of Mr. Mauldin's responses on August 26, we reviewed his statements and revised procedures, and determined that there was no evidence to show there was intentional wrongdoing on the part of the coach.

The coach has been made aware that his behavior must be above reproach.

After corresponding with the parents who reported the issues, interviewing Irmo High School's principal, Mr. Walker, interviewing Mr. Mauldin, reviewing Mr. Mauldin's school and personnel files, and considering all interview responses and written statements in the file, statements from the coach, the following seems evident:

1. There is evidence from a report that a group of parents class perceived that Mr. Mauldin's behavior towards their daughters on his soccer team were unprofessional.
2. There is no clear line of evidence that the unprofessional incidents occurred other than the parents' reports from their children.
3. Mr. Mauldin denies any wrongdoing and showed concern that he was being accused of something he did not do.
4. Mr. Mauldin has revised procedures, responded to each accusation and was cooperative in the investigation process.

Respectfully submitted,

Angela H. Bain
Chief Human Resources Officer

Cc: Dr. Herb Berg, Superintendent
Ms. Helen Anderson, Chief Instructional Services Officer
Mr. Eddie Walker, Principal

Attachments: Parents' concerns
Mr. Mauldin's statement
Timeline of events

Response to concerns from parents

1. I feel that it is my responsibility as the head of the girls' soccer program to correct inappropriate behavior when it occurs. I don't make a habit of discussing such issues in the classroom. However, if I call a student up to my desk, it is to discuss her behavior only, no one else's. It is a one-on-one situation at my desk, away from other students, and it is done very quietly. I do not say anything to a student that I would not want them to repeat.
2. Discussed at meeting
3. This is not true. I have discussed this situation with both the student and her parent.
4. Discussed at meeting
5. First of all, the coaching staff (not the players) after extensive preseason evaluations and assessments chooses the team. Occasionally, I may ask my upperclassmen returning players how certain players performed during the fall club season because it is impossible for me to see and evaluate everyone during this club season.
6. The situation occurred in May and involved a student throwing a cell phone across the room. I did say to the student that her sister might be more mature than her because of the throwing incident. However, I do not choose my team in May. This is done the following February.
7. I did not call this student up to my desk. I was talking to some of my first year players about "rookies". This student (who was not a first year player) got out of her desk and came up to mine. This student asked me in front of the other students if her father had sent me an email. I told her "no" at that time. After all students had left my desk, she asked the same question again. At this point, I told her "yes" and she said, "I thought so because he told me he did." I did not call anyone a "coward." The comment about her mom putting an end to rookie activities was made in a positive manner. I even thanked her for bringing these concerns to my attention.
8. A parent (not the parent of a rookie) expressed to me that rookie players felt as if they were being treated like slaves by the upperclassmen. As the head coach, it is my responsibility to talk with these rookies to find out if this is their feelings and to take care of the situation if it is so.
9. This incident is related to Player K and was discussed in the meeting.
10. This student came to me and asked me what team she made. The teams were to be posted that afternoon. I talked to her father about this incident. His reply was, "You told her the truth! That is the team that she made."
11. This is not true.
12. Discussed at meeting.
13. On the day of games, players sometimes "dress up" (church type clothes) for school. I have made comments like, "You clean up nicely" or "You look nice today."
14. This is not true.
15. Cancellations and other announcements can only be put on the PA system at the end of the day (per Mr. Walker). I do not expect students to check text messages

- during the day. They are told to check them at 3:32 (end of the school day) and before practice starts (4:15). Texting was discussed in the meeting.
16. This student did receive a consequence for her actions. I also had a conference with the player and her parent to discuss these actions.
 17. This situation is related to Player K and was discussed in the meeting.
 18. This is not true. If a player mentions to me that she is being mistreated, I handle it by first making a general comment to the entire team (in an effort not to affect team morale). If the behavior persists, I deal individually with the player being accused. I feel that every player on the team has an important role as a team member and I do not tolerate mistreatment of any player.
 19. This was discussed at the meeting.
 20. This is not true.
 21. "Rookie Day" was started by a former coach, years ago. When I took over the program, I gradually ceased these activities until there were no more "Rookie Day" activities. When parents expressed concerns about the "Rookie Day" activities, I made the decision to end it.
 22. Again this was a tradition that began years before I took over the program. All "Rookie Day" activities have been stopped.
 23. "Rookie Day" activities involved only TPing and using chalk to write on the driveways—not destruction of property (eggs on windows and house, vaseline on mailbox and cars, spray paint on driveway) that occurred in this particular situation. This incident involved several players and was handled by Mr. Walker and his assistant principals.
 24. This incident occurred the day before the Prom. I simply told the girls to be smart and not to do anything stupid. A player made the comment about getting naked. I did say, "I'm down with that," meaning "thumbs down" (that's not good). When the girls laughed at my comment, I know they had taken it out of context so I never made the comment again.
 25. I don't make a habit of putting my hands on players. If I did touch someone on the shoulder, it was to get her attention. If a player had said, "Don't touch me," I would have immediately stopped.
 26. This has been answered in #5.
 27. This occurred the day after we lost to Chapin. I was talking with my captains and told them they needed to be leaders both on and off the field. They accused me of running off my former assistant coach and said she was a better coach than I was. My response to them was "She might be a better trainer than I, but she is not a better coach. I tried to explain to them that there was a lot more to coaching than training players.
 28. There is a team policy concerning notes and leaving with parents at "away" games. All players are expected to adhere to this policy. Sometimes, unforeseen circumstances occur. I feel that as the head coach, I must deal with these cases individually.
 29. This is not true.
 30. This was discussed at the meeting.
 31. The entire team and all the coaches were in the room for a team meeting. I had texted a team captain and asked her to let all the girls know there was a meeting.

She let all players know except one (the one referred to in this complaint). While waiting for her to show up, one of the captains made a comment about this player's boyfriend, which started a conversation among players. A junior player, not a captain, tried to console this player. According to other players on the team, the two captains did not like this player so they purposely failed to inform her of the meeting.

32. Player A often complained about Player B's attitude. At that time, I asked Player A how Player B's attitude was on the club team during the past season. She replied, "It's OK because she doesn't play much."
33. I called a meeting to remind parents not to come up to me after a game to complain about their daughter's playing time and not to send me lengthy e-mail telling me how to run the soccer program. I explained that I would be happy to meet with them anytime to discuss things their daughters could do to get better and earn more playing time. I explained to them that the girls need their support and that making negative comments at home about the coaches and the program only deflates team moral and affects the team's play.

Parents were not allowed to speak at this meeting because I was told by a parent that several parents were planning to attack me at this meeting. To prevent any problems from occurring and to keep from creating a division among the parents, I felt this was in the best interest of everyone. The purpose of this meeting was to ask parents not to question my decision about playing time and to let me run the program. The meeting was not being held as a "gripe" session.

STATE OF SOUTH CAROLINA)
COUNTY OF LEXINGTON)

IN THE COURT OF COMMON PLEAS

Michael Mauldin,)
Plaintiff,)

09-CP-32-5708

AFFIDAVIT OF KEVIN J. DHERCKERS

vs.)

Carol Vander Heide, Murray)
Mitchell, Pamela Weiss, Eileen)
Korpita, Karl Werdunn, Debra)
Werdunn, and Mark E. Kosobucki,)
Defendants.)

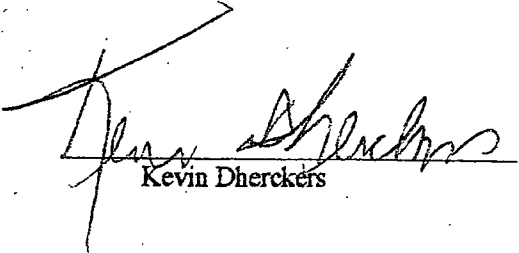
Affiant, first being duly sworn, deposes and states as follows:

1. I, Kevin J. Dherckers, am a resident of Columbia, South Carolina, and I am mentally competent and over the age of eighteen.
2. I am married to Cindy Dherckers and we have a daughter who played under Coach Mike Mauldin at Irmo High School, including the 2008-2009 school year.
3. I attended many soccer games and events as a parent of a player. I also had an opportunity to assist the team and sit in and around the players' bench during some games.
4. In or around June of 2009, I was contacted by Coach Mauldin about certain parents making false claims about him. Coach Mauldin had a meeting with the principal and some parents. I came to the district office to support Coach Mauldin, and I waited outside in my truck during the meeting. While I was waiting, I saw Karl Werdunn, Carol Vander Heide outside. I approached them to ask what was going on, and Murray Mitchell then showed up. I told them that I felt what they were doing is wrong, and it did

not make any sense that they would have continued to let their daughters play on the team if Coach Mauldin was inappropriate.

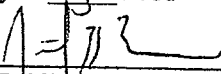
5. I never witnessed Coach Mauldin acting inappropriately with any of the girls on the team, and I hold Coach Mauldin in high regard for his mentorship of my daughter.
6. I was saddened by the loss of Coach Mauldin, which I believe hurt the soccer program at Irmo High School.

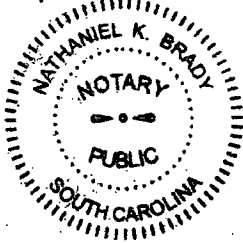
I have read the above statement and swear under the penalty of perjury that it is true to the best of my personal knowledge and belief.


Kevin Dherckers

SWORN to before me this

31st day of August 2011


Notary Public for South Carolina



My Commission Expires
August 29, 2017

STATE OF SOUTH CAROLINA)
COUNTY OF LEXINGTON)

IN THE COURT OF COMMON PLEAS

Michael Mauldin,)
Plaintiff,)
vs.)

09-CP-32-5708

AFFIDAVIT OF CHERYL A. BAXTER

Carol Vander Heide, Murray)
Mitchell, Pamela Weiss, Eileen)
Korpita, Karl Werdunn, Debra)
Werdunn, and Mark E. Kosobucki,)
Defendants.)

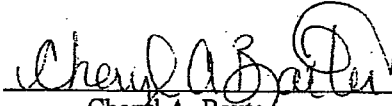
Affiant, first being duly sworn, deposes and states as follows:

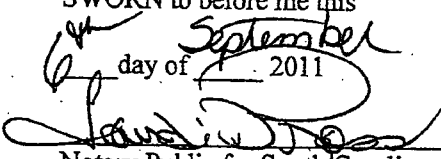
1. I, Cheryl A. Baxter, am a resident of Columbia, South Carolina, and I am mentally competent and over the age of eighteen.
2. I am married to Allan T. Baxter and we have a daughter who played under Coach Mike Mauldin at Irmo High School, including the 2009 soccer season.
3. I attended many soccer games and events as a parent of a player. As a parent, I worked closely with Coach Mauldin to plan breast cancer awareness nights, as well as opening and closing banquets in 2008 and 2009. My daughter and I also attended a soccer-related trip to Europe in 2007 with Coach Mauldin.
4. In or around April or May of 2009, I received a call on my cell phone from Carol Vander Heide, another parent of a girl on the Irmo High School team, who said that she and a few other parents were going to meet and "deal with Mauldin." Ms. Vander Heide tried to convince me into joining her and these select parents. She claimed that Coach Mauldin was sending inappropriate text messages to girls on the team, including my daughter. I informed Ms. Vander Heide that Coach Mauldin did not inappropriately text my

daughter, I did not have any complaints with him, and that I would not be joining them to do anything to Coach Mauldin.

5. On one occasion, I was sitting in the stands and watching my daughter's soccer game. Murray Mitchell was also present in the stands. I overheard Mr. Mitchell make negative comments about Coach Mauldin's coaching style and comparing it to the Army. In my experience as a parent of a child on the team, this comment was unfounded and not true.
6. I never witnessed Coach Mauldin acting inappropriately with any of the girls on the team, and I hold Coach Mauldin in high regard for his mentorship of my daughter. Coach Mauldin had my permission to mentor our daughter, who often sought advice from Coach Mauldin.
7. I was saddened by the loss of Coach Mauldin, which I believe hurt the soccer program at Irmo High School.

I have read the above statement and swear under the penalty of perjury that it is true to the best of my personal knowledge and belief.


Cheryl A. Baxter

SWORN to before me this

day of September 2011
Notary Public for South Carolina

My Commission Expires 9/16/2018

STATE OF SOUTH CAROLINA	)	
	)	IN THE COURT OF COMMON PLEAS
COUNTY OF LEXINGTON	)	
Michael Mauldin,	)	09-CP-32-5708
	)	
Plaintiff,	)	AFFIDAVIT OF ALLAN T. BAXTER
	)	
vs.	)	
	)	
Carol Vander Heide, Murray	)	
Mitchell, Pamela Weiss, Eileen	)	
Korpita, Karl Werdunn, Debra	)	
Werdunn, and Mark E. Kosobucki,	)	
	)	
Defendants.	)	
	)	

Affiant, first being duly sworn, deposes and states as follows:

1. I, Allan T. Baxter, am a resident of Columbia, South Carolina, and I am mentally competent and over the age of eighteen.
2. I am married to Cheryl A. Baxter and we have a daughter who played under Coach Mike Mauldin at Irmo High School, including the 2009 soccer season.
3. I attended many soccer games and events as a parent of a player. I had an opportunity to assist the team and sit in and around the players' bench during some games.
4. In or around April or May of 2009, my wife received a call from Carol Vander Heide while we were on a family outing. Once the call was over, my wife informed me that Carol Vander Heide called on behalf of a select group of parents that were trying to go after Coach Mauldin. I contacted Coach Mauldin and told him that a select group of parents was trying to harm him.
5. I never witnessed Coach Mauldin acting inappropriately with any of the girls on the team, and I hold Coach Mauldin in high regard for his mentorship of my daughter. Coach

Mauldin had my permission to mentor our daughter, who often sought advice from Coach Mauldin.

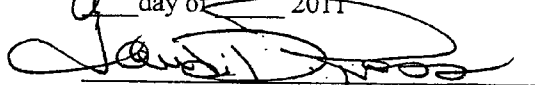
6. I was saddened by the loss of Coach Mauldin, which I believe hurt the soccer program at Irmo High School.

I have read the above statement and swear under the penalty of perjury that it is true to the best of my personal knowledge and belief.



Allan T. Baxter

SWORN to before me this

9th *September*
day of *2011*

Notary Public for South Carolina

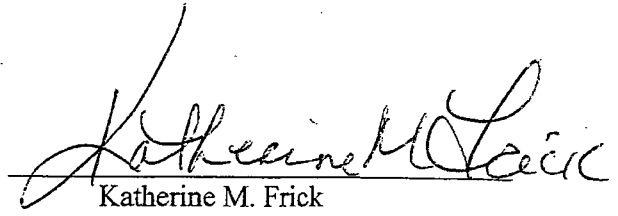
My Commission Expires 9/16/2018

STATE OF SOUTH CAROLINA	)	
	)	IN THE COURT OF COMMON PLEAS
COUNTY OF LEXINGTON	)	
Michael Mauldin,	)	09-CP-32-5708
	)	
Plaintiff,	)	AFFIDAVIT OF KATHERINE M. FRICK
	)	
vs.	)	
	)	
Carol Vander Heide, Murray	)	
Mitchell, Pamela Weiss, Eileen	)	
Korpita, Karl Werdunn, Debra	)	
Werdunn, and Mark E. Kosobucki,	)	
	)	
Defendants.	)	
_____	)	

Affiant, first being duly sworn, deposes and states as follows:

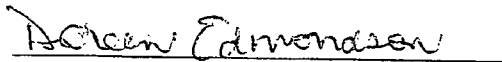
1. I, Katherine M. Frick, am a resident of Columbia, South Carolina, and I am mentally competent and over the age of eighteen.
2. I have a daughter who played under Coach Mike Mauldin at Irmo High School during the 2008-2009 school year.
3. I attended many soccer games and events as a parent of a player.
4. In or around the summer of 2009, I received a voice mail message on my cell phone from Pam Weiss. To the best of my memory, the voice mail alleged problems with Coach Mauldin inappropriately texting the players and making inappropriate comments.
5. I never witnessed Coach Mauldin acting inappropriately with any of the girls on the team, and I hold Coach Mauldin in high regard for his mentorship of my daughter. Coach Mauldin had a positive impact on the players.

I have read the above statement and swear under the penalty of perjury that it is true to
the best of my personal knowledge and belief.


Katherine M. Frick

SWORN to before me this

9th day of Sept. 2011


Notary Public for South Carolina

My Commission Expires
January 24, 2021

STATE OF SOUTH CAROLINA)
COUNTY OF LEXINGTON)
Michael Mauldin,)
Plaintiff,)
vs.)
Carol Vander Heide, Murray)
Mitchell, Pamela Weiss, Eileen)
Korpita, Karl Werdunn, Debra)
Werdunn, and Mark E. Kosobucki,)
Defendants.)

IN THE COURT OF COMMON PLEAS
C/A No. 2009-CP-32-05708

**RESPONSE TO AFFIDAVITS OF KEVIN J. DHERCKERS, CHERYL A. BAXTER,
ALLAN T. BAXTER, AND KATHERINE M. FRICK – RECEIVED VIA U.S. MAIL ON
SEPTEMBER 12, 2011.**

Affiants, first being duly sworn, depose and state as follows:

Re: Affidavit of Kevin J. Dherckers (Sworn August 31, 2011)

1. Paragraphs 1, 2, and 3 provide background information but include no issue of material fact relevant to this cause of action.
2. Paragraph 4 describes first a communication between Mr. Dherckers, neither a named defendant nor a plaintiff in this case, which is of no material fact with respect to this case. Further described in this paragraph is a communication from Mr. Dherckers to defendants no longer participants in this action and as initiated from Mr. Dherckers to the former defendants, hence represents no issue of material fact relevant to this cause of action.
3. Paragraphs 5 and 6 represent personal opinions of Mr. Dherckers which represent no allegation of any material facts that could be defamatory or anything else relevant to this cause of action.

Re: Affidavit of Cheryl A. Baxter (Sworn September 6, 2011)

4. Paragraphs 1, 2, and 3 provide background information but include no issue of material fact relevant to this cause of action.
5. Paragraph 4 describes Ms. Baxter's recollection of a telephone conversation between two parents of girls on the Irmo Soccer team – herself and a defendant no longer participating in this action – hence no issue of material fact relevant to this cause of action. The conversation represents protected speech between two parents of girls who were at the time minors, with respect to perceptions of the behavior of a public official—their coach. The fact that the parents disagreed with respect to prevailing opinions regarding the coach is

completely irrelevant. The fact remains that the conversation regarding the public official working with their adolescent daughters does not rise to the level of defamation. This is protected speech.

6. Paragraph 5 describes a recollection of an alleged comment regarding Coach Mauldin's coaching style. First, Mr. Mitchell denies having made this comment, and to his recollection has never met Ms. Baxter and would not know who she is. Further, especially in these turmoil-filled times in which we live, and in the state of South Carolina where so many heroic young men and women have devoted their lives to the defense of this great country, a comparison to performance up to the caliber of the Army would be considered by many to be a compliment. Nonetheless, whether made or not, the description of the comment is not a material fact that could be defamatory.
7. Paragraphs 6 and 7 represent personal opinions of Ms. Baxter which represent no allegation of any material facts that could be defamatory or anything else relevant to this cause of action.

Re: Affidavit of Allan T. Baxter (Sworn September 6, 2011)

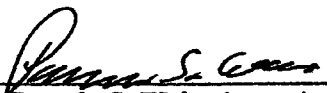
8. Paragraphs 1, 2, and 3 provide background information but include no issue of material fact relevant to this cause of action.
9. Paragraph 4 describes Mr. Baxter's recollection of his wife's characterization of a telephone conversation between two parents of girls on the Irmo Soccer team. The conversation represents protected speech between two parents of girls who were at the time minors, with respect to perceptions of the behavior of a public official—their coach. The fact that the parents disagreed with respect to prevailing opinions regarding the coach is completely irrelevant. The fact remains that the conversation regarding the public official working with their adolescent daughters does not rise to the level of defamation. This is protected speech. The subsequent action that Mr. Baxter took in communicating with the Plaintiff was beyond the control of the defendants and represents no issue of material fact.
10. Paragraphs 5 and 6 represent personal opinions of Mr. Baxter which represent no allegation of any material facts that could be defamatory or anything else relevant to this cause of action.

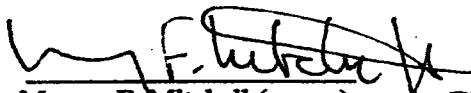
Re: Affidavit of Katherine M. Frick (Sworn September 9, 2011)

11. Paragraphs 1, 2, and 3 provide background information but include no issue of material fact relevant to this cause of action.
12. Paragraph 4 describes Ms. Frick's recollection of a telephone message from over two years ago (summer 2009), in which Ms. Frick, a parent of an adolescent girl on the Irmo High School Soccer team, thinks that she recalls that another parent of an adolescent girl on the same team raised concerns about the behavior of the Plaintiff. The recollection of this message represents protected speech between two parents of girls who were at the time minors, with respect to perceptions of the behavior of a public official—their coach. Even if the statement is true, a conversation regarding the public official working with their adolescent daughters does not rise to the level of defamation. This is protected speech.
13. Paragraph 5 represents the personal opinions of Ms. Frick and represents no allegation of any material fact that could be defamatory or anything else relevant to this cause of action.

Respectfully submitted,

Dated: September 12, 2011

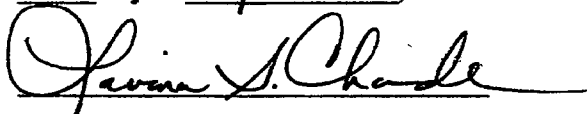

Pamela S. Weiss (*pro se*)


and Murray F. Mitchell (*pro se*)

240 Wood Moor Place
Columbia, South Carolina 29212
(803) 749-6699

SWORN to before me this

12th day of September, 2011



Notary Public for South Carolina

My commission expires March 18, 2018

I. Actual Legal Fees Paid to Attorneys

1/18/2010 Retainer fee paid to Malissa Burnette, Attorney at Law \$7,500.00

(to represent Pamela Weiss and Murray Mitchell in lawsuit)

4/11/2010 Additional payment to Malissa Burnette, Attorney at Law \$ 726.94

(to remove her as council)

10/29/2010 Payment to John Elliot, Attorney at Law \$ 275.00

(to research writing a letter to insurance company about their denial of coverage)

Total Paid: \$8,801.78

BURNETTE & ROTHSTEIN, P
2322 DEVINE ST
COLUMBIA, SC 29205-

BATCH : 311

REF # : 001

AMOUNT : \$7500.00.

THANK YOU.
PLEASE COME AGAIN.

***** CUSTOMER COPY *****

STATE OF SOUTH CAROLINA)
)
COUNTY OF RICHLAND)

CONTRACT FOR LEGAL SERVICES

This Agreement is made by and between Pamela Weiss and Murray Mitchell (hereinafter referred to as "Clients") and the law firm of Burnette & Rothstein, P.A., 2322 Devine Street, Columbia, South Carolina 29205 (hereinafter referred to as "Law Firm") on January 14, 2010.

1. **Clients engage the law firm in connection with the following matter:** To defend them in a lawsuit filed by Michael Maulden, and to assert counterclaims as may be appropriate.

2. **Retainer, Fees and Costs**

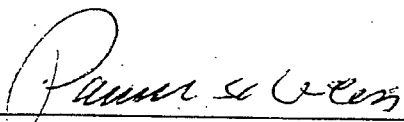
a. **Retainer:** In consideration of the services provided to Clients, Clients agree to pay a retainer fee of \$7500.00. The Law Firm is under no obligation to provide services to Clients prior to payment of the retainer fee in its entirety. The retainer shall be deposited and maintained in the Law Firm's trust account solely for the benefit of Clients. The Law Firm shall periodically bill against the retainer for attorneys' fees and expenses incurred in behalf of the Clients. When the retainer balance reaches \$1000.00, clients agree to pay an additional \$7500.00 into the trust account. The Law Firm will refund to Clients any balance remaining in the trust account upon the conclusion of the attorney-client relationship and after all fees and expenses have been paid.

b. **Fees:** Clients agree to pay \$275.00 per hour for M. Malissa Burnette's time, and \$250.00 per hour for David E. Rothstein's time. Billable attorney time includes but is not limited to time expended in conferences with the Clients and others in connection with the case, discovery preparation and response, hearing and trial preparation and appearances, travel to and from meetings and hearings, settlement negotiations, mediation, arbitration, and all other activities undertaken in behalf of Clients. The Clients understand that all time spent on the case, including time spent on

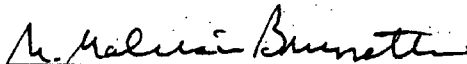
The Law Firm may terminate this agreement if the Clients are in breach of Clients' obligations under this Contract or if the Law Firm is otherwise required or permitted to do so in accordance with the Rules of Professional Conduct governing attorneys. The Clients may terminate this agreement, subject to Clients' contractual liability to the Law Firm, including but not limited to Clients' obligations pursuant to the charging lien.

9. Entire Agreement

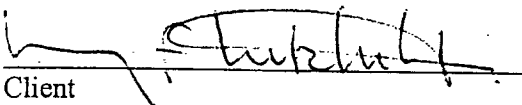
This writing includes the entire agreement between the Clients and the Law Firm regarding this matter. This Agreement can only be modified by another written agreement signed by the Clients and the Law Firm. This Agreement shall be binding upon both the Clients and the Law Firm and their respective heirs, legal representatives and successors in interest, and shall be construed pursuant to the laws of the State of South Carolina. Clients have read this Agreement and the Law Firm has provided the Clients with answers to any questions, and has further explained this Agreement to the complete satisfaction of the Clients. The Clients have received a copy of this Agreement.



Client



Burnette & Rothstein, P.A.



Client

BURNETTE & ROTHSTEIN, P.A.
2322 Devine Street
Columbia, SC 29205

Invoice submitted to:
Dr. Pamela Weiss & Dr. Murray F. Mitchell
240 Wood Moor Place
Columbia, SC 29212

February 04, 2010

In Reference To: MMB/Torts (Defense)

Invoice #19827

Professional Services

	<u>Hrs/Rate</u>	<u>Amount</u>
1/4/2010 Conference with clients. Review summons, complaint & attachments. Review factual narrative.	1.00 275.00/hr	275.00
1/8/2010 Phone call w/ client. Memo to file. Review issues.	0.25 275.00/hr	68.75
1/10/2010 Review documents from Weiss & Mitchell.	0.75 275.00/hr	206.25
Conducting group information meeting.	2.00 275.00/hr	550.00
1/11/2010 Legal Research.	0.25 275.00/hr	68.75
1/12/2010 Phone call w/ client. Memo to file. Prepare strategy. Review notes.	0.20 275.00/hr	55.00
1/14/2010 Conference with clients. Legal research counterclaims. Review and analysis of facts and issues. Prepare strategy. Phone call w/ Mark Kosobucki. Memo to file.	3.60 275.00/hr	990.00
1/18/2010 Conference with clients re: facts and issues.	1.70 275.00/hr	467.50
1/19/2010 Review emails from client / attachments. Prepare emails to client. Memo to file.	0.40 275.00/hr	110.00
1/26/2010 Review emails from Pamela. Phone call w/ Lewis Cromer's asst. - Tandy Ross. Legal research claims and defenses. Letter to Cromer and Ross. Prepare emails to Pamela.	1.25 275.00/hr	343.75

	<u>Hours</u>	<u>Amount</u>
For professional services rendered	11.40	\$3,135.00
Additional Charges :		
1/26/2010 Fax		1.00
Total costs		<u>\$1.00</u>
Total amount of this bill		<u>\$3,136.00</u>
2/4/2010 Payment from account		<u>(\$3,136.00)</u>
Total payments and adjustments		<u>(\$3,136.00)</u>
Balance due		<u>\$0.00</u>

YOUR PROMPT PAYMENT IS APPRECIATED
MAKE CHECK PAYABLE TO BURNETTE & ROTHSTEIN, P.A.
PAYMENTS RECEIVED AFTER MONTH END WILL REFLECT ON NEXT BILL

Previous balance of Client funds	\$0.00
1/29/2010 Payment to account. Check No. CR CD	\$7,500.00
2/4/2010 Payment from account	<u>(\$3,136.00)</u>
New balance of Client funds	<u>\$4,364.00</u>

BURNETTE & ROTHSTEIN, P.A.
 2322 Devine Street
 Columbia, SC 29205

Invoice submitted to:
 Dr. Pamela Weiss & Dr. Murray F. Mitchell
 240 Wood Moor Place
 Columbia, SC 29212

March 08, 2010

In Reference To: MMB/Torts (Defense)

Invoice #19655

Professional Services

	<u>Hrs/Rate</u>	<u>Amount</u>
2/5/2010 Review emails and web "research" from Pamela. Prepare emails to Pamela. Letter from Carey Ayer, Esq. Memo to file. Phone call w/ Carey Ayer, Esq.	0.50 275.00/hr	137.50
2/23/2010 Phone call w/ Susan Dunn, Esq. - ACLU. Review emails from Dunn / attachments. Letter from Carey Ayer, Esq. Review Karl Werdunn answer. Review Karl Werdunn First Interrogatories and requests for production.	0.50 275.00/hr	137.50
2/24/2010 Review emails from client. Prepare email to client. Review articles, bills, "legal research" and websites sent by client. review notes and facts. Legal research law and recent cases. Memo to file. Prepare draft answers and counterclaims.	4.80 275.00/hr	1,320.00
2/25/2010 Legal Research Pam's SLAPP and "legal research", information, emails and revise pleadings. Conference w/ clients. Phone call w/ Susan Dunn - ACLU. Phone call w/ Murray Mitchell. Prepare certificates of service.	5.30 275.00/hr	1,457.50
Legal Research-mandatory defenses, etc. per SCRPC. Letter to Lewis Cromer, Esq. Prepare email to clients. Letter to clients. Letter to Ayers and Brehmer. Prepare documents for filing w/ clerk of court.	2.75 275.00/hr	756.25
2/26/2010 Finalize all documents for service & filing.	0.10 275.00/hr	27.50
For professional services rendered	13.95	\$3,836.25
Additional Charges :		
2/26/2010 Postage		10.38

Dr. Pamela Weiss & Dr. Murray F. Mitchell

Page 2

	<u>Amount</u>
2/28/2010 Copying cost	29.80
West Law	23.19
West Law	9.09
Total costs	<u>\$72.46</u>
Total amount of this bill	<u>\$3,908.71</u>
3/8/2010 Payment from account	<u>(\$3,908.71)</u>
Total payments and adjustments	<u>(\$3,908.71)</u>
Balance due	<u>\$0.00</u>

YOUR PROMPT PAYMENT IS APPRECIATED
MAKE CHECK PAYABLE TO BURNETTE & ROTHSTEIN, P.A.
PAYMENTS RECEIVED AFTER MONTH END WILL REFLECT ON NEXT BILL

Previous balance of Client funds	\$4,364.00
3/8/2010 Payment from account	<u>(\$3,908.71)</u>
New balance of Client funds	<u>\$455.29</u>

March 22, 2009

Burnette & Rothstein, P.A.
2322 Devine Street
Columbia, SC 29205

Attn: M. Malissa Burnette

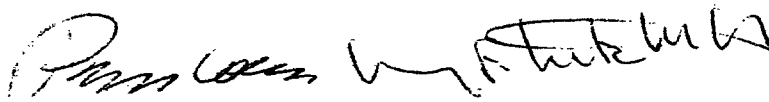
Reference to: File No.: 10-022/MMB/Torts (Defense)
Pam Weiss & Murray Mitchell

Dear Malissa:

Thank you for all of your efforts to date. Unfortunately, as indicated previously, we simply do not have the resources to continue with another retainer fee. Per your contract, we therefore agree to relieve the law firm of Burnette & Rothstein, P.A., 2322 Devine St., Columbia, South Carolina 29205 as counsel, and terminate our contract for legal services effective immediately.

We understand there was a balance of \$455.29 in our fund at your last billing. Please let us know of any additional costs to terminate our contract and reconcile any final billing. If possible, please identify a date we can pick up any documents we left with you as part of our defense (to hopefully save us the cost of mailing them back). Thanks again for your help.

Sincerely,



Pam Weiss and Murray Mitchell

BURNETTE & ROTHSTEIN, P.A.
2322 Devine Street
Columbia, SC 29205

Invoice submitted to:
Dr. Pamela Weiss & Dr. Murray F. Mitchell
240 Wood Moor Place
Columbia, SC 29212

April 07, 2010

In Reference To: MMB/Torts (Defense)

Invoice #19721

Professional Services

	<u>Hrs/Rate</u>	<u>Amount</u>
3/9/2010 Prepare email to Susan Dunn - ACLU. Review email from Pam. Memo to file. Prepare email to Pam. Legal research First Amendment recent case.	0.70 275.00/hr	192.50
3/10/2010 Review email from Pam. Prepare email to Pam re: explaining litigation procedures and answering client's questions. Memo to file.	0.80 275.00/hr	220.00
3/11/2010 Review Jan. 27, 2010 OCR complaint and OCR letter to clients. Memo to file.	0.40 275.00/hr	110.00
3/16/2010 Letter from Karl Brehmer. Review answer of Debra Werdury. Memo to file.	0.20 275.00/hr	55.00
3/22/2010 Letter from clients. Prepare consent orders to relieve counsel (2). Letter to client. Memo to file. Review email from Pam and Murray. Prepare email to Murray and Pam.	0.80 275.00/hr	220.00
3/24/2010 Review consent orders signed by clients. Letter to Lewis Cromer, Esq. Memo to file. Phone call w/ Lewis Cromer's asst.	0.25 275.00/hr	68.75
3/29/2010 Review emails from client. Prepare emails to client. Memo to file. Review SC Judicial website for info for clients. Letter to Judge Knox McMahon. Review consent orders signed by Cromer	0.90 275.00/hr	247.50
For professional services rendered	4.05	\$1,113.75
Additional Charges :		
3/16/2010 Postage		0.61



Dr. Pamela Weiss & Dr. Murray F. Mitchell

Page 2

	<u>Amount</u>
3/22/2010 Postage	0.61
3/24/2010 Postage	1.66
Postage	0.44
3/29/2010 Filing Fee.	50.00
3/30/2010 Postage	3.76
3/31/2010 Copying cost	11.40
Total costs	<u>\$68.48</u>
Total amount of this bill	<u>\$1,182.23</u>
4/7/2010 Payment from account	<u>(\$455.29)</u>
Total payments and adjustments	<u>(\$455.29)</u>
Balance due	<u><u>\$726.94</u></u>

YOUR PROMPT PAYMENT IS APPRECIATED
MAKE CHECK PAYABLE TO BURNETTE & ROTHSTEIN, P.A.
PAYMENTS RECEIVED AFTER MONTH END WILL REFLECT ON NEXT BILL

Previous balance of Client funds	\$455.29
4/7/2010 Payment from account	<u>(\$455.29)</u>
New balance of Client funds	<u><u>\$0.00</u></u>

John D. Elliott
ATTORNEY AT LAW

THE NBSC BUILDING
1122 LADY STREET, FIFTH FLOOR
Post Office Box 607
Columbia, South Carolina 29202

phone (803) 252-9236
fax (803) 799-2079
email jayel@mindspring.com

October 25th, 2010

Murray Mitchell
and Pamela Weiss
240 Wood Moor Place
Columbia SC 29212-2712

RE: Homeowners Insurance Coverage - Defamation

FOR PROFESSIONAL SERVICES RENDERED:

To University of South Carolina Law Library for research;
reviewed applicable law, insurance policy provisions;
drafted, edited opinion letter for clients; forwarded same with
policy and amendments; phone call from Pam Weiss to discuss
result.

Time expended: 3.00 hours

Balance Due \$ 275.00

*paid by check
10-29-10*

JDE/ac

RAY F. MITCHELL
1006 LOFTY PINE DR. PH. 803-749-8699
COLUMBIA, SC 29212

2275

Date Oct. 29, 2010

67-448/539 SC
723

Pay to the Order of John D. Elliott \$ 275.00

Two Hundred Seventy-Five ~~120~~ Dollars 

Bank of America

Bank of America Advantage®

ACH R/T 053804483

For Legal Fees



⑆053904483⑆ 000757088990⑆ 2275

II.

Additional Charges:

1/6/10	Fed Ex Copy	\$ 17.72
6/30/10	Postage	\$ 17.52
6/30/10	Fed Ex Copy	\$ 23.12
7/1/10	Postage	\$ 4.90
8/21/10	Fed Ex Copy	\$ 33.71
8/21/10	Postage	\$ 13.44
9/28/10	Fed Ex Copy	\$ 26.96
10/3/10	Fed Ex Copy	\$ 51.23
10/12/10	Postage	\$ 4.90
10/18/10	Postage	\$ 3.86
10/27/10	Fed Ex Copy	\$ 7.70
10/27/10	Mailing	\$ 17.52
11/15/10	Filing Fee	\$ 25.00
11/30/10	Filing Fee	\$ 25.00
11/30/10	Postage	\$ 1.56
12/13/10	Fed Ex Copy	\$ 12.36
12/13/10	Postage	\$ 5.53
3/01/11	Postage	\$ 2.61
5/27/11	Postage	\$ 0.44
6/23/11	Subpoena	\$ 7.99
6/23/11	Postage	\$ 12.82
6/24/11	Deposing fee	\$ 41.00
7/8/11	Mailing	\$ 3.93
7/11/11	Mailing	\$ 34.12
9/11/11	FedEx Items	\$ 14.96
9/11/11	FedEx Copies	\$ 31.95
10/20/11	Postage	\$ 1.28
10/20/11	Filing Fee	\$ 25.00
1/10/12	Copy/Supplies	\$204.58

Total: \$673.71

Copy Records -
new info



January 08, 2010 23:02
Receipt #: 362456
MasterCard #: 64XXXXXXXXXX5982
010/01/08 22:01

Page: 1

Qty	Description	Amount
184	ES B&W S/S White 8.5 x11	16.56
	SubTotal	16.56
	Taxes	1.16
	Total	17.72

The Cardholder agrees to pay the Issuer of the charge card in accordance with the agreement between the issuer and the Cardholder.

148 HARBISON BLVD.
Columbia, SC 29212
(803) 407-4277
www.fedexkinkos.com
Taxes not included.



June 30, 2010 13:58
Receipt #: 482693
MasterCard #: XXXXXXXXXXXX5982
2010/06/30 13:50

Page: 1

Qty	Description	Amount
240	ES B&W S/S White 8.5 x11	21.60
	SubTotal	21.60
	Taxes	1.52
	Total	23.12

The Cardholder agrees to pay the Issuer of the charge card in accordance with the agreement between the Issuer and the Cardholder.

1111 Greene St
Columbia, SC 29210
(803) 788-3807
www.fedexkinkos.com
Please recycle this receipt.

COLUMBIA MPO
COLUMBIA, South Carolina
292019998
4518030202 -0097
06/30/2010 (803) 733-4649 02:19:48 PM

Product Description	Sales Receipt Sale Qty Unit Price	Final Price
COLUMBIA SC 29202 Zone-0 First-Class Large Env 12.10 oz.		\$2.92
Issue PVI:		***** \$2.92
IRMO SC 29063 Zone-1 First-Class Large Env 12.10 oz.		\$2.92
Issue PVI:		***** \$2.92
COLUMBIA SC 29260 Zone-0 First-Class Large Env 12.10 oz.		\$2.92
Issue PVI:		***** \$2.92
COLUMBIA SC 29202 Zone-0 First-Class Large Env 12.10 oz.		\$2.92
Issue PVI:		***** \$2.92
COLUMBIA SC 29201 Zone-0 First-Class Large Env 12.10 oz.		\$2.92
Issue PVI:		***** \$2.92
LEXINGTON SC 29072 Zone-1 First-Class Large Env 12.20 oz.		\$2.92
Issue PVI:		***** \$2.92
Total:		\$17.52

Paid by:
MasterCard \$17.52
Account #: XXXXXXXXXXXX5982
Approval #: 015982
Transaction #: 292

Crossroads Center
6903 Saint Andrews Rd Ste 1
Columbia, SC, 29212-1187
451814-8001

07/01/2010 04:23:16 PM

----- Sales Receipt -----

Product	Sale	Final
Description	Qty	Price

Priority	1	\$4.90
(Domestic)		
(COLUMBIA, SC 29202)		
(Weight:0 Lb 14.55 Oz)		

Total	\$4.90

Cash	\$20.00
Change	(\$15.10)

Thank you!

Bill#: 1-14021-1-1131173-2

Clerk: HUGH

All sales final on stamps and postage.



August 21, 2010 11:28
Receipt #: 387583
MasterCard #: XXXXXXXXXXXX5982
2010/08/21 11:15

Page: 1

Qty	Description	Amount
350	ES B&W 8/8 White 8.5 x11	31.60
SubTotal		31.60
Taxes		2.21
Total		33.71

The Cardholder agrees to pay the issuer of the charge card in accordance with the agreement between the issuer and the Cardholder.

148 HARRISON BLVD.
Columbia, SC 29212
(803) 407-4277
www.fedexkinkos.com
Taxes not included.

Crossroads Center
6903 Saint Andrews Rd Ste 1
Columbia, SC, 29212-1187

451814-B001

08/21/2010 11:35:55 AM

=====

----- Sales Receipt -----

Product	Sale	Final
Description	Qty	Price

1st Large Env	1	\$2.24

(Domestic)

(LEXINGTON, SC 29072)

(Weight:0 Lb 8.65 Oz)

1st Large Env	1	\$2.24

(Domestic)

(LEXINGTON, SC 29072)

(Weight:0 Lb 8.60 Oz)

1st Large Env	1	\$2.24

(Domestic)

~~(LEXINGTON, SC 29072)~~

(Weight:0 Lb 8.60 Oz)

1st Large Env	1	\$2.24

(Domestic)

(LEXINGTON, SC 29072)

(Weight:0 Lb 8.60 Oz)

1st Large Env	1	\$2.24

(Domestic)

(LEXINGTON, SC 29072)

(Weight:0 Lb 8.60 Oz)

1st Large Env	1	\$2.24

(Domestic)

(LEXINGTON, SC 29072)

(Weight:0 Lb 8.60 Oz)

Total	\$13.44

Credit Card	\$13.44

Thank you!

Bill#: 1-14021-1-1233983-2

Clerk: HUGH

All sales final on stamps and postage.



September 28, 2010 14:45
 Receipt #: 503290
 MasterCard #: XXXXXXXXXXXXX5082
 2010/09/28 14:28

Page: 1

Qty	Description	Amount
280	ES B&W S/S White 8.5 x11	26.20
SubTotal		26.20
Taxes		1.78
Total		28.08

The Cardholder agrees to pay the issuer of the charge card in accordance with the agreement between the issuer and the Cardholder.

1111 Greene St
 Columbia, SC 29210
 (803) 798-3807
 www.fedexkinkos.com
 Please recycle this receipt.



October 03, 2010 20:30
 Receipt #: 392047
 MasterCard #: XXXXXXXXXXXXX5082
 2010/10/03 20:11

Page: 1

Qty	Description	Amount
532	ES B&W S/S White 8.5 x11	47.88
SubTotal		47.88
Taxes		3.35
Total		51.23

The Cardholder agrees to pay the issuer of the charge card in accordance with the agreement between the issuer and the Cardholder.

146 HARBISON BLVD.
 Columbia, SC 29212
 (803) 407-4277
 www.fedexkinkos.com
 Taxes not included.

 Crossroads Center
 6903 Saint Andrews Rd Ste 1
 Columbia, SC, 29212-1187
 451814-B001
 10/12/2010 09:15:34 AM

 ----- Sales Receipt -----

Product	Sale	Final
Description	Qty	Price
Priority	1	\$4.90
(Domestic)		
(CHARLESTON, SC 29413)		
(Weight: 0 Lb 13.20 Oz)		
Total		\$4.90
Credit Card		\$4.90

Thank you!

Bill#: 1-14021-1-1343424-2
 Clerk: HUGH
 All sales final on stamps and postage.

=====
Crossroads Center
6903 Saint Andrews Rd Ste 1
Columbia, SC, 29212-1187
451814-B001

10/18/2010 10:12:13 AM
=====

----- Sales Receipt -----

Product	Sale	Final
Description	Qty	Price

44c Purple Heart	1	\$0.44
44c Purple Heart	1	\$0.44
44c Purple Heart	1	\$0.44
44c Purple Heart	1	\$0.44
44c Purple Heart	1	\$0.44
44c Purple Heart	1	\$0.44
1st Large Env	1	\$1.22

(Domestic)

(CLEMSON, SC 29633)

(Weight: 0 Lb 2.90 Oz)

Total	\$3.86

Credit Card	\$3.86

Thank you!

Bill#: 1-14021-1-1359426-2

Clerk: HUGH

All sales final on stamps and postage.



October 27, 2009 14:14
Receipt #: 355058
VISA #: 41XXXXXXXXXX1424
2009/10/27 14:07

Page: 1

Qty	Description	Amount
80	ES B&W S/S White 8.5 x11.	7.20
	Sub Total	7.20
	Taxes	0.50
	Total	7.70

The Cardholder agrees to pay the issuer of the charge card in accordance with the agreement between the issuer and the Cardholder.

148 HARBISON BLVD.
Columbia, SC 29212
(803) 407-4277
www.fedexkinkos.com
Taxes not included.

Sales Receipt

Product	Sale	Final
Description	Qty	Price
1st Large Env	1	\$2.92
(Domestic)		
(COLUMBIA, SC 29201)		
(Weight:0 Lb 12.90 Oz)		
1st Large Env	1	\$2.92
(Domestic)		
(COLUMBIA, SC 29201)		
(Weight:0 Lb 12.85 Oz)		
1st Large Env	1	\$2.92
(Domestic)		
(COLUMBIA, SC 29201)		
(Weight:0 Lb 12.90 Oz)		
1st Large Env	1	\$2.92
(Domestic)		
(COLUMBIA, SC 29201)		
(Weight:0 Lb 12.85 Oz)		
1st Large Env	1	\$2.92
(Domestic)		
(COLUMBIA, SC 29201)		
(Weight:0 Lb 12.90 Oz)		
1st Large Env	1	\$2.92
(Domestic)		
(COLUMBIA, SC 29201)		
(Weight:0 Lb 12.80 Oz)		

Total	\$17.52

Credit Card	\$17.52

Thank you!

Bill#: 1-14021-1-1327672-2

Clerk: HUGH

All sales final on stamps and postage.

COMMON PLEAS
Clerk : Beth A. Carrigg
Lexington County Judicial Center
Lexington, SC 29072
(803) 785-8212

Received From: Mitchell, Murray

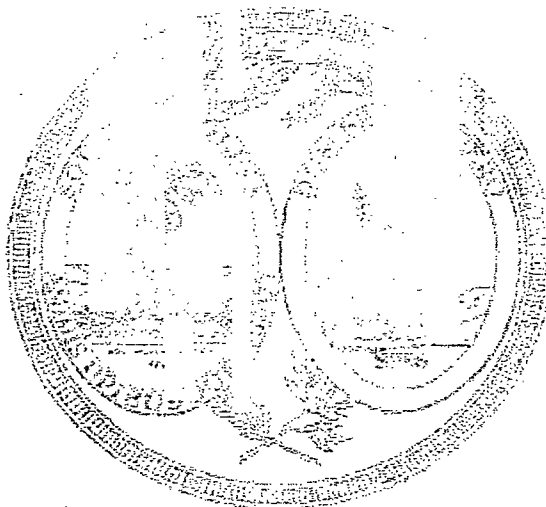
Date : 11/15/2010
RECEIPT # 138530
Clerk: amarin

Paying for: Self
Transaction Type: Payment
Payment Type: Check
Total Paid

\$25.00
\$25.00

Reference # 2420
Comment:

<u>Case #</u>	<u>Caption</u>	<u>Previous Balance</u>	<u>Amount Paid</u>	<u>Balance Due</u>
2009CP3205708	Michael Mauldin VS Carol Vander Heide , defendant, et al	\$25.00	\$25.00	\$0.00



Total Cases: 1	\$25.00	\$25.00	\$0.00

STATE OF SOUTH CAROLINA

COUNTY OF Lexington

IN THE COURT OF COMMON PLEAS
5th JUDICIAL CIRCUIT

FILED CASE NO.: 2009-CP-3205-5708

Michael Mauldin

vs.

Pamela Weiss and Murray Mitchell

2010 NOV 30
Plaintiff,

BETH A. CARRIGG
CLERK OF COURT
LEXINGTON SC
Defendant.

**MOTION AND ORDER INFORMATION
FORM AND COVERSHEET**

Plaintiff's Attorney:

J. Lewis Cromer, Bar No. 1470

Address:

1522 Lady Street

Phone: 803-799-9530 Fax 803-799-9533

E-mail: cromermabry@cromermabry.com

Other: _____

Defendant's Attorney:

Pro Se, Bar No. _____

Address:

240 Wood Moor Place Columbia SC 29212

Phone: 803-749-6699 Fax 803-749-6699

E-mail: pweiss@mailbox.sc.edu Other:

mmitchel@mailbox.sc.edu

☒ **MOTION HEARING REQUESTED** (attach written motion and complete SECTIONS I and III)

☐ **FORM MOTION, NO HEARING REQUESTED** (complete SECTIONS II and III)

☐ **PROPOSED ORDER/CONSENT ORDER** (complete SECTIONS II and III)

SECTION I: Hearing Information

Nature of Motion: Motion for Summary Judgment Pursuant to SC Rules of Civil Procedure, Rule 56

Estimated Time Needed: 1 hour

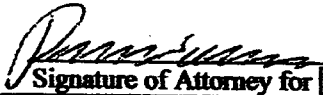
Court Reporter Needed: ☒ YES ☐ NO

SECTION II: Motion/Order Type

☒ Written motion attached

☐ Form Motion/Order

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


Signature of Attorney for ☐ Plaintiff ☒ Defendant

11/30/2010

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: \$ 25.00**

☐ **CONTESTED - AMOUNT DUE: \$** _____

11/30/10



Crossroads Center
6903 Saint Andrews Rd Ste 1
Columbia, SC, 29212-1187
451814-B001

11/30/2010 01:27:00 PM

----- Sales Receipt -----

Product	Sale	Final
Description	Qty	Price

1st Large Env	1	\$1.56
(Domestic)		
(COLUMBIA, SC 29201)		
(Weight:0 Lb 4.45 Oz)		

Total	\$1.56

Cash	\$2.00

Change	(\$0.44)

Thank you!

Bill#: 1-14021-2-151129-2

Clerk: KELLY

All sales final on stamps and postage.

FedEx Office is your destination
for printing and shipping.

146 Harbison Blvd
Columbia, SC 29212-2204
Tel: (803) 407-4277

12/13/2010 11:54:50 AM EST
Team Member: Jennifer A.

SALE

FS BW SS8.5x11Lz/W	102 @	0.1100 T
0330 Regular Price	0.12	
Choc Snickers KS	1 @	1.7900 T
6189 Regular Price	1.79	
Choc MM Peanut KS	1 @	1.7900 T
6136 Regular Price	1.79	
Candy Raisinet 3.5oz	1 @	1.7900 T
6177 Regular Price	1.79	
Candy Twizzler Strwb	1 @	1.7900 T
8124 Regular Price	1.79	
Candy Sour Patch Ast	1 @	1.7900 T
8267 Regular Price	1.79	

Regular Total	21.19
Discounts	1.02

Total	20.17
	- 8.95

Sub-Total	20.17
Tax	1.14
Deposit	0.00

Total	21.31

Visa (S)	21.31

Account: 5667	- 8.95
Auth: 05781C (A)	

Total Tender	21.31
Change Due	0.00

Total Discounts	1.02



COLUMBIA MPO
COLUMBIA, South Carolina
292019998
4518030202 -0097
03/01/2011 (803)733-4649 09:02:17 AM

Product Description	Sales Receipt Sale Qty Unit Price	Final Price
KANSAS CITY MO 64999 Zone-5 First-Class Large Env 2.90 oz.		\$1.22
Issue PVI:		=====
		\$1.22
COLUMBIA SC 29211 Zone-0 First-Class Large Env 3.60 oz.		\$1.39
Issue PVI:		=====
		\$1.39
Total:		\$2.61

Paid by:
Cash \$3.01
Change Due: -\$0.40

Order stamps at USPS.com/shop or call
1-800-Stamp24. Go to USPS.com/clicknship
to print shipping labels with postage.
For other information call 1-800-ASK-USPS.

Get your mail when and where you want it
with a secure Post Office Box. Sign up for
a box online at usps.com/poboxes.

Bill#: 1000303511447
Clerk: 08

All sales final on stamps and postage
Refunds for guaranteed services only
Thank you for your business

HELP US SERVE YOU BETTER

Go to: <https://postalexperience.com/Pos>

TELL US ABOUT YOUR RECENT
POSTAL EXPERIENCE

YOUR OPINION COUNTS

Copy

IRMO MPO
IRMO, South Carolina
290632867
4518030063 -0096
12/13/2010 (803)781-4024 12:18:36 PM

Product Description	Sales Receipt Sale Qty Unit Price	Final Price
SAINT PETER MN 56082 Zone-5 First-Class Large Env 1.60 oz.		\$1.05
Issue PVI:		=====
		\$1.05
COLUMBIA SC 29260 Zone-1 First-Class Large Env 8.70 oz.		\$2.24
Issue PVI:		=====
		\$2.24
COLUMBIA SC 29202 Zone-1 First-Class Large Env 8.70 oz.		\$2.24
Issue PVI:		=====
		\$2.24

Total: \$5.53

Paid by:
Cash \$10.53
Change Due: -\$5.00

Order stamps at USPS.com/shop or call
1-800-Stamp24. Go to USPS.com/clicknship
to print shipping labels with postage.
For other information call 1-800-ASK-USPS.

Get your mail when and where you want it
with a secure Post Office Box. Sign up for
a box online at usps.com/poboxes.

Bill#: 1000402575962
Clerk: 09

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YOUR OPINION COUNTS

Customer Copy

FORMS WORKFLOW

The Workflow Solution for all your
Court, Corporate, Regulatory & Legal F

Our Products

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Support

Resources

SALES RECEIPT
SOUTH CAROLINA

USC POSTAL SERVICE
1600 HAMPTON ST
COLUMBIA, SC 29208
803.777.3168
803.777.8942

to you

u know Forms Workflow has a MS Word
ofbar with forms search embedded into
dition to searching, you can also
re-usable profiles containing Attorney,
and Case information. These Profiles
a saved and used to automatically fill out
a forms.

Login Information

Username
pweiss@mailbox.sc.edu

Password
bryfdu1

Change Passw

by Account

Print for your records

ript

receipt confirms your FormsWorkflow
case. We suggest you save this receipt for
a reference.

Order ID: 100028700 Card Holder: Pam Weiss

6/23/2011 Credit Card vs

Number **** * 6667

urchased

Single Document

Subpoena in Civil Case [SCCA-254]

\$7.99

Total

upload

Subpoena in Civil Case [SCCA-254]

Specifications

Download

Subpoena in Civil Case [SCCA-254].doc Size: 206kb

Subpoena in Civil Case [SCCA-254].pdf Size: 138kb

Sales Receipt

Transaction #: 59531
Date: 5/27/2011 Time: 1:18:25 PM
Cashier: JH11 Register #: 1

Item	Description	Amount
113700-JH11	.44 PURPLE HEART	\$0.44

Sub Total \$0.44
Total \$0.44

CASH Tendered \$5.00
Change CASH \$4.56



* 53531 *

Thank you for shopping

USC POSTAL SERVICE

We hope you'll come back soon!

ALL SALES ARE FINAL ON STAMPS AND POSTAGE

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Product

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7011 0470 0002 4871 4356

U.S. Postal ServiceTM
CERTIFIED MAILTM RECEIPT
 (Domestic Mail Only; No Insurance Coverage Provided)

For delivery information visit our website at www.usps.com.

Postage	\$ 1.08
Certified Fee	2.85
Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	\$ 3.93

Sort To: ANGELA H. BAIN
 Street, Apt. No. or PO Box No.: 2605 Hunters Blad Drive
 City, State, ZIP+4: Columbia SC 29212-2203

PS Form 3800, August 2005 See Reverse for Instructions

Crossroads Center
 6903 Saint Andrews Rd Ste 1
 Columbia, SC, 29212-1187

451814-8001

07/08/2011 11:53:16 AM

Product Description	Sale Qty	Final Price

1st Large Env (Domestic)	1	\$1.08
(COLUMBIA, SC 29212)		
(Weight: 0 Lb 1.90 Oz)		
Certified	1	\$2.85

Total \$3.93

Cash \$5.00
 Change (\$1.07)

Thank you!
 Bill #: 1-14021-1-1884030-2

IRMO NPO
 IRMO, South Carolina
 290632867
 4518030163 -0098
 (803) 781-4024 04:51:43 PM

Product Description	Sale Qty	Unit Price	Final Price

MAGNA UT 84044 Zone-7			\$12.02

Parcel Post
 5 lb. 14.70 oz.

Expected Delivery: Thu 06/30/11

Delivery Confirmation

Label #: 03103490000111761818 \$0.80

Issue PVI: \$12.82

Total: \$12.82

Paid by: VISA \$12.82

Account #: X00000000000005667

Approval #: 04232C

Transaction #: 426

23 902990028

Order stamps at usps.com/shop or call 1-800-Stamp24. Go to usps.com/clickship to print shipping labels with postage. For other information call 1-800-ASK-USPS.

Get your mail when and where you want it with a secure Post Office Box. Sign up for a box online at usps.com/poboxes.

Bill #: 1000201889465
 Clerk: 13

All sales final on stamps and postage
 Refunds for guaranteed services only
 Thank you for your business

HELP US SERVE YOU BETTER

Go to: <https://postal.experience.com/Pos>

TELL US ABOUT YOUR RECENT
 POSTAL EXPERIENCE

YOUR OPINION COUNTS

Customer Copy

MURRAY F. MITCHELL
240 WOOD MOOR PL.
COLUMBIA, SC 29212-2712

2429

67-448539 SC
723

June 24 2011

147 22 36
initials

Angela Bain

\$ 41. $\frac{XX}{100}$

Forty - ONE

and

$\frac{XX}{100}$

ATM

Bank of America

ACH R/T 003004483

Bank of America Advantage®

Deposition fee + mileage

[Signature]

⑆053904483⑆ 000757088990⑆ 2429

Revised Check

PROOF OF SERVICE

SERVED	DATE June 27, 2011	FEES AND MILEAGE TENDERED TO WITNESS ☒ YES ☐ NO AMOUNT \$41.00
	PLACE 1020 Dutch Fork Road, Irmo, SC, 29063	
SERVED ON Angela Bain by leaving document with receptionist during regular business hours <i>MODICA SEYWANSKI</i>		MANNER OF SERVICE Hand Delivered
SERVED BY Eileen Korpita		TITLE Ms.

DECLARATION OF SERVER

I certify that the foregoing information contained in the Proof of Service is true and correct.	
Executed on June 27, 2011 SIGNATURE OF SERVER	 108 Genessee Road, Irmo, SC 29063 ADDRESS OF SERVER

Rule 45, South Carolina Rules of Civil Procedures, Parts (c) and (d):

(c) Protection of Persons Subject to Subpoenas.

(1) A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena. The court on behalf of which the subpoena was issued shall enforce this duty and impose upon the party or attorney in breach of this duty an appropriate sanction, which may include, but is not limited to, lost earnings and a reasonable attorney's fee.

(2) (A) A person commanded to produce and permit inspection and copying of designated books, papers, documents or tangible things, or inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for deposition, hearing or trial. A party or an attorney responsible for the issuance and service of a subpoena for production of books, papers and documents without a deposition shall provide to another party copies of documents so produced upon written request. The party requesting copies shall pay the reasonable costs of reproduction.

(B) Subject to paragraph (d) (2) of this rule, a person commanded to produce and permit inspection and copying may, within 14 days after service of the subpoena or before the time specified for compliance if such time is less than 14 days after service, serve upon the party or attorney designated in the subpoena written objection to inspection or copying of any or all of the designated materials or of the premises. If objection is made, the party serving the subpoena shall not be entitled to inspect and copy the materials or inspect the premises except pursuant to an order of the court by which the subpoena was issued. If objection has been made, the party serving the subpoena may, upon notice to the person commanded to produce, move at any time in the court that issued the subpoena for an order to compel the production. Such an order to compel production shall protect any person who is not a party or an officer of a party from significant expense resulting from the inspection and copying commanded.

(3) (A) On timely motion, the court by which a subpoena was issued, or regarding a subpoena commanding appearance at a deposition, or production or inspection directed to a non-party, the court in the county where the non-party resides, is employed or regularly transacts business in person, shall quash or modify the subpoena if it:

- i. fails to allow reasonable time for compliance; or
- ii. requires a person who is not a party nor an officer, director or managing agent of a party, nor a general partner of a partnership that is a party, to travel more than 50 miles from the county where that person resides, is employed or regularly transacts business in person, except that, subject to the provisions of clause (c)(3)(B)(iii) of this rule, such a person may in order to attend trial be commanded to travel from any such place within the state in which the trial is held; or
- iii. requires disclosure of privileged or otherwise protected matter and no exception or waiver applies; or
- iv. subjects a person to undue burden.

(B) If a subpoena:

- i. requires disclosure of a trade secret or other confidential research, development, or commercial information, or
- ii. requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study made not at the request of any party, or
- iii. requires a person who is not a party nor an officer, director or managing agent of a party, nor a general partner of a partnership that is a party, to incur substantial expense to travel from the county where that person resides, is employed or regularly transacts business in person,

the court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena or, if the party in whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.

(d) Duties in Responding to Subpoena.

(1) A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.

(2) When information subject to a subpoena is withheld on a claim that it is privileged or subject to protection as trial preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.



July 11, 2011 14:34
Receipt #: 422321
MasterCard #: XXXXXXXXXXXX5882
2011/07/11 14:27

Page: 1

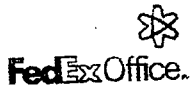
Qty	Description	Amount
51	ES Color S/S LTR	27.03
54	ES B&W S/S White 8.5 x11	4.86
	SubTotal	31.89
	Taxes	2.23
	Total	34.12

The Cardholder agrees to pay the Issuer of the charge card in accordance with the agreement between the Issuer and the Cardholder.

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September 11, 2011 20:54
Receipt #: 429584
Discover #: XXXXXXXXXXXXXXX9173
2011/09/11 20:17

Page: 1

Qty	Description	Amount
125	ES B&W S/S White 8.5 x11	12.50
168	ES B&W S/S White 8.5 x11	16.80
SubTotal		29.30
Taxes		2.05
Total		31.35

The Cardholder agrees to pay the Issuer of the
charge card in accordance with the agreement
between the Issuer and the Cardholder.

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9/11/2011 8:53:50 PM EST
Team Member: Glenn B.

SALE

Dvrd RdyIndx A-Z Clr	1 @	8.9900 T
003330 Reg. Price	6.99	
Dvrd RdyIndx A-Z Clr	1 @	6.9900 T
003330 Reg. Price	6.99	

Regular Total 13.98
Discounts 0.00

Total 13.98

Sub-Total 13.98
Tax 0.98
Deposit 0.00

Total 14.96

Discover (S) 14.96

Account: 9173
Auth: 01112R (A)

Total Tender 14.96
Change Due 0.00

Total Discounts 0.00



W. F. Lubitz

STATE OF SOUTH CAROLINA

COUNTY OF Lexington

Michael Mauldin

Plaintiff,

vs.

Pamela Weiss and Murray Mitchell

Defendant.

IN THE COURT OF COMMON PLEAS
5th JUDICIAL CIRCUIT

CASE NO.: 2009-CP-3205-5708

**MOTION AND ORDER INFORMATION
FORM AND COVERSHEET**

Plaintiff's Attorney:

J. Lewis Cromer, Bar No. 1470

Address:

1522 Lady Street

Phone: 803-799-9530 Fax 803-799-9533

E-mail: JayB@jlewiscromerlaw.com Other: _____

Defendant's Attorney:

Pam Weiss and Murray Mitchell, Pro Se, Bar No.

Address:

240 Wood Moor Place Columbia SC 29212

Phone: 803-749-6699 Fax 803-749-6699

E-mail: pweiss@mailbox.sc.edu Other: _____

mmitchel@mailbox.sc.edu

☒ **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: Notice and Motion for Frivolous Proceeding and Sanctions Pursuant to SCRCP, Rule 11, and the SC Frivolous Proceedings Sanctions Act, SC Code Ann. §15-36-10 et seq.

Estimated Time Needed: 1 hour

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.

Pamela Weiss (Pro Se)

Signature of Attorney for ☐ Plaintiff ☒ Defendant

10/20/2011

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: 10/20/11

☐ **MOTION FEE COLLECTED: \$** 25.00

☐ **CONTESTED - AMOUNT DUE: \$** _____

COLUMBIA MPO
COLUMBIA, South Carolina
292019998
4518030202 -0093
10/20/2011 (803)733-4649 02:08:29 PM

Product Description	Sale Qty	Unit Price	Final Price
Dom. Money Order 19292056863			\$86.88
Domestic Money Order Fee			\$1.10
Subtotal:			\$87.98
44c Anna Julia Cooper PSA	1	\$0.44	\$0.44
EDGEFIELD SC 29824 Zone-1 First-Class Large Env 2.40 oz.			\$1.28

Issue PVI:

\$1.28

COLUMBIA SC 29201
Zone-0 First-Class
Large Env
2.40 oz.

\$1.28

Issue PVI:

\$1.28

Total:

\$90.98

Paid by:

Cash

\$87.00

MasterCard

\$3.98

Account #: XXXXXXXXXXXXX5982

Approval #: 005732

Transaction #: 458

23 902980101

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For other information call 1-800-ASK-USPS.

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Clerk: 14

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YOUR OPINION COUNTS

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Columbia SC 29212

01/10/2012 11.3 7:03 PM
STR 2580 REG3 TRN 6752 EMP 600858-----
SALE

Product ID	Description	Total
167060	BW SS Letter	58.02 SS
967 @ 0.06		
Regularly 0.10		
166633	Drilling1-3Hole	6.48 SS
2 @ 3.24		
Regularly 3.50		
167060	BW SS Letter	15.04 SS
188 @ 0.08		
Regularly 0.10		
464278	BINDER,PRM,3",BLUE	13.89 SS
Regularly 14.99		
919820	BINDER,WJ,LT,LCK,R	10.19 SS
Regularly 10.99		
464269	BINDER,PRM,3",BLK	13.89 SS
Regularly 14.99		
408753	INDX,LGL,1-25,B/WT	18.87 SS
3 @ 6.29		
Regularly 6.79		
408843	INDX,LGL,26-50,B&W	18.87 SS
3 @ 6.29		
Regularly 6.79		
627394	DIVIDERS,8TAB,2PK	4.90 SS
Regularly 5.29		
167060	BW SS Letter	31.05 SS
621 @ 0.05		
Regularly 0.10		

Coupon Number - 98289746

Subtotal 191.20

Sales Tax: 13.38

Total 204.58

MasterCard 6474 204.58

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III. Pro-Se Expenses for Time and Effort Defending Law Suit

A. Pam Weiss (Pro Se) hours: 583.40 hours x reasonable rate*

*(Breakdown of all hours attached - *rate to be determined)*

*Pam Weiss's hourly rate at the University of South Carolina as a Research Associate (2010): \$42.53

583.40 hours x \$42.53 = \$24,812.00

B. Murray Mitchell (Pro Se) hours: 277.90 hours x reasonable rate**

*(Breakdown of all hours attached - *rate to be determined)*

**Murray Mitchell's hourly rate-University of South Carolina as an Associate Professor (2010): \$52.58

277.90 hours x \$52.58 = \$13,050.36

TOTAL (Pro Se) HOURS: 861.30 hours x reasonable rate* **

ESTIMATED TOTAL (Pro Se) COSTS:

\$39,423.98 (pro se combined)

III. A. Breakdown of Pro Se Hours for Pam Weiss: Case # 2009CP32055708

Michael Mauldin, Plaintiff, vs. Carol Vander Heide, Murray Mitchell, Pamela Weiss, Eileen Korpita, Karl Werdunn, Debra Werdunn, and Mark E. Kosobucki

<u>Date</u>	<u>Hours</u>	<u>Services/Activity</u>
12/28/2009	1.40	Read through summons notice after being served papers; contact others for advice on next steps and legal recommendations .
12/29/2009	.40	Call Office for Civil Rights (OCR) for advice and next steps for re-filing complaint re: new charge of retaliation.
12/30/2009	.80	Contact sources for recommendations for attorneys; contact insurance company re: steps needed to file for coverage.
12/31/2009	8.60	Begin drafting timeline of all activities to date to have available for attorney and sort materials to prepare a packet of information. Begin developing comprehensive list of witnesses.
1/2/2010	4.50	Revise timeline and witness lists with additional information and consolidate and copy files to have package ready to give to attorney.
1/3/2010	6.20	Do in-depth research re: defending law suits against defamation, interference with contractual relations, first amendment rights, free speech, and office for civil rights Title IX claims.
1/4/2010	2.20	Contact two attorneys to describe case; speak to other defendants about best approaches to legal defense.
1/5/2010	.40	Contact attorney to set up time to meet with other defendants and drop off file.
1/6/2010	.70	Pull together final pieces of packet. Drop off at attorney's office.
1/9/2010	.60	Draft questions for attorney for meeting with other defendants.
1/10/2010	2.50	Meet with attorney and other defendants to discuss case and answer questions.
1/11/2010	.40	Talk with other defendants about legal options and next steps.
1/14/2010	3.60	Meet with attorney to go over the case, discuss defenses, identify next steps and to sign a retainer.
1/16/2010	8.20	Conduct detailed research on first amendment rights, SLAPP and anti-SLAPP laws, SC laws, federal SLAPP legislation, legal cases involving protected speech, and various support groups to contact.
1/17/2010	2.20	Prep for meeting with attorney by developing comprehensive outline of daughter's interactions and conversations with coach, over 5-year span.
1/18/2010	2.50	Daughter and I meet with attorney for daughter to be interviewed. Present information to attorney on research found on SLAPP and Anti-SLAPP laws, and SC anti-SLAPP bill that was proposed.
1/21/2010	3.20	Contact Washington DC watchdog liaison about first amendment rights. Review internet links she sends regarding anti-SLAPP advocacy groups for advice on the first amendment and frivolous law suits.
1/22/2010	.50	Email attorney re: current research findings and next steps in our defense.
1/23/2010	8.20	Work on draft to re-file Office for Civil Rights complaint -- for

1/26/2010	.40	Title IX violations and for retaliation for filing a complaint with OCR.
1/27/2010	.20	Email and call attorney to find out when answers will be filed.
1/27/2010	6.20	Review and respond back to email from attorney saying she has requested a 30-day extension.
1/28/2010	.20	File a new complaint with the Office for Civil Rights for original charges against School District and added charge of retaliation.
2/1/2010	3.50	Email OCR liaison about re-filing of complaint.
2/5/2010	.80	Research information about ACLU and SC ACLU office. Write to ACLU to see if this is the type of case they consider falls under their civil rights jurisdiction as protected speech. Fax consent form to OCR for new complaint filed.
2/8/2010	2.10	Email California anti-SLAPP project liaison about the case to seek guidance/support regarding next steps. Review the answers filed by attorneys of other defendants in the case that are sent in the mail.
2/12/2010	1.10	Respond to one of the other defendants via email with a list of the attorneys representing the other defendants on the case. Make copies of OCR complaint for our attorney and drop it off at her office.
2/18/2010	.50	Have a phone conversation with the Director of California Anti-SLAPP Project and review email links and attachments he sends about similar cases and the types of support available.
2/19/2010	.20	Receive and review a letter from the ACLU that they are interested in the case, with a request to call them about a good time to meet.
2/20/2010	3.10	Call ACLU to set up meeting. Fax copy of law suit.
2/22/2010	1.30	Email ACLU to confirm time to meet. Invite other defendant.
2/23/2010	.40	Put together materials for ACLU meeting, and make copies of relevant documents.
2/23/2010	.90	Meet ACLU over lunch to discuss case. Take notes regarding next steps and possible defenses and proceeding with motion to dismiss.
2/23/2010	1.20	ACLU agrees to communicate with our attorney to provide any support.
2/24/2010	1.60	Review and respond to email from ACLU that she has communicated with our attorney. Follow up with phone call.
2/25/2010	.50	Read and respond to email from attorney regarding ACLU conversation and requesting a meeting to regroup and discuss strategy.
2/26/2010	1.20	Put together outline of notes for attorney meeting.
3/5/2010	.40	Meet attorney to discuss next steps in defense and responses to file for original lawsuit. Discuss anticipated costs. Agree on strategy.
3/9/2010	.50	Review email from attorney with draft responses to lawsuit. Email back to say ok to file answers.
3/10/2010	.20	Email and have telephone conversation with Director of California anti-SLAPP Project seeking advice on next steps.
3/13/2010	2.40	Review email from the Director of California anti-SLAPP Project re: possible expert witness involved in a similar case.
		Review responses filed by other defendants in the case and requests for interrogatories and production of documents.
		Email attorney about when we should seek Discovery and next steps.
		Research information about hearings and motions to dismiss a case,

3/16/2010	.50	and for motions for summary judgment. Print copies for files.
3/20/2010	1.40	Receive and review bill and request from the attorney for a second retainer. Discuss strategy.
3/23/2010	.60	Draft a letter to attorney to end contract and relieve counsel from representing us.
3/24/2010	.30	Sign consent orders to relieve counsel.
3/28/2010	3.20	Review papers filed by attorney with court and opposing counsel requesting permission for her to be relieved and that the clients represent themselves pro se.
3/29/2010	.40	Research forms and responsibilities of serving in a Pro Se capacity. Print out materials.
4/01/2010	.20	Review copy of motion to dismiss case filed by other Pro Se Defendant and contact ACLU about joining in the motion.
4/01/2010	.40	Review email from attorney alerting us of notice of the motion for a hearing to dismiss the case. Reply to email.
4/03/2010	6.20	Contact other pro se defendant about notice of motion for hearing and ACLU about steps needed to join in on the motion.
4/12/2010	.40	Conduct legal research on motion for hearing to dismiss a case, and legal cases to cite. Draft notes on what to say in hearing.
4/17/2010	7.20	Email and call ACLU about next steps with the hearing and filing an Amicus Brief.
4/19/2010	1.00	Draft notes and prep for hearing on motion to dismiss case.
4/19/2010	.30	Meet with other Pro Se Defendant to discuss hearing.
4/20/2010	.50	Email the OCR about the status of their investigation.
4/21/2010	4.10	Draft Pro Se contact information for courts. Email James Smith at SC Legislature re: our case and the status of his anti-SLAPP bill.
4/22/2010	2.40	Review notes and prepare for hearing the next day. Organize files to bring to the court.
4/29/2010	1.20	Attend and present at hearing on the motion to dismiss the case. Talk afterwards with ACLU about next steps.
5/1/2010	6.20	Review plaintiff's response to another Defendant's request for Interrogatories and Requests for Documents.
5/4/2010	.30	Continue to research information on first amendment rights, defenses against libel, slander, and defamation of character, examples of Pro Se forms and defenses, and make copies of various legal forms needed.
5/7/2010	.40	Receive and respond to email from OCR liaison that they will be coordinating visit to SC sometime later in the month to conduct their investigation of school district.
5/11/2010	2.20	Receive contact information on another attorney referral. Email attorney to set up meeting.
5/12/2010	.50	Receive and review 1 st set of interrogatories and production of documents from Plaintiff. Consult with others about types of responses required.
5/13/2010	2.20	Review note sent home with kids from School Principal about upcoming interviews with the OCR. Send email to OCR liaison that they had the wrong year for the soccer team so they could correct that.
		Meet with other attorney regarding representation on the case. Bring copies of home owner's insurance and response by insurance co.

5/13/2010	.40	denying coverage in the case. Attorney agrees to file letter for us. Receive mass email from one parent sent to all the soccer parents about the upcoming OCR visit and its connection to the lawsuit filed against several parents, and warning them not to allow their kids to be interviewed. Forward email to OCR to let them know this may now impact their investigation.
5/14/2010	.20	Call insurance company to request a more detailed copy of our homeowner's policy.
5/14/2010	.50	Email and call other defendant to let them know about the OCR visit the next week and to coordinate a meeting time with everyone.
5/16/2010	3.20	Organize files and notes for meeting with the OCR.
5/17/2010	1.30	Meet with OCR liaisons to discuss their investigation and answer their questions.
5/18/2010	1.20	Talk with other parents and our daughter after the OCR completed their investigation of girls on the team.
5/21/2010	.20	Hear from 2 nd attorney that her firm has no conflict representing us and that she will investigate our insurance information and write letters.
5/25/2010	.50	Identify contact information for other attorneys on the case to set up a meeting to strategize on next steps.
5/27/2010	1.10	Email other attorneys on the case about a meeting to discuss next steps. One attorney agrees we can meet in his offices. Email the ACLU to see if she can join us.
5/29/2010	6.20	Research and review information about depositions and affidavits. Begin to draft possible questions for deposition of defendants; players, coach, school administrator, and other witnesses. Work on responses to Plaintiff's interrogatories.
6/1/2010	.40	Email and respond to attorneys regarding best time to meet. Agree on date and time.
6/2/2010	.20	Send another email to James Smith (legislator) about the case and his pending anti-SLAPP bill and ask again for a response.
6/8/2011	.30	Send reminder email to attorneys about upcoming meeting. Hear from 2 nd attorney that she can no longer help us out as she is leaving her firm.
6/9/2011	.20	Receive email from James Smith that he is interested in talking about the case and in setting up a time to talk.
6/10/2011	.50	Talk to James Smith about the case and his pending anti-SLAPP bill. He says to keep him posted on progress, but he is unable to represent us as he already has too much going on. He recommends other names to call for referrals.
6/11/2011	2.30	Meet with attorneys for other defendants and the ACLU to discuss case.
6/14/2011	.20	Send email to OCR regarding the status of their investigation. Receive email from opposing counsel granting 21-day extension on filing responses to their Discovery.
6/16/2011	1.30	Call and email names of other attorneys for possible referrals.
6/22/2011	.50	Review response filed by another attorney for plaintiff's Discovery request.
6/26/2011	8.40	Revise response to Plaintiff's discovery (interrogatories and requests for documents) and make copies of materials for attachments and for sending to the other attorneys. Draft cover sheets.

		Also prepare a response to discovery requested by Mr. Ayer, representing one of the other defendants. Begin to draft possible questions for Requests for Admission. Research and print out information on filing requests to admit.
6/30/2011	2.10	Make copies and mail responses to plaintiff's first requests to admit and request for documents and to other attorneys discovery requests.
7/3/2011	5.40	Review, revise, and draft questions for requests to admit.
7/7/2011	.40	Email ACLU for advice on requests to admit.
7/9/2011	.40	Email and talk by telephone to 1 st amendment expert/law professor/attorney about supporting our case. He requests that I send him packet of materials and he'll review; maybe he can help draft letter to insurance company.
7/10/2011	4.20	Pull together updated packet of materials to mail to attorney.
7/14/2010	6.40	Type and print out new timeline. Make copies of relevant files.
7/16/2010	.30	Review plaintiff's response to other defendants' interrogatories and requests for production of documents. Print out copies from CD.
7/18/2010	2.20	Email OCR about status of investigation and review email reply.
7/24/2010	5.20	Continue to edit and revise drafts of requests to admit.
7/28/2010	1.20	Receive OCR Final Report of their investigation (12 pages). Print out and review findings. Forward information to ACLU and other attorneys.
8/4/2010	.40	Review another attorney's 1 st supplementary request to Plaintiff for interrogatories and request for documents, and requests to admit.
8/6/2010	3.30	Talk to ACLU and get further advice on request to admit.
8/11/2010	.50	File FOIA request with US Dept of Education to get a copy of OCR notes from their investigation.
8/19/2010	.30	Review another attorney's response to plaintiff's request for interrogatories and requests for documents.
8/20/2010	3.40	Receive notice of a 1 st Deposition of Coach set for Sept. 23, 2010 called by one of the other attorneys in the case.
8/26/2010	.40	Meet ACLU at lunch to discuss requests to admit and next steps. Finalize our First set of Interrogatories and First Requests for Documents and Pam's First Requests to Admit and print out for mailing to all parties.
8/28/2010	7.60	Review another attorney's response to Plaintiff's 1 st Interrogatories.
8/29/2010	.30	Continue to work on deposition questions for the coach and to research information on taking depositions.
9/5/2010	4.20	Email 2nd attorney (that we met with in May) to see if she is still able to represent us now that she is setting up her own practice.
9/8/2010	1.20	Email and call the office of law professor where I had mailed packet of information in early summer. Discover he has been gone all summer and has not been able to look at our files. Request that they please send the information back to me.
9/9/2010	.40	Edit and revise deposition questions for coach.
9/14/2010	.20	Review plaintiff's response to one attorney's request to admit.
9/17/2010	4.20	Email and call US Dept of Education regarding the status of my FOIA request.
9/18/2010	2.20	Email the OCR regarding the status of the FOIA request.
		Receive in the mail and review the FOIA requested information.
		Make copies of FOIA information and draft deposition questions

		based on new information.
9/19/2010	6.20	Continue to edit/revise deposition questions and prepare items to attach as exhibits.
9/20/2010	.40	Email and talk to ACLU and others about deposition.
9/21/2010	.60	Email 1 st attorney who says she now cannot take on our case, but can recommend others in her firm. Call and email her referral.
9/23/2010	2.20	Review email and letter that the first deposition with the coach has been cancelled and will be rescheduled. Talk to 3rd recommended attorney about scheduling a meeting. Spend time pulling together notes and updating timeline for meeting with other attorney.
9/24/2010	2.20	Meet with other attorney to discuss case. Leave insurance company notes for attorney to research information about sending a letter to insurance company regarding their denying us coverage.
9/27/2010	.30	Receive notice of new deposition now scheduled for Oct. 19, 2010.
9/28/2010	.30	Email an attorney representing another defendant on the case about the subpoena HR files he had requested on the coach months before to see if they had ever received them.
9/29/2010	4.40	Review and respond to email response from attorney that he will send copies of HR files. He also requests copies of FOIA information. Make copies of FOIA to send. Revise drafts of response to 2 nd set of Interrogatories from the Plaintiff and requests for documents with exhibits attached.
10/1/2010	.30	Speak to 3 rd attorney about his research into our insurance company's denial of coverage. He says that after several hours of research, he doesn't feel that there is anything we can do, but he is still willing to draft a letter if we want. We say that is not necessary.
10/6/2010	.80	Email James Smith and other attorney/law professor about the case. Hear back from law professor that he could meet with me.
10/8/2010	3.20	Receive and review copy of Subpoenaed HR files on the coach.
10/10/2010	.30	Email attorney with question about subpoena files and deposition.
10/12/2010	1.30	Meet with law professor about case.
10/15/2010	.40	Email ACLU about next steps and about the deposition.
10/16/2010	5.20	Edit and put together final notes for deposition questions.
10/17/2010	6.40	Organize files and prepare exhibits in the order of questions being asked for deposition and label exhibits.
10/19/2010	1.60	Email attorney to confirm deposition on Oct. 20. Discover deposition is cancelled because the attorney has settled with plaintiff. Speak to attorney. Contact the other attorneys and defendants to let them know. Email ACLU and law professor for guidance.
10/20/2010	2.10	Pull together notes and files for meeting with ACLU.
10/21/2010	2.20	Meet with law professor and ACLU regarding next steps with case.
10/23/2010	4.20	Do research on how to file Motions for Summary Judgment, Motions to Compel, and affidavits.
10/25/2010	.30	Review bill from attorney who spent 3 hours researching insurance company denial of coverage to determine that nothing could be done.
10/26/2010	.30	Email law professor to see if we can meet to talk about motion for summary judgment and drafting affidavits.
10/27/2010	1.30	Draft motion to compel discovery. Talk to ACLU about draft and

		required forms.
10/29/2010	.20	Receive notice of another deposition scheduled of coach for Nov 18, 2010. Also hear that same attorney is negotiating with plaintiff for settlement.
10/30/2010	5.20	Work on 2 nd requests to admit with husband (other defendant).
11/1/2010	2.20	Get advice on what needs to be filed for motion to compel discovery. Draft forms.
11/2/2010	.40	Talk to ACLU about what forms to file for motion to compel discovery.
11/3/2010	.20	Receive email from attorney that they are negotiating a settlement with plaintiff.
11/4/2010	.10	Email law professor about meeting regarding next steps.
11/6/2010	4.30	Continue to work on deposition questions, requests to admit, and timeline for affidavits.
11/8/2010	.30	Discuss contacting opposing counsel to say we still have not received response to our Discovery.
11/12/2010	.20	Email law professor about meeting.
11/14/2010	3.70	Make final changes to motion to compel discovery and forms for filing. Put together timeline for affidavits.
11/15/2010	.40	Receive and review a 1 st settlement offer from opposing counsel for us to pay his client.
11/16/2010	.30	Send email to ACLU about settlement offer and seeking advice.
11/17/2010	2.10	Meet with law professor to talk about requirements for filing a motion for summary judgment and drafting our affidavits.
11/19/2011	.30	Receive email and notice that a third attorney has settled with plaintiff and the deposition he called with the coach has also been cancelled.
11/21/2010	2.10	Draft response letter to Plaintiff re: 1st negotiation of offer to settle.
11/27/2010	4.10	Draft affidavits to accompany motion to compel discovery and pull together final set of documents to file and mail.
11/28/2010	1.20	Get affidavits notarized.
12/3/2010	.30	Email the judge's law clerk about the status of a ruling on our motion to dismiss (heard April 22, 2010). Email other attorneys on the case who have settled to see if they still want to receive copies of materials filed. Most respond that this is no longer necessary.
12/3/2010	.40	Email clerk of court regarding status of hearing on our motion to compel discovery and motion for summary judgment. Get a reply that it probably won't be for several months.
12/9/2010	.30	Receive and review a 2nd counter offer from Plaintiff to settle the Case (if we agree to gag order and not to seek sanctions against them or to counter-sue).
12/12/2010	3.20	Prepare materials to copy and send to the other attorneys on the case as a courtesy.
12/21/2010	.30	Have a phone conversation with ACLU about counter offer response. Hear from another Pro Se Defendant that the judge has ruled on the April 22 hearing on motion to dismiss, denying the motion.
12/22/2010	1.50	Draft counter offer response to Plaintiff's counsel.
1/3/2011	.40	Email clerk of court and judge's law clerk re: status of hearing on two motions filed in November.
1/6/2011	.20	Read responses from judge's law clerk and clerk of court on when a next

		hearing might be scheduled.
1/10/2011	.50	Email law professor and ACLU for advice on next steps with summary judgment motion and for depositions of plaintiff and others.
1/14/2011	.30	Read response from law clerk that a hearing will not be scheduled in February because a "party is protected." Email others for clarification on what this means.
1/16/2011	2.40	Continue to pull together questions for deposition(s) if needed.
2/5/2011	.40	Get notice from the courts that a hearing has been scheduled for Feb 23, 2011 on our two motions filed. Forward information to ACLU and law professor for guidance on next steps.
2/7/2011	1.20	Talk to ACLU and get input on what to expect in the hearing. Draft cover letter to plaintiff's counsel and make copy of court notice and motion to compel discovery requests to mail.
2/10/2011	2.40	Talk with law professor and get guidance on what to expect in the hearing on two motions. Take notes. Do additional research on motion to compel discovery and motion for summary judgment and look up relevant cases to cite. Print copies for use in hearing.
2/11/2011	1.30	Receive email from plaintiff's counsel that they will file a motion for continuance on the hearing on the two motions, citing other conflicts on that day. Forward msg to others for guidance on next steps.
2/12/2011	4.20	Discuss strategy. Draft timeline for affidavit of all settlement negotiations that have transpired between opposing counsel and defendants, and stating that copies of materials were sent to all parties. Draft motion for order to compel discovery along with a timeline of what events transpired as part of our good faith attempts to try to obtain discovery materials from opposing counsel.
2/15/2011	2.40	Speak to ACLU. Receive copy of motion filed by opposing counsel with courts requesting a continuance on the hearing for both motions. Draft cover letter to the courts objecting to the request for continuance on the hearing for the motion to compel, but agreeing to the request for continuance on the motion for summary judgment.
2/16/2011	3.20	File copy of response with the courts and email the same information to opposing counsel.
2/18/2011	.60	Receive email from opposing counsel addressed to judge's law clerk requesting a conference hearing with the judge regarding the case, and stating they will file a motion for an order to allow continuance of the hearing on both motions. Email law clerk to identify that we oppose the order to allow continuance on the hearing on both motions, and have filed a response with the courts.
2/19/2011	4.20	Prepare for possible hearing on both the motion for summary judgment and motion to compel discovery. Make copies of relevant materials. Sort through files.
2/21/2011	2.20	Get materials notarized. Make copies of materials for hearing. Receive copy of order filed by opposing counsel with motion to allow continuance.
2/22/2011	5.20	Hear from law clerk that the judge will probably agree to allow

		continuance on the motion for summary judgment, but a decision has not yet been made on the motion to compel discovery. Make copies of all relevant materials and prepare files to present to judge and opposing counsel in case both motions are heard. Review notes.
2/23/2011	.20	Receive note from judge's law clerk that only the motion to compel discovery will be heard that day.
2/23/2011	2.20	Attend hearing on motion to compel discovery. Speak at hearing.
2/24/2011	.10	Email judge's law clerk and clerk of courts about having to re-file motion for summary judgment for it to be scheduled on next open court date. Hear back that this is not necessary.
2/28/2011	1.20	Receive copy of email from opposing counsel requesting a conference hearing with the judge and other defendants. Email ACLU and law professor for guidance.
3/1/2011	.30	Review and respond to email exchanges with law clerk to find a date for conference hearing. A date is set for 12 noon, March 21, 2011.
3/2/2011	.30	Email judge's law clerk to request that the motion for summary judgment be heard at the same time as the conference hearing.
3/4/2011	.40	Law clerk replies that she has not yet heard from the judge. Receive email from opposing counsel objecting to having the motion for summary judgment heard at the same time as the conference hearing.
3/6/2011	4.20	Begin to pull together information for conference hearing, including legal expenses to date.
3/7/2011	3.20	Hear back from law clerk that the judge will not hear the motion for summary judgment at the same time as the conference hearing. Continue to pull together summary of legal expenses.
3/11/2011	.50	Read response to discovery requests sent by Plaintiff.
3/13/2011	2.20	Prepare for conference hearing and read through notes. Sort files.
3/20/2011	3.20	Do final preparation for conference hearing and make copies of relevant materials. Re-read notes. Pull files together.
3/21/2011	1.30	Attend and speak at conference hearing.
4/2/2011	4.40	Begin preparing for Motion for Summary Judgment Hearing.
4/8/2011	3.10	Receive/print out/review e-mail response from Plaintiff to our motion to compel Discovery.
4/9/2011	5.40	Prepare notes and make copies for upcoming Motion of Summary Judgment Hearing.
4/10/2011	4.10	Prepare for Motion for Summary Judgment/Copy Documents.
4/11/2011	5.20	Receive last minute email affidavit response to original request for Motion for Summary Judgment from Plaintiff, spend additional time to prepare response and to make copies for the court the next day.
4/12/2011	5.30	Final preparation for hearing; Attend and present at Motion for Summary Judgment Hearing.
4/13/2011	1.10	Review/read through various affidavits and responses presented and filed by Opposing Counsel during the Motion for Summary Judgment hearing to determine next steps in case.
4/16/2011	3.40	Begin to compile Fact Witness List for Scheduling Order Deadline.
4/19/2011	2.10	Research information on fact witnesses and calling depositions.
4/27/2011	0.40	Revise and finalize Fact Witness List.

4/29/2011	1.30	Submit and File Fact Witness List with Courts and Send to Opposing Counsel per Scheduling Order deadline of 4/30/2011; File response to Plaintiff's affidavit with the Courts.
4/30/2011	.40	Email opposing counsel regarding having not yet received their fact witness list and inquiring as to its status.
5/2/2011	.30	Receive response from Opposing Counsel that they believe most of their fact witnesses had already been identified through previous discovery.
5/2/2011	0.50	Email to check the status of a ruling on Motion for Summary Judgment; Receive Email communication from Law Clerk identifying she thinks Ruling has been issued on Motion for Summary Judgment and it should be arriving in the mail at any time.
5/12/2011	0.40	Email judge's law clerk for information on how to find out information online re: when orders have been filed, as the defendants had still not received anything in the mail regarding a ruling on the Motion for Summary Judgment.
5/20/2011	0.30	Receive and read email from Judge's law clerk that she had been incorrect and that there had not yet been a ruling on the Defendants' motion for summary judgment.
5/23/2011	2.20	Research and Seek Legal Advice regarding whether there is a need to prepare an Expert Witness List, per the next scheduling order deadline.
5/25/2011	3.40	Draft a letter to opposing counsel requesting that they respond ASAP to the Judge's April 30 Scheduling Order for fact witnesses and specifically requesting that they identify un-named fact witnesses alluded to in their affidavit and motions filed in objection to our Motion for Summary Judgment at the hearing on April 12. Letter identifies that if we not receive information by May 31, we will be forced to pursue a Motion to Compel, as we will not be able to adequately complete our Discovery. Defendants repeat their counter offer to settle if the Plaintiff agrees to pay their reasonable fees.
5/27/2011	1.20	Communicate with opposing counsel requesting their Fact Witness List per Judge's Scheduling Order so Defendants can adequately prepare their Defense and who they will need to depose as witnesses and email attached letter and send a copy in the mail.
5/31/2011	0.30	When Defendants do not receive Plaintiff's Fact Witness List, Defendants email judge's law clerk for clarification on wording by the judge that stipulates that "Any issues that may arise with this scheduling order must be brought to the attention of the undersigned judge immediately," to determine if this issue falls under that category.
6/1/2011	0.50	Receive email from opposing counsel with the list of fact witnesses now attached, and identifying his concerns with defendants communicating with the judge's law clerk without copying him (Plaintiff) and informing Defendants of proper communication procedures.
6/2/2011	1.20	Draft and send email to Opposing Counsel apologizing for any inappropriate communication procedures that they were not aware of. We request response from Opposing counsel regarding our settlement Offer before we move on to next steps in calling witnesses.
6/6/2011	2.40	Receive email response to Request for Fact Witness List from Plaintiff, but no response to settlement offer. Print out and review in preparation

		for next steps in Discovery
6/6/2011	1.10	Research information on deposing witnesses and court reporters.
6/7/2011	2.20	Begin contacting parents and players to determine their availability between mid-June through late July for depositions.
6/9/2011	0.40	Prepare letter and Email opposing counsel requesting several dates he and his client would be available between mid-June through late July to schedule depositions of several witnesses (named in letter). Mail same letter to counsel.
6/10/2011	0.50	Email counsel for District Five Human Resources Director requesting 4 or 5 days she would be available to be deposed between mid-June through late July.
6/10/2011	0.50	Email District Five Human Resources Director requesting 4 or 5 days she would be available to be deposed between mid-June through late July.
6/13/2011	3.50	Receive email from Opposing Counsel regarding a Settlement Offer that they agree to drop the case but refuse to pay any of our legal fees; We prepare counter response to Settlement offer to agree that they dismiss the case and that our request for costs, fees or sanctions be issued to the courts for determination; email and mail reply to opposing counsel.
6/15/2011	4.20	Receive no response to counter offer from Opposing Counsel; review notes and begin to prepare for depositions we want to call for defense, including plaintiff, school administrators, players and parents.
6/17/2011	2.10	Continue contacting possible witnesses for dates/times they are available to be deposed.
6/17/2011	1.40	Leave message for HR Director re: response to dates she is available to be deposed; Leave message for counsel for HR Director re: response to dates she is available to be deposed. Hear back from HR Attorney that she will not testify under attorney client privileges and would fight that in the courts if called, and that her client (HR Director) also refuses to testify without a subpoena.
6/19/2011	0.40	Receive letter from attorney for HR Director that stating the above.
		Read and review information to identify next steps.
6/20/2011	2.20	Research information and print out forms regarding how to subpoena individuals for depositions. Begin preparing subpoena.
6/22/2011	4.20	Continue to research information on forms for filing a subpoena and researching places to hold depositions and costs for court reporters. Begin contacting various places regarding open dates.
6/23/2011	0.20	Leave message with opposing counsel again requesting dates he and his client will be available for depositions that need to be called (per Judge's Discovery Deadline of July 31, 2011). Receive no response.
6/23/2011	3.20	Prepare draft of subpoena and other papers to file for HR Director.
6/24/2011	6.30	Continue to prepare questions for depositions of possible witnesses and contact witnesses for availability for calling depositions; research names and locations for deposing clients; continue to make calls regarding costs for court recorders and possible dates for deposing witnesses.
6/27/2011	2.20	Subpoena papers are served on HR Director. Copy of papers are sent to Opposing Counsel identifying July 15 as date to depose the Plaintiff, the HR Director, and another witness.

6/27/2011	2.50	Prepare second letter and forms to send to Opposing Counsel regarding date, location, and time (July 8) we plan to call our first set of witnesses. Email and mail forms to Opposing Counsel so within the 10-day notice.
6/28/2011	2.20	Receive email copy of a motion to dismiss the case from Plaintiff sent to Clerk of Courts and Judge requesting that the case be dismissed with prejudice and that all parties pay their own legal fees. Review materials.
6/28/2011	3.40	Prepare response to motion to dismiss agreeing to dismissal of case but objecting to all parties paying their own legal fees, and requesting a hearing to be able to seek sanctions and fees.
6/29/2011	1.20	Fax response with Clerk of Courts and email to opposing counsel. Send copy in the mail to Judge's office and to Opposing Counsel.
6/30/2011	1.40	File response to Motion to Dismiss with Courts and mail hard copies.
7/1/2011	1.20	After receiving no response throughout June for requests for dates when opposing counsel would be available for depositions, we now receive our first response from Opposing Counsel that indicates he is not available on 7/8 for our first scheduled depositions, due to another conflict, but would be available on 7/15 for the second set of depositions called. Email also indicates that while he is currently on a trial roster for the following week (7/18) he has requested to move that to the week of 7/25. He indicates that we should also be aware that he intends to notice both of us during this time period as well. And finally the email indicates that since he will be out of the office, we should either email or contact his paralegal.
7/5/2011	2.40	Search for other dates to depose a number of students (players) that had been scheduled for July 8; reschedule meeting location and confirm dates/times with court reporter.
7/6/2011		Call Opposing Counsel's paralegal and confirm date of 7/22/11 is available to reschedule depositions of players. Confirm with paralegal that 7/8 deposition will be rescheduled for 7/22/11.
7/6/2011	4.50	Continue to research and draft questions for deposing witnesses and confirm date of 7/22 with key witnesses. Confirm date and location with court reporter. Prepare deposition motions to go to opposing counsel.
7/7/2011	0.50	Email Opposing counsel to acknowledge that he was aware of the phone conversation with his paralegal the day before confirming 7/22/11 as new date for depositions. Receive email from opposing counsel stating that his paralegal was incorrect, and that now 7/22 was actually not available, but he could do 7/21 or 7/20. The defendants had already contacted all the witnesses to confirm the 7/22 date, and the other two dates were not available for all the witnesses.
7/7/2011	0.50	Filed response to motion to dismiss the case with the courts.
7/8/2011	8.20	Continued to draft questions and review notes for deposing witnesses.
7/11/2011	1.20	Hear back from attorney for HR director originally deposed for 7/15/11 now identifying that this date will not work for her client, however, 7/20 or 7/21 were available. We indicate other possible dates that would work. Call back to court reporter to check her availability during those weeks and to reschedule room for those dates.
7/12/2011	0.40	Email opposing counsel to identify that the depositions called for 7/15 of HR director and his client would not take place on that date, and that

		we were in the process of rescheduling that deposition. Also informed opposing counsel that we would be available to be deposed on either 7/25 or 7/26 if he could indicate ASAP which was better for him so we could schedule something before other demands arose.
7/13/2011	1.20	Send letter to opposing counsel indicating that depositions for HR director and plaintiff were rescheduled for 7/20/11 and that we would need to keep the depositions of other witnesses for 7/22/11, but requested that he send other counsel to represent him on that day.
7/15/2011	3.50	Drafted a consent order for both parties to sign for scheduling order be held in abeyance until a hearing could be held on the Defendants' response to Plaintiff's motion to dismiss is heard and a ruling is made.
7/15/2011	0.30	Receive email response from Opposing Counsel indicating that he would be available on 7/26 to take depositions of us. He also indicates that he will be filing a reply to our earlier response objecting to their motion to dismiss and requesting the judge rule on their motion. He also inquires as to whether we would agree to a short extension of the discovery deadline to allow the courts time to rule on their motion.
7/15/2011	2.20	Receive email of Plaintiff's reply (sent to Judge's law clerk) to the Defendants' Objection to Plaintiff's Motion to Dismiss, and requesting that the Judge rule on the Motion to Dismiss the case.
7/15/2011	1.10	Send a follow-up email to Opposing Counsel indicating that we propose submitting a joint order requesting the judge schedule a hearing on the outstanding motion to dismiss the case, and holding the scheduling order in abeyance until such time as a ruling was issued.
7/17/2011	.30	Receive response from opposing counsel agreeing to attached order signed by both parties and saying we should postpone depositions scheduled for the following week (which we had called) and asking for clarification on dates/times of depositions that have been called.
7/17/2011	1.20	Reply to Opposing Counsel via email with a thank you for agreeing to Submit consent order to the courts. Since there is no assurance that the Judge will extend the times in scheduling order, we state we are not willing to postpone depositions (7/20and 7/22) without a ruling.
7/18/2011	1.10	Opposing counsel sends email reply indicating that he would file the consent order that morning via email. He also indicates that he was not aware of receiving an amended notice for the July 20 deposition, and would not be available for July 22 deposition. Since his firm recently reorganized, he didn't feel any other attorneys would be available. He added that since the main purpose of the motion to dismiss was to avoid the costs of these depositions, he cannot agree to take depositions until this matter is resolved. He also indicated that our other alternative of leaving the issue of costs and fees open was unacceptable. He stated that they were offering to dismiss their case prior to taking any depositions, and feel as though the costs of depositions is being used as leverage against his client in an effort to have him agree to make himself liable for costs. Further, he indicated that we have made serious allegations of violations of Rule 11, which he simply will not agree to leave open.
7/18/2011	1.0	Email to opposing counsel to ask if one of them could contacted the clerk of courts to see if the Judge was in town this week. Opposing

7/19/2011	0.40	counsel replies that this would be helpful, but he is too busy . Received email from Opposing counsel that he had just received the formal notice of deposition of HR Director for 7/20, and less than two days notice was insufficient, especially with his busy schedule, and that the deposition needs to be rescheduled (even though this was already sent to him the week before). He also indicated he had not heard back from us concerning our depositions (although we had already indicated to him the dates we were available, which he had confirmed). He further indicated that we would need to agree upon dates to take our depositions and reschedule the depositions for this week.
7/19/2011	.20	Called and left a message and sent email to Attorney for HR director indicating that we were cancelling the deposition scheduled for 7/20 and would reschedule at a later date.
7/20/2011	.40	Receive email from Opposing Counsel that he had received a signed order from the judge faxed to him, and that he would email to us if we had not received this. We responded that we had not received a copy of the order. Opposing counsel set a copy via email attachment.
7/21/2011	.20	Received Notice of Case Roster Published that showed a date of 8/2 for hearing for pre-trial motions on the case, as indicated in the previous Scheduling Order. Plaintiff's attorney emailed judge's law clerk to remedy this and indicate that the judge has signed a consent order to hold in abeyance the scheduling order until a ruling could be made on the proposed order to dismiss.
8/26/2011	.20	Received notice from Clerk of Courts that a hearing is scheduled for Sept 13 at 9:30 am on Plaintiff's motion to dismiss and our request for a separate hearing to for costs and sanctions.
8/31/2011	4.30	Begin drafting memo to file for hearing on Sept 13.
9/07/2011	5.20	Revise memo to file for hearing and make copies of exhibits.
9/11/2011	6.20	Prepare final copies of materials for hearing on Sept 13.
9/12/2011	3.20	Read and prepare response to affidavits received on 9/12; Get responses notarized.
9/12/2011	0.30	Read email from opposing counsel received 4:30 pm requesting a rescheduling of the hearing the next day.
10/09/2011	1.00	Prepare for new hearing set for Oct 10.
10/10/2011	2.00	Attend and present at hearing; file materials with the courts.
10/13/2011	4.20	Research and start to draft Motion for Sanctions.
10/16/2011	5.10	Continue to research and revise Motion for Sanctions.
10/19/2011	3.40	Make final changes to Motion for Sanctions.
10/20/2011	1.30	File final Motion for Sanctions.
10/29/2011	4.30	Research background material and cases related to sanctions, ethics.
11/05/2011	2.40	Continue researching cases regarding sanctions and fees.
11/11/2011	6.40	Review all past Files, Notes, Discovery and Make Notes for Motion.
11/12/2011	4.30	Continue to review past files and take notes for final Brief.
11/19/2011	5.20	Work on Draft of Legal Brief.
11/20/2011	1.20	Work on Legal Brief.
11/26/2011	2.20	Research and work on Legal Brief.
12/03/2011	4.40	Continue to research and work on Legal Brief.
12/04/2011	2.10	Continue to research and work on Legal Brief.

12/10/2011	3.40	Work on draft of Brief.
12/17/2011	4.20	Continue to edit and work on Brief.
12/19/2011	2.10	Meet with Legislator (Smith) re: SLAPP legislation related to sanctions.
12/24/2011	5.30	Continue to revise and edit Legal Brief.
12/26/2011	6.20	Continue to edit, revise and draft Legal Brief.
12/27/2011	4.10	Continue to edit Legal Brief.
12/28/2011	1.50	Revise Legal Brief.
12/31/2011	0.50	Continue making final edit to Brief.
1/05/2011	2.40	Continue making final cuts to Brief.
1/08/2011	5.20	Pull together and Mark Exhibits; Make copies.
1/13/2011	2.20	Continue to mark Exhibits.
1/14/2011	3.00	Continue to revise Brief and Exhibits and Make Copies.
1/15/2011	3.40	Go through final Copies to Brief and Preparation of Materials.
1/17/2011	2.00	Attend and Participate in Hearing on Motion for Sanctions.

TOTAL: 583.40 Hours

(Pam Weiss's hourly rate-University of South Carolina, Research Associate (in 2010): \$42.53)

TOTAL: 583.40 hours x \$42.53 = \$24,812.00 (Pam Weiss, Pro Se)

III. B. Breakdown of Pro Se Hours for Murray Mitchell: Case # 2009CP32055708

Michael Mauldin, Plaintiff, vs. Carol Vander Heide, Murray Mitchell, Pamela Weiss, Eileen Korpita, Karl Werdunn, Debra Werdunn, and Mark E. Kosobucki

<u>Date</u>	<u>Hours</u>	<u>Services/Activity</u>
12/28/2009	1.40	Read through summons notice after being served papers; contact others for advice on next steps and legal recommendations .
12/31/2009	2.60	Review timeline of all activities to date to have available for attorney and help sort materials to prepare a packet of information. Begin developing comprehensive list of witnesses.
1/4/2010	1.50	Speak to other defendants about best approaches to legal defense. Drop off copy of law suit to insurance company to file.
1/9/2010	.60	Draft questions for attorney for meeting with other defendants.
1/10/2010	2.50	Meet with attorney and other defendants to discuss case and answer questions.
1/11/2010	.40	Talk with other defendants about legal options and next steps.
1/14/2010	3.60	Meet with attorney to go over the case, discuss defenses, identify next steps and to sign a retainer.
1/16/2010	2.10	Review and discuss research on first amendment rights, SLAPP and anti-SLAPP laws, SC laws, federal SLAPP legislation, legal cases involving protected speech, and various support groups to contact.
1/25/2010	.40	Correspond with insurance company about their response denying our request for coverage of the law suit.
2/8/2010	2.10	Respond to one of the other defendants via email with a list of the attorneys representing the other defendants on the case. Make copies of OCR complaint for our attorney and drop it off at her office.
2/18/2010	.40	Review a letter from the ACLU that they are interested in the case, with a request to call them about a good time to meet.
2/22/2010	1.30	Meet ACLU over lunch to discuss case. Take notes regarding next steps and possible defenses and proceeding with motion to dismiss. ACLU agrees to communicate with our attorney to provide any support.
2/23/2010	.90	Read and respond to email from attorney regarding ACLU conversation and requesting a meeting to regroup and discuss strategy.
2/24/2010	2.20	Meet attorney to discuss next steps in defense and responses to file for original lawsuit. Discuss anticipated costs. Agree on strategy. Email back to attorney re: next steps.
2/25/2010	.50	Review email from attorney with draft responses to lawsuit. Email back to say ok to file answers.
3/9/2010	.50	Review responses filed by other defendants in the case and requests for interrogatories and production of documents.
3/16/2010	.50	Receive and review bill and request from the attorney for a second

		retainer. Discuss strategy.
3/20/2010	1.40	Draft a letter to attorney to end contract and relieve counsel from representing us.
3/22/2010	.90	Drop letter off to attorney with our request to relieve her. Call and email attorney as a follow-up to confirm she received the information.
3/23/2010	2.10	Sign consent orders to relieve counsel and drop off copies at attorney's office.
3/24/2010	.30	Review papers filed by attorney with court and opposing counsel requesting permission for her to be relieved and that the clients represent themselves pro se.
4/15/2010	4.30	Drive to midway location (between Charleston and Columbia) to meet with the ACLU and take notes for hearing on motion to dismiss case. Receive and review another bill from the first attorney for additional fees incurred in filing of papers to relieve her of counsel.
4/16/2010	.80	Go to attorney's office and pay final bill and retrieve all files and notes left with attorney while she was under retainer.
4/17/2010	4.20	Draft notes and prep for hearing.
4/20/2010	.30	Draft Pro Se contact information for courts.
4/21/2010	4.10	Review notes and prepare for hearing the next day. Organize files to bring to the court.
4/22/2010	2.40	Attend and present at hearing on the motion to dismiss the case. Talk afterwards with ACLU about next steps.
4/29/2010	1.20	Review plaintiff's response to another Defendant's request for Interrogatories and Requests for Documents.
5/11/2010	1.20	Receive and review 1 st set of interrogatories and production of documents from Plaintiff.
5/12/2010	.20	Review note sent home with kids from School Principal about upcoming interviews with the OCR.
5/13/2010	2.20	Meet with other attorney regarding representation on the case. Bring copies of home owner's insurance and response by insurance co. denying coverage in the case. Attorney agrees to file letter for us.
5/17/2010	1.30	Meet with OCR liaisons to discuss their investigation and answer their questions.
5/18/2010	1.20	Talk with other parents and our daughter after the OCR completed their investigation of girls on the team.
6/11/2011	2.30	Meet with attorneys for other defendants and the ACLU to discuss case. Email Plaintiff's council to request 30-day extension on filing of response to interrogatories.
6/22/2011	.50	Review response filed by another attorney for plaintiff's Discovery request.
6/30/2011	2.10	Make copies and mail responses to plaintiff's first requests to admit and request for documents and to other attorneys discovery requests.
7/3/2011	2.20	Review, revise, and draft questions for requests to admit.
7/14/2010	2.40	Review plaintiff's response to other defendants' interrogatories and requests for production of documents.
7/18/2010	2.20	Continue to edit and revise draft of requests to admit.
7/24/2010	4.20	Received OCR Final Report of their investigation (12 pages). Print out

		and review findings.
7/28/2010	1.20	Review another attorney's 1 st supplementary request to Plaintiff for interrogatories and request for documents, and requests to admit.
8/11/2010	.50	Review another attorney's response to plaintiff's request for interrogatories and requests for documents.
8/19/2010	.30	Receive notice of a 1 st Deposition of Coach set for Sept. 23, 2010 called By one of the other attorneys in the case.
8/20/2010	1.40	Meet ACLU at lunch to discuss requests to admit and deposition.
8/21/2010	2.30	Mail and copy our first Set of Interrogatories and First Requests to Admit to opposing council and to other attorneys on the case.
8/26/2010	.40	Review another attorney's response to Plaintiff's 1 st Interrogatories.
8/28/2010	3.60	Continue to work on deposition questions for the coach.
9/5/2010	4.20	Edit and revise deposition questions for coach.
9/8/2010	1.20	Review plaintiff's response to one attorney's request to admit.
9/17/2010	2.20	Review the FOIA requested information.
9/19/2010	3.20	Continue to edit/revise deposition questions.
9/23/2010	.20	Receive email and letter that the first deposition with the coach has been cancelled and will be rescheduled.
9/24/2010	2.20	Meet with 3rd attorney to discuss case. Leave insurance company notes for attorney to research information about sending a letter to insurance company regarding their denying us coverage.
9/27/2010	.30	Receive notice of new deposition now scheduled for Oct. 19, 2010.
9/29/2010	1.20	Make copies of response to 2 nd set of interrogatories to file with other attorneys.
9/30/2010	.50	Mail copies of requests for discovery to plaintiff and to other attorneys.
10/8/2010	3.20	Review copy of Subpoenaed HR files on the coach.
10/12/2010	.50	Send email to opposing counsel about not receiving a response to 1 st set of interrogatories (sent August 21) and requesting a response.
10/16/2010	5.20	Edit and put together final notes for deposition questions.
10/18/2010	1.40	Write letter to opposing counsel to say that we have still not received a response to 1 st set of interrogatories and require an immediate response or we would file a motion to compel discovery. Mail letter with cover pages to plaintiff and to other attorneys.
10/19/2010	.60	Discover deposition will be cancelled because the attorney has settled with plaintiff. Talk to others for advice.
10/25/2010	.30	Review bill from attorney who spent 3 hours researching insurance company denial of coverage to determine that nothing could be done.
10/29/2010	.20	Receive notice of another deposition scheduled of coach for Nov 18, 2010.
10/30/2010	5.20	Work on 2 nd requests to admit with wife (other defendant).
11/6/2010	4.30	Continue to work on deposition questions, requests to admit, and put together timeline for affidavits.
11/8/2010	.30	Call opposing counsel to say we still have not received response to our Discovery and that we will file a motion to compel discovery if no response received.
11/10/2010	1.20	Mail Murray's first request for admission. Copy and mail to all attorneys.

11/15/2010	2.10	File motion to compel discovery with the courts.
11/15/2010	.40	Receive and review a 1 st settlement offer from opposing counsel for us to pay his client.
11/19/2011	.30	Receive email and notice that a third attorney has settled with plaintiff and the deposition he called with the coach has been cancelled.
11/21/2010	2.10	Draft response letter to 1st negotiation of offer to settle.
11/23/2010	1.20	Send reply to the offer to settle to the plaintiff's counsel.
11/27/2010	4.10	Draft affidavits to accompany motion to compel discovery.
11/28/2010	1.20	Get affidavits notarized.
11/30/2010	2.20	File motion for summary judgment with the courts. Make copies and mail to opposing counsel.
12/9/2010	.30	Receive and review a 2nd counter offer from Plaintiff to settle the case.
12/12/2010	3.20	Make copies of materials filed to send to the other attorneys on the case.
12/13/2010	.40	Mail materials to other attorneys.
12/21/2010	.20	Hear from another Pro Se Defendant that the judge had ruled on the April 22 hearing on motion to dismiss, denying the motion.
12/22/2010	1.50	Draft counter offer response to Plaintiff's counsel.
12/24/2010	.50	Mail counter offer response.
1/6/2011	.20	Read responses from judge's law clerk and clerk of court on when a next hearing might be scheduled.
1/14/2011	.20	Read response from law clerk that a hearing will not be scheduled in February because a "party is protected."
2/5/2011	.10	Get notice from the courts that a hearing has been scheduled for Feb. 23, 2011 on our two motions filed.
2/8/2011	.20	Mail materials about hearing date to opposing counsel.
2/11/2011	.80	Receive email from plaintiff's counsel that they will file a motion for continuance for the hearing on the two motions, citing other conflicts on that day. Discuss strategy.
2/15/2011	.40	Receive copy of motion filed by opposing counsel with courts requesting a continuance on the hearing for both motions.
2/16/2011	.50	Mail copy of response filed with courts opposing continuance to opposing counsel.
2/18/2011	.20	Receive email from opposing counsel addressed to judge's law clerk requesting a conference hearing with the judge regarding the concerns, and stating they will file a motion for an order to allow continuance of the hearing on both motions.
2/21/2011	2.20	Get materials notarized. Make copies of materials for hearing. Receive copy of order filed by opposing counsel with motion to allow continuance.
2/22/2011	2.50	Hear from law clerk that the judge will probably agree to allow continuance on the motion for summary judgment, but a decision has not yet been made on the motion to compel discovery. Review and copy materials for hearing.
2/23/2011	.20	Receive note from judge's law clerk that only the motion to compel discovery will be heard that day.
2/23/2011	2.20	Attend hearing on motion to compel discovery. Speak at hearing.

2/28/2011	.20	Receive copy of email from opposing counsel requesting a conference hearing with the judge and other defendants.
3/1/2011	.30	Review and respond to email exchanges with law clerk to find a date for conference hearing. A date is set for 12 noon, March 21, 2011.
3/4/2011	.40	Law clerk replies that she has not yet heard from the judge. Receive email from opposing counsel objecting to having the motion for summary judgment heard at the same time as the conference hearing.
3/7/2011	.20	Hear back from law clerk that the judge will not hear the motion for summary judgment at the same time as the conference hearing.
3/11/2011	.50	Read response to discovery requests sent by Plaintiff.
3/20/2011	3.20	Do final preparation for conference hearing and make copies of relevant materials. Re-read notes. Pull files together.
3/21/2011	1.30	Attend and speak at conference hearing.
4/2/2011	1.20	Begin preparing for Motion for Summary Judgment Hearing.
4/8/2011	1.20	Receive/print out/review e-mail response from Plaintiff to our motion To compel Discovery.
4/9/2011	3.20	Prepare notes and make copies for upcoming Motion of Summary Judgment Hearing.
4/10/2011	1.40	Prepare for Motion for Summary Judgment/Copy Documents.
4/11/2011	4.40	Receive last minute email affidavit response to original request for Motion for Summary Judgment from Plaintiff, spend additional time to prepare response and to make copies for the court the next day.
4/12/2011	5.30	Final preparation for hearing; Attend and present at Motion for Summary Judgment Hearing.
4/13/2011	0.40	Review/read through various affidavits and responses presented and filed by Opposing Counsel during the Motion for Summary Judgment hearing to determine next steps in case.
4/16/2011	1.10	Begin to compile Fact Witness List for Scheduling Order Deadline.
4/27/2011	0.30	Revise and finalize Fact Witness List.
4/29/2011	2.30	Submit and File Fact Witness List with Courts and Send to Opposing Counsel per Scheduling Order deadline of 4/30/2011; File response to Plaintiff's affidavit with the Courts.
4/30/2011	0.50	Email opposing counsel regarding having not yet received their fact witness list and inquiring as to its status.
5/2/2011	0.30	Receive response from Opposing Counsel that they believe most of their fact witnesses had already been identified through previous discovery.
5/2/2011	0.40	Email to check the status of a ruling on Motion for Summary Judgment; Receive Email communication from Law Clerk identifying she thinks Ruling has been issued on Motion for Summary Judgment and it should be arriving in the mail at any time.
5/12/2011	1.10	Email judge's law clerk for information on how to find out information online re: when orders have been filed, as the defendants had still not received anything in the mail regarding a ruling on the Motion for Summary Judgment.
5/20/2011	0.30	Receive and read email from Judge's law clerk that she had been incorrect and that there had not yet been a ruling on the Defendants' motion for summary judgment.

5/25/2011	2.10	Draft a letter to opposing counsel requesting that they respond ASAP to the Judge's April 30 Scheduling Order for fact witnesses and specifically requesting that they identify un-named fact witnesses alluded to in their affidavit and motions filed in objection to our Motion for Summary Judgment at the hearing on April 12. Letter identifies that if we not receive information by May 31, we will be forced to pursue a Motion to Compel, as we will not be able to adequately complete our Discovery. Defendants repeat their counter offer to settle if the Plaintiff agrees to pay their reasonable fees.
5/27/2011	1.50	Communicate with opposing counsel requesting their Fact Witness List per Judge's Scheduling Order so Defendants can adequately prepare their Defense and who they will need to depose as witnesses and email attached letter and send a copy in the mail.
5/31/2011	0.50	When Defendants do not receive Plaintiff's Fact Witness List, Defendants email judge's law clerk for clarification on wording by the judge that stipulates that "Any issues that may arise with this scheduling order must be brought to the attention of the undersigned judge immediately," to determine if this issue falls under that category.
6/1/2011	0.30	Receive email from opposing counsel with the list of fact witnesses now attached, and identifying his concerns with defendants communicating with the judge's law clerk without copying him (Plaintiff) and informing Defendants of proper communication procedures.
6/2/2011	1.30	Draft and send email to Opposing Counsel apologizing for any inappropriate communication procedures that they were not aware of. We request response from Opposing counsel regarding our settlement Offer before we move on to next steps in calling witnesses.
6/6/2011	1.10	Receive email response to Request for Fact Witness List from Plaintiff, but no response to settlement offer. Print out and review in preparation for next steps in Discovery
6/9/2011	2.40	Prepare letter and Email opposing counsel requesting several dates he and his client would be available between mid-June through late July to schedule depositions of several witnesses (named in letter). Mail same letter to counsel.
6/10/2011	1.40	Email counsel for District Five Human Resources Director requesting 4 or 5 days she would be available to be deposed between mid-June through late July.
6/10/2011	1.40	Email District Five Human Resources Director requesting 4 or 5 days she would be available to be deposed between mid-June through late July.
6/13/2011	3.40	Receive email from Opposing Counsel regarding a Settlement Offer that they agree to drop the case but refuse to pay any of our legal fees; We prepare counter response to Settlement offer to agree that they dismiss the case and that our request for costs, fees or sanctions be issued to the courts for determination; email and mail reply to opposing counsel.
6/17/2011	0.20	Call HR Director for District 5 and leave message.
6/17/2011	0.20	Call Attorney for HR Director of District 5 and leave message.
6/17/2011	0.20	Call again to HR Director and leave another message.
6/17/2011	1.10	Call and speak to attorney for HR Director.

6/19/2011	0.40	Receive letter from attorney for HR Director that stating the above. Read and review information to identify next steps.
6/20/2011	1.10	Research information and print out forms regarding how to subpoena individuals for depositions. Begin preparing subpoena.
6/23/2011	1.20	reporters. Begin contacting various places regarding open dates. Leave message with opposing counsel again requesting dates he and his client will be available for depositions that need to be called (per Judge's Discovery Deadline of July 31, 2011). Receive no response.
6/23/2011	1.50	Prepare draft of subpoena and other papers to file for HR Director.
6/24/2011	2.10	Continue to prepare questions for depositions of possible witnesses and contact witnesses for availability for calling depositions; research names and locations for deposing clients; continue to make calls regarding costs for court recorders and possible dates for deposing witnesses.
6/27/2011	3.10	Subpoena papers are served on HR Director. Copy of papers are sent to Opposing Counsel identifying July 15 as date to depose the Plaintiff, the HR Director, and another witness.
6/27/2011	3.10	Prepare second letter and forms to send to Opposing Counsel regarding date, location, and time (July 8) we plan to call our first set of witnesses. Email and mail forms to Opposing Counsel so within the 10-day notice.
6/28/2011	1.10	Receive email copy of a motion to dismiss the case from Plaintiff sent to Clerk of Courts and Judge requesting that the case be dismissed with prejudice and that all parties pay their own legal fees. Review materials.
6/28/2011	2.50	Prepare response to motion to dismiss agreeing to dismissal of case but objecting to all parties paying their own legal fees, and requesting a hearing to be able to seek sanctions and fees.
6/29/2011	2.20	Fax response with Clerk of Courts and email to opposing counsel. Send copy in the mail to Judge's office and to Opposing Counsel.
6/30/2011	2.40	File response to Motion to Dismiss with Courts and mail hard copies.
7/1/2011	0.40	After receiving no response throughout June for requests for dates when opposing counsel would be available for depositions, we now receive our first response from Opposing Counsel that indicates he is not available on 7/8 for our first scheduled depositions, due to another conflict, but would be available on 7/15 for the second set of depositions called. Email also indicates that while he is currently on a trial roster for the following week (7/18) he has requested to move that to the week of 7/25. He indicates that we should also be aware that he intends to notice both of us during this time period as well. And finally the email indicates that since he will be out of the office, we should either email or contact his paralegal.
7/5/2011	0.40	Search for other dates to depose a number of students (players) that had been scheduled for July 8; reschedule meeting location and confirm dates/times with court reporter.
7/6/2011	0.20	Call Opposing Counsel's paralegal and confirm date of 7/22/11 is available to reschedule depositions of players. Confirm with paralegal that 7/8 deposition will be rescheduled for 7/22/11.
7/6/2011	2.50	Prepare deposition motions to go to opposing counsel.
7/7/2011	1.10	Email Opposing counsel to acknowledge that he was aware of the phone conversation with his paralegal the day before confirming

		7/22/11 as new date for depositions. Receive email from opposing counsel stating that his paralegal was incorrect, and that now 7/22 was actually not available, but he could do 7/21 or 7/20. The defendants had already contacted all the witnesses to confirm the 7/22 date, and the other two dates were not available for all the witnesses.
7/7/2011	1.50	Filed response to motion to dismiss the case with the courts.
7/11/2011	1.50	Hear back from attorney for HR director originally deposed for 7/15/11 now identifying that this date will not work for her client, however, 7/20 or 7/21 were available. We indicate other possible dates that would work. Call back to court reporter to check her availability during those weeks and to reschedule room for those dates.
7/12/2011	0.40	Email opposing counsel to identify that the depositions called for 7/15 of HR director and his client would not take place on that date, and that we were in the process of rescheduling that deposition. Also informed opposing counsel that we would be available to be deposed on either 7/25 or 7/26 if he could indicate ASAP which was better for him so we could schedule something before other demands arose.
7/13/2011	1.20	Send letter to opposing counsel indicating that depositions for HR director and plaintiff were rescheduled for 7/20/11 and that we would need to keep the depositions of other witnesses for 7/22/11, but requested that he send other counsel to represent him on that day.
7/15/2011	4.10	Drafted a consent order for both parties to sign for scheduling order be held in abeyance until a hearing could be held on the Defendants' response to Plaintiff's motion to dismiss is heard and a ruling is made.
7/15/2011	0.30	Receive email response from Opposing Counsel indicating that he would be available on 7/26 to take depositions of us. He also indicates that he will be filing a reply to our earlier response objecting to their motion to dismiss and requesting the judge rule on their motion. He also inquires as to whether we would agree to a short extension of the discovery deadline to allow the courts time to rule on their motion.
7/15/2011	1.10	Receive email of Plaintiff's reply (sent to Judge's law clerk) to the Defendants' Objection to Plaintiff's Motion to Dismiss, and requesting that the Judge rule on the Motion to Dismiss the case.
7/15/2011	2.10	Send a follow-up email to Opposing Counsel indicating that we propose submitting a joint order requesting the judge schedule a hearing on the outstanding motion to dismiss the case, and holding the scheduling order in abeyance until such time as a ruling was issued.
7/17/2011	.40	Receive response from opposing counsel agreeing to attached order signed by both parties and saying we should postpone depositions scheduled for the following week (which we had called) and asking for clarification on dates/times of depositions that have been called.
7/17/2011	1.50	Reply to Opposing Counsel via email with a thank you for agreeing to Submit consent order to the courts. Since there is no assurance that the Judge will extend the times in scheduling order, we state we are not willing to postpone depositions (7/20 and 7/22) without a ruling.
7/18/2011	1.10	Opposing counsel sends email reply indicating that he would file the consent order that morning via email. He also indicates that he was not aware of receiving an amended notice for the July 20 deposition, and

would not be available for July 22 deposition. Since his firm recently reorganized, he didn't feel any other attorneys would be available. He added that since the main purpose of the motion to dismiss was to avoid the costs of these depositions, he cannot agree to take depositions until this matter is resolved. Further, he indicated that we have made serious allegations of violations of Rule 11, which he simply will not agree to leave open.

7/19/2011	.50	Called and left a message and sent email to Attorney for HR director indicating that we were cancelling the deposition scheduled for 7/20 and would reschedule at a later date.
7/20/2011	.50	Receive email from Opposing Counsel that he had received a signed order from the judge faxed to him, and that he would email to us if we had not received this. We responded that we had not received a copy of the order. Opposing counsel set a copy via email attachment.
7/21/2011	.20	Received Notice of Case Roster Published that showed a date of 8/2 for hearing for pre-trial motions on the case, as indicated in the previous Scheduling Order. Plaintiff's attorney emailed judge's law clerk to remedy this and indicate that the judge has signed a consent order to hold in abeyance the scheduling order until a ruling could be made on the proposed order to dismiss.
8/26/2011	.20	Received notice from Clerk of Courts that a hearing is scheduled for Sept 13 at 9:30 am on Plaintiff's motion to dismiss and our request for a separate hearing to for costs and sanctions.
8/31/2011	2.30	Begin drafting memo to file for hearing on Sept 13.
9/07/2011	3.20	Revise memo to file for hearing and make copies of exhibits.
9/11/2011	3.20	Prepare final copies of materials for hearing on Sept 1.
9/12/2011	4.10	Read and prepare response to affidavits received on 9/12; Get responses notarized .
9/12/2011	0.30	Read email from opposing counsel received 4:30 pm requesting a rescheduling of the hearing the next day.
10/09/2011	0.40	Prepare for new hearing set for Oct 10.
10/10/2011	2.00	Attend and present at hearing; file materials with the courts.
10/13/2011	2.40	Go to Law Library to research cases on Sanctions and Fees.
10/16/2011	1.50	Edit Draft of Motion for Sanctions.
10/19/2011	2.30	Continue to revise and Edit Draft Motion.
10/20/2011	1.40	File Motion at Court houses and mail copy to Opposing Counsel.
12/26/2011	4.20	Edit Draft of Legal Brief.
12/27/2011	3.10	Continue to Edit Legal Brief.
12/28/2011	2.40	Make final edits to Legal Brief.
1/07/2011	5.10	Make copies of exhibits and mark them.
1/14/2011	3.20	Continue to prepare exhibits and final documents.
1/15/2011	2.10	Continue to prepare final exhibits and documents for hearing.
1/17/2011	2.00	Attend and Present at Hearing on Motion for Sanctions.

TOTAL: 277.90 Hours

(Murray Mitchell's hourly rate -U of S Carolina/Associate Professor (in 2010): \$52.58)

TOTAL: 277.90 hours x \$52.58 = \$14,611.892 (Murray Mitchell, Pro Se)

Estimate of Hourly Rate* Calculations of Pro Se Defendants

(based on salaries in March 2011*)

Job profiles of Defendants (as of March 2011) attached

Pam Weiss

37.5 hours over 12 months for \$82,930

@52 weeks = 1950 hours

Calculates to: **\$42.53/hour**

Murray Mitchell

37.5 hours over 9 months for \$70,977

@36 weeks = 1350 hours

Calculates to: **\$52.58/hour**

Job Profile

WEISS, PAMELA S
Tue Mar 8 17:46:56 2011

Your entry appears as follows in the USC HR-Payroll system. If the information below is incorrect, you may modify your campus address and phone number by selecting **Update Campus Address and Phone** below. For all other changes, please visit the web site and fill out an Employee Update Sheet. If you wish to change home phone, emergency contact, or emergency phone, please go to **Personal Profile** under the **Personal** menu.

Update Campus Address and Phone

Position Information

Class/Slot: 9645/00018

Job Description: RESEARCH ASSOCIATE - USC

Faculty/Staff: STAFF

Classified/Unclassified: UNCLASSIFIED

Internal Title(S): RESEARCH ASSOCIATE

Full/Part-Time: FULL-TIME

Hours Per Week: 37.5

Supervisor: BENNETT, CHARLES L

Basis: BASED & PAID OVER 12 MTHS

Base Salary: \$ 82,930

Campus Information

Home Department: COL OF PHARMACY (11100)

College/Division: PHARMACY

Building: COKER LIFE SCIENCES

Room: 228A

Phone: 803-576-8074

Job County: RICHLAND

General Information

Most Recent Date of Hire: 10/01/08

State Service Date: 01/28/05

Job Profile

MITCHELL, MURRAY F
Tue Mar 8 18:00:21 2011

Your entry appears as follows in the USC HR-Payroll system. If the information below is incorrect, you may modify your campus address and phone number by selecting **Update Campus Address and Phone** below. For all other changes, please visit the Division of Human Resources' web site and fill out an Employee Update Sheet. If you wish to change home phone, emergency contact, or emergency phone, please go to **Personal Profile** under the **Personal** menu.

Update Campus Address and Phone

Position Information

Class/Slot: 9633/01738

Job Description: ASSOC PROFESSOR-USC

Faculty/Staff: FACULTY

Classified/Unclassified: UNCLASSIFIED

Internal Title(S): ASSOC. PROFESSOR

Full/Part-Time: FULL-TIME

Hours Per Week: 37.5

Supervisor: FRENCH, KAREN E

Basis: BASED & PAID OVER 9 MTHS

Base Salary: \$ 70,977

Campus Information

Home Department: DEPT OF PHYSICAL EDUC (15210)

College/Division: EDUCATION

Building: BLATT P.E. CENTER

Room: 218-I

Phone: 803-777-3815

Job County: RICHLAND

General Information

Most Recent Date of Hire: 08/16/94

State Service Date: 08/16/94

Date Of Rank: 08/16/00

Voting: YES

Tenure: YES

Date Of Tenure: 08/16/00

Summary of Legal Expenses- as of Jan 17, 2012
(from law suit filed Dec 21, 2009)

Pam Weiss and Murray Mitchell
C/A No. 2009-CP-32-05708

Legal Fees Paid to Attorneys	\$ 8,801.78
Interest on Money Withdrawn	\$ 1,200.00
Other Expenses	\$ 673.71
Combined Pro-Se Expenses	\$39,423.98
(861.30 hours)	

Total: **\$50,099.47**

Summary of Legal Expenses- as of Jan 17, 2012

Pam Weiss and Murray Mitchell

C/A No. 2009-CP-32-05708

Michael Mauldin, Plaintiff, vs. Carol Vander Heide, Murray Mitchell, Pamela Weiss, Eileen Korpita, Karl Werdunn, Debra Werdunn, and Mark E. Kosobucki

I.	<u>Legal Fees Paid to Attorneys</u>	\$7,500.00*	1/18/10
	(All receipts Attached)	\$ 726.94	4/07/10
		\$ 275.00	10/29/10
		\$8,801.78 +	

***16.1% Interest** (on \$7,000 withdrawn from Children's College Accounts for Retainer Fee): **\$1,120.00 +**

II. Other Expenses: \$ 673.71 +
(All receipts Attached)

TOTAL Legal Fees + Expenses: \$10,389.91

III. Pro-Se Expenses for Time and Effort Defending Law Suit

A. Pam Weiss (Pro Se) hours: **583.40 hours x reasonable rate***
(Breakdown of all hours attached - *rate to be determined)

*Pam Weiss's hourly rate at the University of South Carolina as a Research Associate (2010): \$42.53

583.40 hours x \$42.53= \$24,812.00

B. Murray Mitchell (Pro Se) hours: 277.90 hours x reasonable rate **
(Breakdown of all hours attached - *rate to be determined)

****Murray Mitchell's hourly rate-University of South Carolina as an Associate Professor (2010): \$52.58**

299.90 hours x \$52.58 = \$14,611.982

TOTAL (Pro Se) HOURS: 861.30 hours @ reasonable rate * *

ESTIMATED TOTAL (Pro Se) COSTS: \$39,423.98 (pro se combined)

+ \$10,389.91 (legal, interest, expenses)

IV. **ESTIMATED TOTAL ON DEFENSE:** **\$50,099.47** (as of 1/17/12)
(for Actual Legal Fees, Other Expenses, Interest, and Pro-Se Time & Effort)

THE STATE OF SOUTH CAROLINA
In the Court of Appeals
Appellant Case Number 2012-212219

APPEAL FROM LEXINGTON COUNTY
Court of Common Pleas

William P. Keesley, Circuit Court Judge

Case # 2009-CP-32-5708

MICHAEL MAULDIN.....Respondent

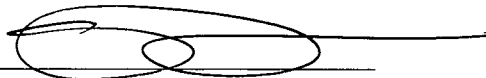
v.

CAROL VANDER HEIDE, MURRAY
MITCHELL, PAMELA WEISS, ELAINE
KORPITA, KARL WERDUNN, DEBRA
WERDUNN, AND MARK KOSOBUCKI,

of whom MURRAY MITCHELL and PAMELA WEISS are Appellants

Certificate of Counsel

The undersigned hereby certifies that the Record on Appeal contains all material proposed to be included by any of the parties and not any other material.



Susan K. Dunn
ACLU of South Carolina Foundation
P.O. Box 20998
Charleston, SC 29413
Telephone: 843-720-1425
sdunn@aclusouthcarolina.org
Attorney for the Appellants

April 25th, 2013

RECEIVED

MAY 15 2013

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals
Appellant Case Number 2012-212219

APPEAL FROM LEXINGTON COUNTY
Court of Common Pleas

William P. Keesley, Circuit Court Judge

Case # 2009-CP-32-5708

RECEIVED

APR 29 2013

SC Court of Appeals

MICHAEL MAULDIN.....Respondent

v.

CAROL VANDER HEIDE, MURRAY
MITCHELL, PAMELA WEISS, ELAINE
KORPITA, KARL WERDUNN, DEBRA
WERDUNN, AND MARK KOSOBUCKI,

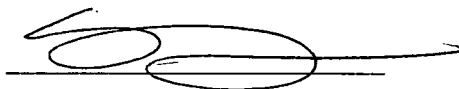
of whom MURRAY MITCHELL and PAMELA WEISS are.....Appellants

CERTIFICATE OF SERVICE

I hereby certify that a copy of the Record on Appeal was served by first class pre-paid mail on
the 25th of April, 2013 to:

Respondent's Attorney

John P. Freeman
2329 Wilmot Avenue
Columbia, SC 29205



Susan K. Dunn, ACLU of South Carolina Foundation
P.O. Box 20998
Charleston, SC 29413
Attorney for the Appellants