

IN THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM JASPER COUNTY
Court of Common Pleas

Kristi L. Harrington, Circuit Court Judge

Appellate Case No.: 2018-000641

RECEIVED

APR 08 2019

SC Court of Appeals

John DoeAppellant,

-v-

Beaufort Jasper Academy for Career Excellence; Beaufort County School District; and
Jasper County School District, Defendants

Of which Beaufort Jasper Academy for Career Excellence is the..... Respondent

RECORD ON APPEAL

Charles J. Boykin, Esq.
Kenneth A. Davis, Esq.
Tierney F. Dukes, Esq.
BOYKIN & DAVIS, LLC

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ATTORNEYS FOR APPELLANT

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In the Court of Appeals

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Court of Common Pleas

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**RECORD ON APPEAL
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STATE OF SOUTH CAROLINA
 COUNTY OF JASPER
 IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE

CASE NO. 2015- CP-27-0364

John Doe
 PLAINTIFF(S)

Beaufort Jasper Academy for Career Excellence
 DEFENDANT(S)

Submitted by:	Attorney for : <input type="checkbox"/> Plaintiff <input type="checkbox"/> Defendant
	or <input type="checkbox"/> Self-Represented Litigant

DISPOSITION TYPE (CHECK ONE)

- JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered. See Page 2 for additional information.
- ACTION DISMISSED (CHECK REASON):** Rule 12(b), SCRPC; Rule 41(a), SCRPC (Vol. Nonsuit); Rule 43(k), SCRPC (Settled); Other
- ACTION STRICKEN (CHECK REASON):** Rule 40(j), SCRPC; Bankruptcy; Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; Other
- DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
 Affirmed; Reversed; Remanded; Other

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

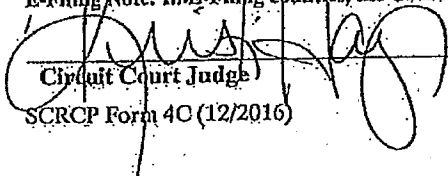
IT IS ORDERED AND ADJUDGED: See attached order (formal order to follow) Statement of Judgment by the Court: Plaintiff John Doe's Motion to Alter, Amend, or Reconsider this Court's Order granting summary judgment to Defendant Jasper Academy for Career Excellence is denied pursuant to SCRPC 59. At the hearing on August 24, 2017, Defendant moved for Summary Judgment based on a lack of genuine issue of material fact, arguing Plaintiff's claims were barred by the South Carolina Tort Claims Act and that Plaintiff had failed to produce evidence to support its claim for negligence. The Court granted Defendant's Motion as Plaintiff failed to produce a scintilla of evidence to defeat these arguments. The Form 4 granting summary judgment should indicate the case is ended.

ORDER INFORMATION

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

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

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. Note: Title abstractors and researchers should refer to the official court order for judgment details.
 E-Filing Note: In E-Filing counties, the Court will electronically sign this form using a separate electronic signature page.


 Circuit Court Judge
 SCRPC Form 40 (12/2016)

2151
 Judge Code

2/20/17
 Date

ELECTRONICALLY FILED - 2018 Mar 08 9:23 AM - JASPER - COMMON PLEAS - CASE#2015CP2700364

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

FORM 4

JUDGMENT IN A CIVIL CASE

CASE NO. 2015-CP-27-0364

John Doe

Beaufort Jasper Academy for Career Excellence

PLAINTIFF(S)

DEFENDANT(S)

Submitted by:	Attorney for : <input type="checkbox"/> Plaintiff <input type="checkbox"/> Defendant
	or <input type="checkbox"/> Self-Represented Litigant

DISPOSITION TYPE (CHECK ONE)

- JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered. See Page 2 for additional information.
- ACTION DISMISSED (CHECK REASON):** Rule 12(b), SCRPC; Rule 41(a), SCRPC (Vol. Nonsuit); Rule 43(k), SCRPC (Settled); Other
- ACTION STRICKEN (CHECK REASON):** Rule 40(j), SCRPC; Bankruptcy; Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; Other
- DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
 Affirmed; Reversed; Remanded; Other

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

IT IS ORDERED AND ADJUDGED: See attached order (formal order to follow) Statement of Judgment by the Court: Defendant Jasper Academy for Career Excellence's Motion for Summary Judgment is granted.

ORDER INFORMATION

This order ends does not end the case.

Additional Information for the Clerk :

INFORMATION FOR THE JUDGMENT INDEX

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

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

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

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

Note: Title abstractors and researchers should refer to the official court order for judgment details.

E-Filing Note: In E-Filing counties, the Court will electronically sign this form using a separate electronic signature page.

[Handwritten Signature]

2151

8/24/17

SCRPC Form 4C (12/2016)



Page 1 of 4

ROA-0002

2017 APR 24 11:09
 CLERK OF COURT
 JASPER COUNTY

FILED

RECEIVED
 APR 10 2018
 SC Court of Appeals

Circuit Court Judge

Judge Code

Date

For Clerk of Court Office Use Only

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

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

CLERK OF COURT

Court Reporter:

E-Filing Note: In E-Filing counties, the date of Entry of Judgment is the same date as reflected on the Electronic File Stamp and the clerk's entering of the date of judgment above is not required in those counties. The clerk will mail a copy of the judgement to parties who are not E-Filers or who are appearing pro se. See Rule 77(d), SCRPC.

ADDITIONAL INFORMATION REGARDING DECISION BY THE COURT AS REFERENCED ON PAGE 1.

This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.

2 of 2

STATE OF SOUTH CAROLINA)

COUNTY OF JASPER)

JOHN DOE,

Plaintiff,

vs.

JASPER COUNTY SHERIFF'S OFFICE;
BEAUFORT COUNTY SCHOOL
DISTRICT; JASPER COUNTY SCHOOL
DISTRICT; BEAUFORT-JASPER
ACADEMY FOR CAREER
EXCELLENCE; and, DEONIA SIMMONS)

Defendants.

IN THE COURT OF COMMON PLEAS
FOR THE FOURTEENTH JUDICIAL CIRCUIT
C/A NO.: 2013-CP-27-556

ORDER GRANTING *EX PARTE*
TEMPORARY RESTRAINING ORDER

MARGARET BOSTICK
CLERK OF COURT
JASPER COUNTY SC

2013 OCT 30 PM 4: 24

FILED

This matter is before the Court on the motion of the above Plaintiff for an *ex parte* Temporary Restraining Order, without notice, pursuant to Rule 65(b) of the South Carolina Rules of Civil Procedure. Through his motion filed with the Jasper County Clerk of Court on October 29, 2013, the Plaintiff seeks a TRO barring all parties from the removal, alteration, repair, destruction, secreting, or manipulation of any evidence in the possession of the Jasper County Sheriff's Office, including computer hard drives that were seized in the courts of an investigation by that office. Plaintiff sought an expedited hearing on this matter, which request I have granted. This motion was heard by me *ex parte* at the Beaufort County Courthouse on October 30, 2013, with Matthew V. Creech appearing on behalf of the Plaintiff.

According to the verified Complaint and the Affidavit of Matthew V. Creech submitted in support of this motion, the Jasper County Sheriff's Office currently has in its possession evidence gathered in investigating a complaint which occurred at the Beaufort-Jasper Academy for Career Excellence. This evidence includes hard drives from computers seized at ACE. Based upon the Affidavit of counsel and arguments made to me, it further appears that the Defendants named in this matter, other than the Sheriff's Office, may have ownership interests in the property seized or may


have personal information contained on the hard drives. For that reason, counsel for the Plaintiff has included these other Defendants in the action.

Counsel argues to the Court that need to protect and maintain the potential evidence in this case is paramount to the Plaintiff's ability to investigate potential civil remedies. The allegations that the Plaintiff seeks to investigate center upon the drafting and publication of letters which the Plaintiff claims contained false, untrue, and defamatory statements. The statements claim the Plaintiff had a sexual relationship with another ACE employee and the letters were mailed to Plaintiff's spouse and other family members. As the Plaintiff's counsel argues, an essential element of a potential defamation action is the publication of false and defamatory information. Plaintiff's counsel is informed and believes that hard drives in the possession of the Sheriff's Office seized during the investigation might contain information which would lead to the identification of the persons responsible for publishing the allegedly defamatory statements. The Plaintiff therefore argues that the alteration or manipulation of the physical evidence in this case would irreparably harm the investigation of this incident.

Moreover, Plaintiff does not ask this Court to intervene other than to keep evidence at issue and all of its component parts in their current condition at the Jasper County Sheriff's Office and to preserve all evidence associated with investigation.

The Court finds that the affidavit of counsel and the Verified Complaint adequately display the need for the preservation of evidence as to justify the issuance of an *ex parte* Temporary Restraining Order.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that all parties to this action, applying equally to all Defendants as well as the Plaintiff, are hereby barred, restrained and precluded



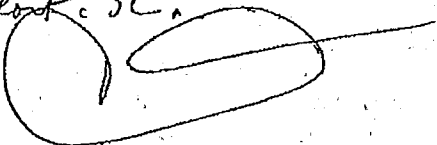
from any removal or destruction of the hard drives seized in this investigation and being held by the Jasper County Sheriff's Office which is the subject of this action.

IT IS FURTHER ORDERED that all physical evidence gathered in the course of the Jasper County Sheriff's Office's investigation shall be preserved.

IT IS FURTHER ORDERED that this Order shall expire ten (10) days from its entry or at the time the Court can hold a hearing, with notice, to consider converting this Temporary Restraining Order to a temporary injunction, unless, for good cause shown, the Order is extended for another ten (10) days or unless the parties consent that it may be extended for a longer period.

IT IS FURTHER ORDERED that the Plaintiff shall serve all Defendants with this Order in compliance with Rule 65, SCRPC.

IT IS FURTHER ORDERED that this Court will hold a hearing to consider converting this Temporary Restraining Order to a temporary injunction on November 8, 2013, at 9:15 AM PM in Beaufort, South Carolina. at the Beaufort County Courthouse at 100 Hibant Rd, Beaufort, SC.



Dated this 30th day of October, 2013,
at Beaufort, South Carolina, at 2:54 PM

Judge Carmen Tevis Mullen
RESIDENT JUDGE OF THE 14th
JUDICIAL CIRCUIT

STATE OF SOUTH CAROLINA)
)
COUNTY OF JASPER)

IN THE COURT OF COMMON PLEAS
FOR THE FOURTEENTH JUDICIAL CIRCUIT
C/A NO.: 2013-CP-27-556

JOHN DOE,)
)
Plaintiff,)

CONSENT ORDER FOR PERMANENT
INJUNCTION

vs.)
)
JASPER COUNTY SHERIFF'S OFFICE;)
BEAUFORT COUNTY SCHOOL)
DISTRICT; JASPER COUNTY SCHOOL)
DISTRICT; BEAUFORT-JASPER)
ACADEMY FOR CAREER)
EXCELLENCE; and, DEONIA SIMMONS)
)
Defendants.)

2013 NOV 20 PM 2:59
MARGARET BOSSTICK
CLERK OF COURT
JASPER COUNTY SC

FILED

This matter is before the Court on the motion of the Plaintiff for a Preliminary Injunction pursuant to Rule 65 of the South Carolina Rules of Civil Procedure. Plaintiff received a Temporary Restraining Order without notice on October 30, 2013. The Temporary Restraining Order barred all parties from the removal, alteration, repair, destruction, secreting, or manipulation of any evidence related to computer hard drives and other evidence (hereinafter referred to collectively as "investigative materials") which were seized by the Jasper County Sheriff's Office ("JCSO") and remain in the JCSO's possession. The Plaintiff John Doe is informed and believes that these investigative materials might contain information he seeks in an effort to investigate allegedly defamatory publications against Doe. The review of these hard drives shall be limited to investigation of these alleged defamatory publications. Should disagreement arise between the parties as to the scope of the review, an party may petition the Court for hearing on such disagreement. All parties consent to strict confidentiality to any student records that may be saved on any of the hard drives, as they are protected by the Family

Educational Rights and Privacy Act ("FERPA"). The parties in interest with regard to the preservation of the investigative materials are the potential owners of the property, the Defendants Beaufort County School District ("BCSD"); Jasper County School District ("JCSO"); Beaufort-Jasper Academy for Career Excellence ("ACE"); and its former employee Deonia Simmons. Defendant Jasper County Sheriff's Office is a party because it possesses the materials sought. Therefore, based upon the consent of the real parties in interest to this proceeding, the Plaintiff and the Defendants above, the Court hereby orders as follows:


The investigative materials are currently in the physical possession of the Jasper County Sheriff's Office in Ridgeland, South Carolina. Plaintiff and all Defendants have agreed to the following Preliminary Injunction, which is binding on these parties, their officers, agents, servants, employees, and attorneys:

1. The Defendants ACE, BCSD, JCSO, and Simmons may own or have a possessory/private interest in the investigative materials which are the subject of this action.
2. All Defendants and the Plaintiff are the real parties in interest to this suit which was filed for the preservation of the investigative materials.
3. The parties agree to remove the investigative materials (including all computer hard drives) from its current location at the JCSO to a mutually agreed upon location which will be chosen by the parties at a later date. Tentatively, all parties agree that the ultimate disposition of these materials will be to ACE or one of the school district entities upon agreed upon terms to be reached at a later date and memorialized by an Order of the Court. Any identified successor custodian shall

provide a receipt to JCSO. Upon agreement to this site or location, the parties will notify the Court of the location of the investigative materials

4. After the JCSO has delivered the materials in its possession to successor custodian, the parties and their agents are entitled to inspect the investigative materials. However, any party that intends to inspect the materials must give timely and reasonable notice of the time and place of such inspection and permit the other parties to observe the inspection.
5. No party or their agents shall alter, modify, repair, remove, secret, destroy, or tamper with the materials or their components in any way. No destructive testing of the materials shall be conducted without an Order of the Court.
6. Should the Defendants incur costs for the transportation, storage, or maintenance of the materials which are the subject of this action, the Defendants may petition to the Court and that the Plaintiff pay for such costs which accrue after the issuance of the initial Temporary Restraining Order on October 30, 2013 and which are deemed reasonable by the Court.
7. This Order will remain in effect until such time as the Court orders otherwise. However, any party may petition the Court to modify this Order is conditions so warrant.

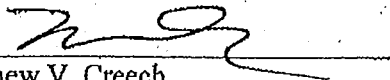
AND IT IS SO ORDERED this 14 day of November, 2013, at Beaufort, South Carolina.



Judge Carmen Tevis Mullen
RESIDENT JUDGE OF THE 14th
JUDICIAL CIRCUIT

CONSENT SIGNATURES ATTACHED

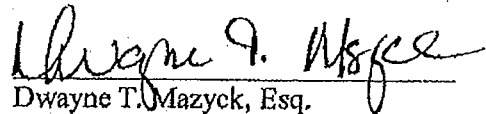
I SO MOVE:



Matthew V. Creech
R. Alexander Murdaugh
PETERS, MURDAUGH, PARKER,
ELTZROTH & DETRICK, P.A.
Post Office Box 2500
Ridgeland, South Carolina 29936

ATTORNEYS FOR THE PLAINTIFF

I SO CONSENT:



Dwayne T. Mazyck, Esq.
CHILDS & HALLIGAN, P.A.
P.O. Box 11367
Columbia, SC 29211

ATTORNEYS FOR DEFENDANTS
JASPER COUNTY SCHOOL
DISTRICT; BEAUFORT COUNTY
SCHOOL DISTRICT; BEAUFORT-
JASPER ACADEMY FOR
CAREER EXCELLENCE; and
DEONIA SIMMONS

I SO CONSENT:

Marvin C. Jones, Esq.
JASPER COUNTY ATTORNEY
P.O. Box 420
Ridgeland, S.C. 29936

ATTORNEY FOR JASPER COUNTY
SHERIFF'S OFFICE

CONSENT SIGNATURES ATTACHED

I SO MOVE:

Matthew V. Creech
R. Alexander Murdaugh
PETERS, MURDAUGH, PARKER,
ELTZROTH & DETRICK, P.A.
Post Office Box 2500
Ridgeland, South Carolina 29936

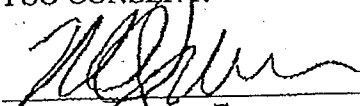
ATTORNEYS FOR THE PLAINTIFF

I SO CONSENT:

Dwayne T. Mazyek, Esq.
CHILDS & HALLIGAN, P.A.
P.O. Box 11367
Columbia, SC 29211

ATTORNEYS FOR DEFENDANTS
JASPER COUNTY SCHOOL
DISTRICT; BEAUFORT COUNTY
SCHOOL DISTRICT; BEAUFORT-
JASPER ACADEMY FOR
CAREER EXCELLENCE; and
DEONIA SIMMONS

I SO CONSENT:



Marvin C. Jones, Esq.
JASPER COUNTY ATTORNEY
P.O. Box 420
Ridgeland, S.C. 29936

ATTORNEY FOR JASPER COUNTY
SHERIFF'S OFFICE

F

STATE OF SOUTH CAROLINA

COUNTY OF JASPER

John Doe,

Plaintiff,

v.

Beaufort-Jasper Academy for Career
Excellence; Beaufort County School District;
and, Jasper County School District,

Defendants.

IN THE COURT OF COMMON PLEAS FOR

THE FOURTEENTH JUDICIAL CIRCUIT

Case No. 2014-CP-27-00364

**CONSENT MOTION AND ORDER
FOR ENLARGEMENT OF
ADR DEADLINE**

Pursuant to South Carolina Alternative Dispute Resolution Rule 5(e), and by and through their respective undersigned counsel, Plaintiff, through his undersigned counsel, moves this Court for an extension of time to complete mediation and file the Proof of ADR form. The deadline for the ADR form is currently June 30, 2017. The Parties have not completed the discovery process. Therefore, the Plaintiff requests that the Court amend the deadline and make the aforementioned due on or before September 30, 2017, to allow the Plaintiff more time to complete the discovery process.

IT IS SO ORDERED.

The Honorable Carmen T. Mullen
Chief Administrative Judge, Fourteenth Judicial Circuit

July ____, 2017
Beaufort, South Carolina

[CONSENT SIGNATURE PAGES FOLLOW]

ELECTRONICALLY FILED - 2017 Jul 03 8:28 AM - JASPER - COMMON PLEAS - CASE#2015CP2700364

WE SO MOVE:

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

By: s/Matthew V. Creech
R. Alexander Murdaugh, Esq.
Matthew V. Creech, Esq.

P.O. Box 2500
Ridgeland, SC 29936
Telephone: 843-726-6131

Attorney for Plaintiff John Doe

June 28, 2017
Ridgeland, South Carolina

WE CONSENT:

BOYKIN & DAVIS, LLC

By: s/Tierney F. Dukes
Charles J. Boykin, Esq.
Kenneth A. Davis, Esq.
Tierney F. Dukes, Esq.

Post Office Box 11844
Columbia, SC 29211
Telephone: 803-254-0707
Facsimile: 803-254-5609

Attorneys for Defendant Beaufort-Jasper Academy for Career Excellence

June 28, 2017
Columbia, South Carolina



Jasper Common Pleas

Case Caption: John Doe VS Beaufort Jasper Academy For Career Excellence
Case Number: 2015CP2700364
Type: Order/Consent Order

So Ordered

s/Carmen T Mullen 2142

Electronically signed on 2017-07-02 11:41:12 page 3 of 3

ELECTRONICALLY FILED - 2017 Jul 03 8:28 AM - JASPER - COMMON PLEAS - CASE#2015CP2700364

STATE OF SOUTH CAROLINA)

IN THE COURT OF COMMON PLEAS

COUNTY OF JASPER)

CIVIL ACTION NO.: 2013-CP-27-556

JOHN DOE,)

Plaintiff,)

v.)

JASPER COUNTY SHERIFF'S OFFICE;)
BEAUFORT COUNTY SCHOOL DISTRICT;)
JASPER COUNTY SCHOOL DISTRICT;)
BEAUFORT-JASPER ACADEMY FOR)
CAREER EXCELLENCE; AND DEONIA)
SIMMONS,)

Defendant.)

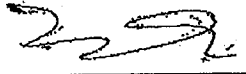
SUMMONS

(Trial Requested) MVC

TO THE DEFENDANT ABOVE-NAMED:

YOU ARE HEREBY SUMMONED and required to answer the complaint herein, a copy of which is herewith served upon you, and to serve a copy of your answer to this complaint upon the subscriber, at 690 North Green Street, Post Office Box 2500, Ridgeland, SC 29936, within thirty (30) days after service hereof, exclusive of the day of such service, and if you fail to answer the complaint, judgment by default will be rendered against you for the relief demanded in the complaint.

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

BY: 

Matthew V. Creech
690 North Green Street
Post Office Box 2500
Ridgeland, SC 29936
(843) 726-6131

ATTORNEYS FOR PLAINTIFF

October 29, 2013
Ridgeland, South Carolina

RECEIVED
OCT 30 2013
ROA-0013

STATE OF SOUTH CAROLINA)
)
COUNTY OF JASPER)

IN THE COURT OF COMMON PLEAS
FOR THE FOURTEENTH JUDICIAL CIRCUIT
C/A NO.: 2013-CP-27-510

JOHN DOE,)
)
Plaintiff,)

COMPLAINT
(Verified)

vs.)

and

JASPER COUNTY SHERIFF'S OFFICE;)
BEAUFORT COUNTY SCHOOL)
DISTRICT; JASPER COUNTY SCHOOL)
DISTRICT; BEAUFORT-JASPER)
ACADEMY FOR CAREER)
EXCELLENCE; and, DEONIA SIMMONS)

MOTION FOR TEMPORARY
RESTRAINING ORDER ~~WITHOUT~~
NOTICE PURSUANT TO RULE 65(b)
SCRPC

Defendants.)

NOW COMES THE PLAINTIFF, by and through his undersigned counsel, alleging as follows:

1. That the Plaintiff is a citizen and resident of Hampton County, South Carolina and "John Doe" is a fictional name applied to the Plaintiff. At all times relevant hereto Plaintiff was an employee of Defendant Beaufort-Jasper Academy for Career Excellence.

2. That the Defendant Jasper County Sheriff's Office (hereinafter, "JCSO") is an agency and political subdivision within Jasper County. Defendant JCSO is joined in the instant Complaint/Motion for Restraining Order solely because the undersigned is informed and believes that the JCSO possesses certain evidence which is the subject of this Complaint.

3. That the Defendant Beaufort-Jasper Academy for Career Excellence (hereinafter, "ACE") is now and was at all times material hereto, and agency, political subdivision, and/or governmental entity within the meaning of the South Carolina Torts Claim Act. S.C. Code Ann.

NOTED
BY *MMMS*
BOA 0016

Section 15-78-30, *et seq.*, existing and operating within the County of Jasper, State of South Carolina.

4. The Beaufort County School District (hereinafter, "BCSD") is now and was at all times material hereto, an agency, political subdivision, and/or governmental and which operates, directs, and/or controls Defendant ACE and its employees, agents and servants.

5. The Jasper County School District (hereinafter, "JCSD") is now and was at all times material hereto, an agency, political subdivision, and/or governmental entity and which operates, directs, and/or controls Defendant ACE and its employees, agents, and servants.

6. That the Defendant Deonia Simmons, at all times relevant hereto, was an employee, servant, and agent of the Defendants ACE, BCSD, and/or JCSD, acted as the Director of ACE, and upon information and belief is a citizen and resident of Beaufort County, South Carolina.

7. That the Plaintiff is an employee of ACE in Jasper County. In late September of 2013, multiple letters were mailed to family members of the Plaintiff and other third parties. The letters contained false, untrue, harmful, and defamatory statements concerning the Plaintiff. As a result of the letters, Plaintiff made a complaint to various school administration personnel as well as law enforcement.

8. That the Plaintiff is informed and believes that as a result of the investigative process undertaken by the Jasper County Sheriff's Office regarding these complaints, certain evidence – including hard drives from computers located at ACE – have been seized and remain in the possession and control of the JCSD.

9. That the Plaintiff is informed and believes that one or more employees of ACE have been involved in the preparation and publication of the false, untrue, harmful, and

defamatory letters giving rise to the investigation. Furthermore, the Plaintiff is informed and believes that certain information related to the defamatory statements and letters was gathered from his private, confidential personnel file maintained by ACE.

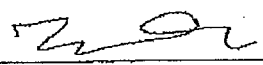
10. That upon information and belief, based upon information currently available to the Plaintiff and his counsel, any physical alteration, repair, destruction, or removal of information contained on the subject hard drives or any physical evidence maintained by the Defendants would produce immediate and irreparable harm, loss, and damage insofar as it would directly hinder the Plaintiff and his counsel's ability to investigate potential civil claims against ACE, JCSD, BCSD, Simmons, or other culpable parties. The removal, physical alteration, repair or destruction of the hard drives, any of their component parts, or any documentary or tangible physical evidence would result in irreparable harm to the Plaintiff, would lead to the spoilation of evidence, would prejudice and limit the Plaintiff's ability to investigate the potential claims of the Plaintiff, and to pursue civil remedies should they be available.

WHEREFORE, the Plaintiff prays that this Court issue an *ex parte* Temporary Restraining Order pursuant to Rule 65(b) of the South Carolina Rules of Civil Procedure, and that the above named Defendants be barred, restrained and precluded from any removal, destruction, repair, or physical alteration of the hard drives and other evidence which is the subject of this action and which upon information and belief is currently in the possession and control of the Jasper County Sheriff's Office or the various other Defendants.

Plaintiff further prays that this Court hear said *ex parte* motion on an expedited basis.

Plaintiff further prays that upon the expiration of any Temporary Restraining Order which the Court might grant, that the Court issue further injunctive relief as allowed by the South Carolina Rules of Civil Procedure and the laws of South Carolina.

RESPECTFULLY SUBMITTED,



R. Alexander Murdaugh
Matthew V. Creech
PETERS, MURDAUGH, PARKER,
ELTZROTH & DETRICK, P.A.
Post Office Box 457
Hampton, S.C. 29924
Phone: 803.943.2111
Fax: 803.943.3943

October 29, 2013
Ridgeland, S.C.

STATE OF SOUTH CAROLINA)
)
COUNTY OF JASPER)

IN THE COURT OF COMMON PLEAS
FOR THE FOURTEENTH JUDICIAL CIRCUIT
C/A NO.: 2013-CP-27- 556

JOHN DOE,)

Plaintiff,)

Affidavit of Matthew V. Creech

vs.)

JASPER COUNTY SHERIFF'S)
OFFICE; BEAUFORT COUNTY SCHOOL)
DISTRICT; JASPER COUNTY SCHOOL)
DISTRICT; and, BEAUFORT-JASPER)
ACADEMY FOR CAREER)
EXCELLENCE)

Defendants:)

FILED
2013 OCT 29 PM 4:30
MARGARET BOSTICK
CLERK OF COURT
JASPER COUNTY SC

PERSONALLY APPEARED before me Matthew V. Creech, Esquire, who, being duly sworn, deposes and says:

1. I am an attorney licensed to practice law in the State of South Carolina and am associate in the law firm of Peters, Murdaugh, Parker, Eltzroth & Detrick, P.A., which is representing the Plaintiff in this matter.

2. My firm's practice and my own personal experience as a lawyer for approximately eight (8) years, concentrates predominantly on the prosecution of personal injury, products liability, workers' compensation, and other similar cases, including multiple cases of slander/libel and defamation.

3. I have personally handled and been involved within my firm with numerous personal injury actions founded upon allegations of defamatory conduct in which the allegations arise wholly or in part from the publication of false statements. In such cases, in my experience, in order for an injured person to effectively investigate and prosecute their claim, the immediate

and paramount concern is that all evidence related to the incident complained of must be preserved as it was at the time of the accident.

4. In such cases, the removal, alteration, destruction, repair, secreting, or manipulation of physical evidence would hinder and obstruct the investigation and prosecution of the Plaintiff's potential claims.

5. With regard to the case before this Court, I have reviewed numerous documents from both the Beaufort County Sheriff's Department and the Jasper County Sheriff's Office. The investigative reports give rise to concerns that documents or other tangible items physically located upon the property of Defendants ACE, BCSD, and/or JCSD may have been accessed by personnel without the property authority or basis to do so. Particularly, it appears that the letters at issue were sent to addresses which could only have been accessed from the Plaintiff's personnel records.

6. Furthermore, review of the investigative files reveals that certain documents and physical evidence, chiefly hard drives from ACE computers, has been seized by the JCSD and the evidence remains in its possession and control. This evidence includes hard drives seized from ACE and upon information and belief, the Jasper County Sheriff's Office still has possession of these items.

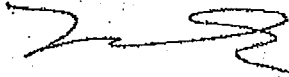
7. Based upon my experience as a lawyer handling personal injury cases, I believe it is of the utmost importance that all evidence relating to publication of the defamatory letters at issue be preserved and protected by a Temporary Restraining Order. Without such protection, there is little to no possibility that the physical evidence in this case will be maintained exactly as it existed at the time of the incident or at the time of those items' seizure by law enforcement. While this in no way imputes malice or negligence to any of the representatives of the

Defendants or the representatives of the Plaintiff, the fact is that even the slightest physical manipulation of the hard drives or evidence could result in the spoliation or destruction of evidence. Furthermore, by implementation of a TRO the Court will simply be maintaining the *status quo* and all parties to this lawsuit or any other suit arising from this accident will be protected.

8. Based on my experience in this area, I believe that it is in the interests of all parties to this suit, the interests of justice, and the interest of a full and fair investigation of the events resulting in the Plaintiff's injuries, to restrain all parties from any manipulation, alteration, destruction, secreting, or removal of any physical evidence related to these issues. I further believe that the maintenance of *status quo* until a hearing and further Order of this Court in this situation will not harm the interests of any party.

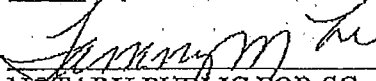
FURTHER AFFIANT SAYETH NOT.

Dated this 29th day of October, 2013
at Ridgeland, South Carolina.



Matthew V. Creech
PETERS, MURDAUGH, PARKER,
ELTZROTH & DETRICK, P.A.
Post Office Box 2500
690 North Green Street
Ridgeland, South Carolina 29936
Phone: 843.726.6131
Fax: 843.726.6057

SWORN to before me, this
29th day of October, 2013



(SEAL)
NOTARY PUBLIC FOR SC

My Commission Expires: _____
TAMMY M. LEE
NOTARY PUBLIC SOUTH CAROLINA
MY COMMISSION EXPIRES: 05-01-2018

STATE OF SOUTH CAROLINA)
)
COUNTY OF JASPER)

IN THE COURT OF COMMON PLEAS
FOR THE FOURTEENTH JUDICIAL CIRCUIT
C/A NO.: 2013-CP-27- 556

JOHN DOE,)
)
Plaintiff,)

Verification of Counsel.

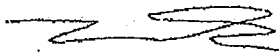
vs.)

JASPER COUNTY SHERIFF'S OFFICE;)
BEAUFORT COUNTY SCHOOL)
DISTRICT; JASPER COUNTY SCHOOL)
DISTRICT; BEAUFORT-JASPER)
ACADEMY FOR CAREER)
EXCELLENCE; and, DEONIA SIMMONS,)
)
Defendants.)

2013 OCT 29 PM 4: 30
MARGARET BOSTICK
CLERK OF COURT
JASPER COUNTY SC

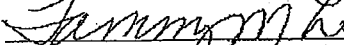
FILED

I, Matthew V. Creech, attorney for the Plaintiff in this matter, hereby swear and verify that I have drafted and submitted the foregoing Summons and Complaint based upon all information currently available to me. To the best of my knowledge, the contents and allegations of the Complaint are truthful and accurate and based upon information received by me and my law firm in the course of investigating this claim.



Matthew V. Creech
Counsel for the Plaintiff

Dated this 27 day of October, 2013,
at Ridgeland, South Carolina.

SWORN to before me, this
27 day of Oct, 2013


(SEAL)
NOTARY PUBLIC FOR SC
My Commission Expires: _____

TAMMY M. LEE
NOTARY PUBLIC SOUTH CAROLINA
MY COMMISSION EXPIRES: 05-01-2018

ROOSTED
BY  16/10/13
BOA 0023

STATE OF SOUTH CAROLINA)

IN THE COURT OF COMMON PLEAS

COUNTY OF JASPER)

CASE NO.: 2013-CP-27-556

John Doe)
Plaintiff,)

MOTION AND ORDER INFORMATION
FORM AND COVER SHEET

vs.)

Jasper County Sheriff's Office; Beaufort County)
School District; Jasper County School District;)
Beaufort-Jasper Academy for Career Excellence;)
and Deonia Simmons)
Defendant.)

RECEIVED
CLERK OF COURT
JASPER COUNTY, SC
3 OCT 29 PM 3:46

Plaintiff's Attorney: <u>Matthew V. Creech</u> , Bar No. <u>74072</u> Address: 690 North Green Street Post Office Box 2500 Ridgeland, SC 29936 Phone: <u>(843) 726-6131</u> Fax <u>(843) 726-3057</u> E-mail: <u>mcreech@pmped.com</u>	Defendant's Attorney: Address: Phone: Fax E-mail: _____ Other: _____
<input checked="" type="checkbox"/> MOTION HEARING REQUESTED (attach written motion and complete SECTIONS I and III) <input type="checkbox"/> FORM MOTION, NO HEARING REQUESTED (complete SECTIONS II and III) <input type="checkbox"/> PROPOSED ORDER/CONSENT ORDER (complete SECTIONS II and III)	
SECTION I: Hearing Information	
Nature of Motion: <u>Motion For Confidentiality</u> Estimated Time Needed: _____ Court Reporter Needed: <input type="checkbox"/> YES/ <input type="checkbox"/> NO	
SECTION II: Motion/Order Type	
<input checked="" type="checkbox"/> Written motion attached <input type="checkbox"/> 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 <input checked="" type="checkbox"/> Plaintiff/ <input type="checkbox"/> Defendant Date submitted <u>10/29/13</u>	
SECTION III: Motion Fee	
<input checked="" type="checkbox"/> PAID - AMOUNT: \$25.00 <input type="checkbox"/> EXEMPT: (check reason)	
<input type="checkbox"/> Rule to Show Cause in Child or Spousal Support <input type="checkbox"/> Domestic Abuse or Abuse and Neglect <input type="checkbox"/> Indigent Status <input type="checkbox"/> State Agency v. Indigent Party <input type="checkbox"/> Sexually Violent Predator Act <input type="checkbox"/> Post-Conviction Relief <input type="checkbox"/> Motion for Stay in Bankruptcy <input type="checkbox"/> Motion for Publication <input type="checkbox"/> Motion for Execution (Rule 69, SCRPC) <input type="checkbox"/> 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: _____ <input type="checkbox"/> Other: _____	
JUDGE'S SECTION	
<input type="checkbox"/> Motion Fee to be paid upon filing of the attached order. <input type="checkbox"/> Other: _____	JUDGE CODE _____ Date: _____

CLERK'S VERIFICATION

Collected by: _____ Date Filed: _____

MOTION FEE COLLECTED: \$ _____

CONTESTED -- AMOUNT DUE: \$ _____

SCCA 233 (11/2003)

STATE OF SOUTH CAROLINA)
)
COUNTY OF JASPER)

IN THE COURT OF COMMON PLEAS
FOR THE FOURTEENTH JUDICIAL CIRCUIT
C/A NO.: 2013-CP-27-550

JOHN DOE,)
)
Plaintiff,)

vs.)

JASPER COUNTY SHERIFF'S OFFICE;)
BEAUFORT COUNTY SCHOOL)
DISTRICT; JASPER COUNTY SCHOOL)
DISTRICT; BEAUFORT-JASPER)
ACADEMY FOR CAREER)
EXCELLENCE; and, DEONIA SIMMONS)

Defendants.)

Motion for Leave of Court to
Protect the Identity of the Plaintiff and
and to Proceed Under an Order of
Confidentiality

2013 OCT 29 PM 3:46
MARSHALL T. JONES
CLERK OF COURT
JASPER COUNTY SC

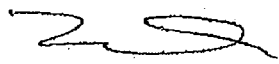
NOW COMES THE PLAINTIFF, by and through his undersigned counsel, who seeks permission of the Court to proceed in the accompanying action seeking a Temporary Restraining Order confidentially and under the fictitious name of "John Doe."

As stated within the pleadings seeking a Temporary Restraining Order, the Plaintiff John Doe is an employee of ACE in Jasper County. Based upon the investigation undertaken by the undersigned, the Plaintiff may have an actionable claim for libel, slander, and defamation as a result of untrue, false, and harmful letters of which the Plaintiff is the subject. These letters are defamatory, falsely accuse the married Plaintiff of a sexual relationship with a co-worker, and the letters were published to the Plaintiff's wife, other family members, and other third parties. As a result of the false, untrue, and harmful statements contained in the letters at issue, the Plaintiff has already suffered injury to his reputation within his immediate family, his professional community, and his community at large. Due to the sensitive and personal nature of the false accusations and the existing harm to his reputation caused by the publication of those

letters, the Plaintiff seeks to limit the continued publication of the statements by being anonymous in this litigation. At the same time, however, the Plaintiff is entitled to and wishes to investigate potential civil remedies for the harms, losses, and injuries to his reputation which have been caused by the communications.

In an effort to limit or control the continued damage to his reputation caused by the defamatory statements, but also to allow the continued investigation of his legal claims, the Plaintiff respectfully requests that the Court allow him to proceed anonymously in this matter. The Plaintiff so moves under the discretionary power of the Court and pursuant to common law such as Doe v. Howe (attached hereto). Furthermore, allowing anonymity would promote the ends of justice and create no prejudice to any party. Finally, the Plaintiff will support this motion with an Affidavit of John Doe, for en camera consideration by the Court and if the relief sought is granted, to be filed under seal with the Clerk of Court's office.

Respectfully submitted,



R. Alexander Murdaugh
Matthew V. Creech
PETERS, MURDAUGH, PARKER,
ELTZROTH & DETRICK, P.A.
Post Office Box 457
Hampton, S.C. 29924
Phone: 803.943.2111
Fax: 803.943.3943

October 29, 2013
Ridgeland, S.C.

362 S.C. 212
Court of Appeals of South Carolina.

John DOE, Appellant,

v.

Gedney M. HOWE, III, and Gedney
M. Howe, III, P.A., Respondent.

No. 3896. | Heard Oct. 13,
2004. | Decided Nov. 22, 2004. |
Rehearing Granted in Part Jan. 25, 2005.

Synopsis

Background: Client sued attorney alleging breach of fiduciary duty and malpractice regarding settlement reached in underlying litigation. Client moved to proceed anonymously. The Circuit Court, Charleston County, Deadra L. Jefferson, J., denied motion. Client appealed.

Holdings: The Court of Appeals, Kittredge, J., held that:

[1] order denying motion to proceed anonymously was appealable, and

[2] as a matter of first impression, trial court abused its discretion in denying motion to proceed anonymously.

Reversed.

Attorneys and Law Firms

**354 *214 Desa A. Ballard, of West Columbia, for Appellant.

M. Dawes Cooke, Jr., of Charleston, for Respondent.

Opinion

KITTRIDGE, J.:

John Doe filed an action for breach of fiduciary duty and professional negligence against Gedney M. Howe, III and Gedney M. **355 Howe, III, P.A. (collectively, "Howe"). Doe filed a motion for confidentiality seeking permission from the circuit court to proceed anonymously, which was denied. Doe appeals, and we reverse.

FACTS

Doe was previously represented by Howe and his brother Donald H. Howe in connection with a civil claim against Porter Gaud School and others relating to allegations of sexual abuse by an employee of the school, Eddie Fischer.¹ Doe attended Porter Gaud from 1968 through 1980. The alleged abuse occurred from 1977 until 1982, two years after his graduation from Porter Gaud. In 1999, Howe agreed to represent Doe in the civil action against the Porter Gaud defendants. When the action was filed Doe was 36 years old. Doe's legal counsel recognized two potential impediments to a favorable judgment. The first and primary concern dealt with the statute of limitations, and the second hurdle dealt with a potential immunity defense. Because of these problems, counsel pursued, with Doe's consent, settlement negotiations. These negotiations resulted in a settlement agreement. On May 24, 2000, Doe signed a "Confidential Settlement Agreement and Release" settling all past, current, and future claims against Porter Gaud, in exchange for what Doe characterizes as "a modest payment of money...."

In November 2000, another former student who claimed to have been sexually abused by Fischer, brought an action against Porter Gaud. That case proceeded to a jury trial, resulting in a verdict for over one hundred million dollars. Doe responded to news of the jury verdict by contacting *215 Donald Howe to discuss the possibility of setting aside his settlement. Donald Howe ultimately informed Doe that the settlement was final, and there was no basis to set aside the settlement agreement.

Doe filed a complaint asserting causes of action for breach of fiduciary duty and professional negligence against Howe. Doe subsequently filed a motion of confidentiality asking the circuit court to issue an order "requiring the parties and their counsel, and any expert witnesses who may be consulted or designated by the parties, from directly or indirectly divulging the true identity of the plaintiff in this matter, until further order of the Court." The motion states, "it is the interests of justice that he be permitted to proceed in this matter confidentially, *at least in the pretrial phases*, in order to protect him from embarrassment, harassment, or divulging of personal information." (emphasis added). Doe's counsel confirmed at the motion hearing that Doe's request for anonymity was limited to the pretrial proceedings.



Following a hearing, the circuit court issued an order denying the motion. The circuit court order acknowledged that in the course of the Porter Gaud litigation, victims and witnesses were permitted to use pseudonyms but found the issues in this case "entirely different from the Porter Gaud litigation." On a motion for reconsideration, the circuit court affirmed its previous order denying the motion to proceed anonymously. This appeal followed.

STANDARD OF REVIEW

[1] This court will be bound by the factual findings of the trial court made in response to motions preliminary to trial where the findings are supported by evidence and not clearly wrong or controlled by error of law. *City of Chester v. Addison*, 277 S.C. 179, 182, 284 S.E.2d 579, 580 (1981); *Askins v. Firedoor Corp. of Florida*, 281 S.C. 611, 615, 316 S.E.2d 713, 715 (Ct.App.1984).

LAW/ANALYSIS

[2] [3] The single issue raised on appeal is whether the circuit court erred in denying Doe's motion to proceed anonymously. However, we are first confronted with whether this *216 interlocutory order is immediately appealable. A fundamental rule of appellate procedure is that a judgment, or order must usually be final before it can be appealed. *See Culbertson v. Clemens*, 322 S.C. 20, 23, 471 S.E.2d 163, 164 (1996) ("As a general rule, only final judgments are appealable."). **356 Rule 201(a) SCACR, provides that an: "[a]ppeal may be taken, as provided by law, from any final judgment or appealable order." Section 14-3-330 of the South Carolina Code (1991) defines categories of appealable judgments and codifies the final judgment rule. "Final judgment" is a term of art referring to the disposition of all the issues in the case. *Link v. Sch. Dist. of Pickens County*, 302 S.C. 1, n. 3, 393 S.E.2d 176, n. 3 (1990).

Certain interlocutory orders are, however, immediately appealable. An interlocutory order is appealable if it falls into one of a few, limited categories of appealable judgments or orders. S.C.Code Ann. § 14-3-330 (Supp.2003); *Woodard v. Westvaco Corp.*, 319 S.C. 240, 242, 460 S.E.2d 392, 393 (1995) (overruled on other grounds by *Sabb v. South Carolina State Univ.*, 350 S.C. 416, 567 S.E.2d 231 (2002)). Whether the denial of a request to proceed anonymously

is immediately appealable is an issue of first impression in South Carolina.

The final judgment rule serves the laudatory goal of preventing piecemeal review of matters that are merely steps toward a final judgment. In light of the policy underpinnings of the final judgment rule, exceptions should be recognized cautiously.

[4] Federal courts have addressed the issue of the appealability of such orders, holding that the refusal "to allow parties to proceed anonymously at trial is 'separate from and collateral to' the merits of the action." *James v. Jacobson*, 6 F.3d 233, 237 (4th Cir.1993) (citing *Doe v. Stegall*, 653 F.2d 180 (5th Cir.1981) and *S. Methodist Univ. Ass'n v. Wynne & Jaffe*, 599 F.2d 707 (5th Cir.1979)). Under the collateral order analysis employed by the federal courts, the order is appealable if it (1) conclusively determines the question, (2) resolves an important question independent of the merits, and (3) is effectively unreviewable on appeal from a final judgment. *Id.*, 653 F.2d at 236.

*217 We are persuaded that the denial of Doe's motion to proceed anonymously meets the criteria for appellate review. The decision conclusively determines the question, is a question independent of the merits of the litigation and would be effectively unreviewable on final appeal once Doe's true identity was revealed. The order denying Doe's motion to proceed anonymously prior to trial has the effect of revealing his identity, the very thing he was seeking to keep confidential. Therefore, we find that the order is immediately appealable and address whether the circuit court erred in denying Doe's motion to proceed anonymously.

Our courts have long recognized the need for confidentiality in cases dealing with sensitive and personal subject matter. In cases involving the sexual abuse of children, the courts have judicially protected the names of the victims. *See Doe by Roe v. Orangeburg County Sch. Dist.*, 335 S.C. 556, 518 S.E.2d 259 (1999); *Doe by Doe v. Greenville Hosp. Sys.*, 323 S.C. 33, 448 S.E.2d 564 (Ct.App.1994). Additionally, the names of victims of criminal sexual conduct are prohibited by law from being publicly disclosed in news media. *See* S.C.Code Ann. § 16-3-730 (2003) ("Whoever publishes or causes to be published the name of any person upon whom the crime of criminal sexual conduct has been committed or alleged to have been committed in this State in any newspaper, magazine or other publication shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall

be punished by a fine of not more than one thousand dollars or imprisonment of not more than three years.”).

[5] There is no litmus test in South Carolina to determine whether a litigant in a civil proceeding should be allowed to proceed anonymously. We believe that the better practice is one which avoids a rigid, formulaic approach, thereby allowing the trial courts a degree of flexibility in this fact-sensitive area. In the present case, we find the factors utilized in the Fourth Circuit provide appropriate guidance:

(1) whether the justification asserted by the requesting party is merely to avoid the annoyance and criticism that may attend any litigation or is to preserve privacy in a matter of sensitive and highly personal nature;

*218 (2) whether identification poses a risk of retaliatory physical or mental harm to the requesting party or even more critically, to innocent non-parties;

**357 (3) the ages of the persons whose privacy interests are sought to be protected;

(4) whether the action is against a governmental or private party; and

(5) the risk of unfairness to the opposing party from allowing an action against it to proceed anonymously.²

James v. Jacobson, 6 F.3d at 238 (emphasis added); *America Online, Inc. v. Anonymous Publicly Traded Company*, 261 Va. 350, 363, 542 S.E.2d 377, 384 (2001) (citing *James v. Jacobson*) (trial court considered enumerated factors and permitted the plaintiff to proceed anonymously “to avoid annoyance and criticism that may attend any type of litigation” and “to preserve privacy in a matter of sensitive and highly personal nature”).

The decision to proceed anonymously is committed to the discretion of the trial court. Though there is a presumption of openness of judicial proceedings, it operates “only as a presumption and not as an absolute, unreviewable license to deny.” *James v. Jacobson*, 6 F.3d at 238.

[6] We agree with Doe that the circuit court erred in finding that the underlying facts of the sexual abuse claims “are not the focus of this particular litigation.” The court found that “[p]ursuing the malpractice cause of action does not require [Doe] to publish his personal life and sexual history indiscriminately. The allegations of sexual abuse are

peripheral to the malpractice allegations.” The record does not support this finding. Here, Howe’s defense to the claims of professional negligence and breach of fiduciary duty requires an examination of the merits of the original sexual abuse claims against Porter Gaud. In effect, it requires a “trial within a trial.” The record includes Doe’s deposition in which the times, places, and sexual acts that were the basis of the claim against Porter Gaud appear. Clearly, the malpractice case cannot be litigated in a vacuum. It is readily apparent *219 that revealing Doe’s identity would likely cause the harm and social stigmatization he understandably seeks to avoid. Doe has established the need to “preserve privacy in a matter of [a] sensitive and highly personal nature.” *Id.*

Furthermore, the order of the circuit court found that “[t]he sexual assaults in the underlying claim for which Defendants represented him occurred many years ago.” Answers in the deposition belie the suggestion that the mere passage of time removes the claimed embarrassment and humiliation purportedly suffered by Doe. While the passage of time may be an appropriate factor in the judge’s analysis, it is not dispositive and in this case, it carries little weight in advancing Howe’s efforts to compel Doe to disclose his identity.

We conversely discern no prejudice or “risk of unfairness” to Howe in allowing Doe to proceed anonymously in the “pretrial phases.”³ Howe has failed to demonstrate that his ability to conduct further discovery or otherwise prepare for trial will be hindered by allowing Doe to proceed anonymously prior to trial.⁴

CONCLUSION

We are firmly persuaded that the general presumption of public identification of parties should yield under the record before us to Doe’s request that he be permitted to proceed anonymously prior to trial. Accordingly, the decision of the circuit court is

REVERSED.

HEARN, C.J., and HUFF, J., concur.

Parallel Citations

607 S.E.2d 354

Footnotes

- 1 It appears that Donald Howe was Doe's primary counsel, although the allegations in connection with the malpractice claim are primarily directed against Gedney Howe.
- 2 We cite these factors as a nonexclusive list, and recognize that on a case-by-case basis other factors may require consideration.
- 3 This is the relief sought by Doe in his motion in the circuit court, and this is the relief he will receive as a result of our reversal of the circuit court. The matter of additional relief is not before us.
- 4 It was disclosed at oral argument that Howe has been granted summary judgment on Doe's malpractice complaint. We are further informed that Doe has appealed the grant of summary judgment. Doe's appeal from the denial of his motion to proceed anonymously remains a justiciable controversy, and the present appeal is not rendered moot by the grant of summary judgment to Howe.

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STATE OF SOUTH CAROLINA

COUNTY OF JASPER

JOHN DOE

IN THE COURT OF COMMON PLEAS

CIVIL ACTION COVERSHEET

Plaintiff(s)

2015 AUG 18 PM 4:26

2015-CP-27-364

vs.

BEAUFORT-JASPER ACADEMY FOR CAREER EXCELLENCE; BEAUFORT COUNTY SCHOOL DISTRICT; AND, JASPER COUNTY SCHOOL DISTRICT,

Defendant(s)

Submitted By: Matthew V. Creech
Address: 690 North Green Street
Post Office Box 2500
Ridgeland, SC 29936

SC Bar #: 74072
Telephone #: (843) 726-6131
Fax #: (843) 726-3057
Other:
E-mail: mcreech@pmped.com

NOTE: The coversheet and information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law. This form is required for the use of the Clerk of Court for the purpose of docketing. It must be filled out completely, signed, and dated. A copy of this coversheet must be served on the defendant(s) along with the Summons and Complaint.

DOCKETING INFORMATION (Check all that apply)

*If Action is Judgment/Settlement do not complete

- JURY TRIAL demanded in complaint.
NON-JURY TRIAL demanded in complaint.
This case is subject to ARBITRATION pursuant to the Court Annexed Alternative Dispute Resolution Rules.
This case is subject to MEDIATION pursuant to the Court Annexed Alternative Dispute Resolution Rules.
This case is exempt from ADR. (Proof of ADR/Exemption Attached)

NATURE OF ACTION (Check One Box Below)

- Contracts: Constructions (100), Debt Collection (110), General (130), Breach of Contract (140), Fraud/Bad Faith (150), Failure to Deliver/Warranty (160), Employment Discrim (170), Employment (180), Other (199)
Torts - Professional Malpractice: Dental Malpractice (200), Legal Malpractice (210), Medical Malpractice (220), Previous Notice of Intent Case # 20 -NI-, Notice/ File Med Mal (230), Other (299)
Torts - Personal Injury: Conversion (310), Motor Vehicle Accident (320), Premises Liability (330), Products Liability (340), Personal Injury (350), Wrongful Death (360), Assault/Battery (370), Slander/Libel (380), Other (399)
Real Property: Claim & Delivery (400), Condemnation (410), Foreclosure (420), Mechanic's Lien (430), Partition (440), Possession (450), Building Code Violation (460), Other (499)
Inmate Petitions: PCR (500), Mandamus (520), Habeas Corpus (530), Other (599)
Administrative Law/Relief: Reinstate Drv. License (800), Judicial Review (810), Relief (820), Permanent Injunction (830), Forfeiture-Petition (840), Forfeiture-Consent Order (850), Other (899)
Judgments/Settlements: Death Settlement (700), Foreign Judgment (710), Magistrate's Judgment (720), Minor Settlement (730), Transcript Judgment (740), Lis Pendens (750), Transfer of Structured Settlement Payment Rights Application (760), Confession of Judgment (770), Petition for Workers Compensation Settlement Approval (780), Other (799)
Appeals: Arbitration (900), Magistrate-Civil (910), Magistrate-Criminal (920), Municipal (930), Probate Court (940), SCDOT (950), Worker's Comp (960), Zoning Board (970), Public Service Comm. (990), Employment Security Comm (991), Other (999)
Special/Complex/Other: Environmental (600), Automobile Arb. (610), Medical (620), Other (699), Sexual Predator (510), Pharmaceuticals (630), Unfair Trade Practices (640), Out-of State Depositions (650), Motion to Quash Subpoena in an Out-of-County Action (660), Pre-Suit Discovery (670)

Submitting Party Signature: [Signature]
SCCA / 234 (06/2015)

Date: 8-18-15
Page 1 of 3
ROA-0032

Note: Frivolous civil proceedings may be subject to sanctions pursuant to SCRCP, Rule 11, and the South Carolina Frivolous Civil Proceedings Sanctions Act, S.C. Code Ann. §15-36-10 et. seq.

FOR MANDATED ADR COUNTIES ONLY

Aiken, Allendale, Anderson, Bamberg, Barnwell, Beaufort, Berkeley, Calhoun, Charleston, Cherokee, Clarendon, Colleton, Darlington, Dorchester, Florence, Georgetown, Greenville, Hampton, Horry, Jasper, Kershaw, Lee, Lexington, Marion, Oconee, Orangeburg, Pickens, Richland, Spartanburg, Sumter, Union, Williamsburg, and York

SUPREME COURT RULES REQUIRE THE SUBMISSION OF ALL CIVIL CASES TO AN ALTERNATIVE DISPUTE RESOLUTION PROCESS, UNLESS OTHERWISE EXEMPT.

You are required to take the following action(s):

1. The parties shall select a neutral and file a "Proof of ADR" form on or by the 210th day of the filing of this action. If the parties have not selected a neutral within 210 days, the Clerk of Court shall then appoint a primary and secondary mediator from the current roster on a rotating basis from among those mediators agreeing to accept cases in the county in which the action has been filed.
2. The initial ADR conference must be held within 300 days after the filing of the action.
3. Pre-suit medical malpractice mediations required by S.C. Code §15-79-125 shall be held not later than 120 days after all defendants are served with the "Notice of Intent to File Suit" or as the court directs. (Medical malpractice mediation is mandatory statewide.)
4. Cases are exempt from ADR only upon the following grounds:
 - a. Special proceeding, or actions seeking extraordinary relief such as mandamus, habeas corpus, or prohibition;
 - b. Requests for temporary relief;
 - c. Appeals
 - d. Post Conviction relief matters;
 - e. Contempt of Court proceedings;
 - f. Forfeiture proceedings brought by governmental entities;
 - g. Mortgage foreclosures; and
 - h. Cases that have been previously subjected to an ADR conference, unless otherwise required by Rule 3 or by statute.
5. In cases not subject to ADR, the Chief Judge for Administrative Purposes, upon the motion of the court or of any party, may order a case to mediation.
6. Motion of a party to be exempt from payment of neutral fees due to indigency should be filed with the Court within ten (10) days after the ADR conference has been concluded.

Please Note: You must comply with the Supreme Court Rules regarding ADR. Failure to do so may affect your case or may result in sanctions.

STATE OF SOUTH CAROLINA)

COUNTY OF JASPER)

JOHN DOE,)

Plaintiff,)

v.)

BEAUFORT-JASPER ACADEMY FOR)
CAREER EXCELLENCE; BEAUFORT)
COUNTY SCHOOL DISTRICT; AND,)
JASPER COUNTY SCHOOL DISTRICT,)

Defendants.)

IN THE COURT OF COMMON PLEAS

CIVIL ACTION NO.: 2015-CP-27-364

SUMMONS
(Jury Trial Requested)

2015 AUG 18 PM 5:25
CLERK OF COURT
JASPER COUNTY
SOUTH CAROLINA

TO THE DEFENDANTS ABOVE-NAMED:

YOU ARE HEREBY SUMMONED and required to answer the complaint herein, a copy of which is herewith served upon you, and to serve a copy of your answer to this complaint upon the subscriber, at 690 North Green Street, Post Office Box 2500, Ridgeland, SC 29936, within thirty (30) days after service hereof, exclusive of the day of such service, and if you fail to answer the complaint, judgment by default will be rendered against you for the relief demanded in the complaint.

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

BY: _____



Matthew V. Creech
690 North Green Street
Post Office Box 2500
Ridgeland, SC 29936
(843) 726-6131

ATTORNEYS FOR PLAINTIFF

August 18, 2015
Ridgeland, South Carolina

STATE OF SOUTH CAROLINA)
)
 COUNTY OF JASPER)
)
 JOHN DOE,)
)
 Plaintiff,)
)
 vs.)
)
 BEAUFORT-JASPER ACADEMY FOR)
 CAREER EXCELLENCE;)
 BEAUFORT COUNTY SCHOOL)
 DISTRICT; and, JASPER COUNTY)
 SCHOOL DISTRICT,)
)
 Defendants.)

IN THE COURT OF COMMON PLEAS
 Civil Action No.: 2015-CP-27-364

COMPLAINT
 (Jury Trial Demanded)

2015 JUN 19 PM 4:26
 JASPER COUNTY CLERK OF COURT

The Plaintiff alleges and would show unto this Court as follows:

1. That "John Doe" is a citizen and resident of Hampton County. "John Doe" is a fictitious name being used by the Plaintiff due to the sensitive nature of the subject matter of this litigation and in an attempt to mitigate or minimize any further damage to his reputation within the community. John Doe has filed, contemporaneously herewith, a motion to have the Court confirm the ability to proceed under this fictitious name.

2. That the Defendant Beaufort-Jasper Academy for Career Excellence (hereinafter, "ACE") is and was at all times material hereto an agency, political subdivision and/or governmental entity within the meaning of the South Carolina Tort Claims Act, S.C. Code Ann. Section 15-78-30, *et seq.*, existing and operating within the County of Jasper, State of South Carolina. This entity is subject to suit and the jurisdiction of this Court pursuant to the SCTCA. Furthermore, the Defendant ACE is a school offering educational and technical training from students from Jasper and Beaufort Counties, and which at all times relevant herein operated

under the direction and control of one or both of the Jasper County and Beaufort County school districts.

3. That the Defendant Beaufort County School District (hereinafter, "BCSD") is now and was at all times material hereto an agency, political subdivision and/or governmental entity within the meaning of the South Carolina Tort Claims Act, S.C. Code Ann. Section 15-78-30, *et seq.*, existing and operating within the County of Beaufort, State of South Carolina. This entity is subject to suit and the jurisdiction of this Court pursuant to the SCTCA. Furthermore, at all times relevant herein, the Defendant BCSD had actual control, operational oversight, and supervisory rights to the teachers, staff, and administration of Defendant ACE.

4. That the Defendant Jasper County School District (hereinafter, "JCSD") is now and was at all times material hereto an agency, political subdivision and/or governmental entity within the meaning of the South Carolina Tort Claims Act, S.C. Code Ann. Section 15-78-30, *et seq.*, existing and operating within the County of Beaufort, State of South Carolina. This entity is subject to suit and the jurisdiction of this Court pursuant to the SCTCA. Furthermore, at all times relevant herein, the Defendant JCSD had actual control, operational oversight, and supervisory rights to the teachers, staff, and administration of Defendant ACE.

5. The Plaintiff John Doe was at all times relevant herein an employee of ACE in Jasper County. On August 21, 2013, and then on multiple dates thereafter, an employee, or employees of the Defendants – an employee or employees in ACE's administration – caused to be published to third parties, including the family of John Doe, libelous, slanderous, and/or defamatory statements which were untrue, false, and harmful, and which falsely accused John Doe of a sexual relationship with a co-worker.

6. That the creation of and publication of these defamatory statements were made by the Defendants, by and through the bodies' officers, agents, employees, managers, and/or servants, specifically by members of the administration of ACE.

7. That these officers, agents, employees, managers, and/or servants of the Defendants falsely accused the Plaintiff of an extramarital sexual relationship with another ACE employee and published these defamatory statements to third parties.

8. The aforementioned false and defamatory accusations and statements made by the Defendants against the Plaintiff were made and published when the Defendants and those bodies' officers, agents, employees, managers and/or servants actually knew, or should have known, that Plaintiff had not committed those acts.

FOR A FIRST CAUSE OF ACTION
(Negligence)

9. Plaintiff repeats and realleges all previous allegations as if fully set forth herein.

10. The Defendants, by and through the acts, omissions, and conduct of its employees, agents, managers, and/or servants, were negligent, grossly negligent, reckless, willful, and wanton in one of more of the following particulars:

- a. In failing to exercise due care under the circumstances;
- b. In failing to adequately and properly supervise and train its employees, specifically the administration of ACE and the employees involved in the creation and publication of these defamatory statements;
- c. In failing, institutionally, to set forth and create personnel policies, procedures, and goals to ensure that the such defamatory statements not be created and published by administrators concerning lower level staff /personnel or others; and,
- d. In failing to adequately and properly supervise and train its employees, agents and servants – specifically the administration of ACE – in proper and appropriate management of personnel matters and in the event that

such policies, procedures, and safeguards were in place, in failing to enforce the same; and,

- e. In such other and further particulars as the evidence developed through discovery and the trial of this matter might show.

11. That as a direct and proximate result of the negligent, grossly negligent, reckless, willful, and wanton acts, omissions, and conduct of the Defendant, the Plaintiff sustained injuries and damages, including but not limited to embarrassment, humiliation, pain and suffering, inconvenience, frustration, mental anguish, harm to his reputation, and other consequential damages.

FOR A SECOND CAUSE OF ACTION:
(Defamation)

12. That the allegations and matters contained in all previous paragraphs are hereby reiterated and incorporated by reference as if repeated herein verbatim.

13. That the Defendants, by and through those bodies' agents, employees, representatives, and principals, falsely accused the Plaintiff of a sexual relationship with a co-worker which the Defendants and their agents, employees, or servants then published, knowing that such statements were false, defamatory, and/or defamatory per se.

14. That the Defendants, by and through those bodies' agents, employees, representatives and principals recklessly published these falsities by communicating it to persons and third parties other than the Plaintiff, including members of the Plaintiff's family and community.

15. That the agents, servants, and employees of the Defendant spoke, wrote, acted and/or otherwise communicated statements about the Plaintiff which constitute defamation in the following particulars:

- a. the statements had a defamatory meaning, namely that the statements unjustly accused the Plaintiff of an extramarital affair which did not occur;
- b. the statements were published with actual or implied malice;
- c. the statements were false;
- d. the statements concerned the Plaintiff; and,
- e. the statements resulted in legally presumed damages or in special damages for the Plaintiff.

16. That the spoken, written and/or otherwise published statements about the Plaintiff were false; the Defendants either knew of the actual falsity of the statements and published the same with actual malice; or, the Defendants should have known the publications were false and acted with implied malice and published the same with reckless disregard for the truth.

17. That the false statements of the Defendants had a natural, probable, and direct tendency to impeach the honesty, integrity, and virtue of the Plaintiff and/or to harm the reputation of the Plaintiff and the nature of the false and defamatory statements about the Plaintiff are defamatory per se.

18. That as a direct and proximate result of the Defendants' acts, omissions, and conduct and the defamatory statements and publications made by the Defendant, the Plaintiff experienced and will continue to experience psychological and emotional distress; mental pain and suffering; mental anguish; humiliation, disgrace, shame, and embarrassment; inconvenience and, has incurred consequential damages.

19. That the acts, omissions, and conduct of the Defendants in publishing said defamatory statements were negligent, willful, wanton, malicious, knowing, reckless, and undertaken in an utter and absolute disregard for the rights of the Plaintiff; Plaintiff seeks both actual and punitive damages against the Defendants in an amount to be determined by the trier of fact.

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

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



R. Alexander Murdaugh
Matthew V. Creech
Post Office Box 457
Hampton, S.C. 29924
P: 803.943.2111
F: 803.943.3943

ATTORNEYS FOR THE PLAINTIFF

August 17, 2015
Ridgeland, South Carolina

STATE OF SOUTH CAROLINA)

COUNTY OF JASPER)

JOHN DOE,)

Plaintiff,)

vs.)

BEAUFORT-JASPER ACADEMY FOR)
CAREER EXCELLENCE;)
BEAUFORT COUNTY SCHOOL)
DISTRICT; and, JASPER COUNTY)
SCHOOL DISTRICT,)

Defendants)

IN THE COURT OF COMMON PLEAS

14th JUDICIAL CIRCUIT

Motion for Leave of Court to Protect
the Identity of the Plaintiff and to
Proceed Under an Order of Confidentiality

2018 AUG 18 PM 10:26
JASPER COUNTY

NOW COMES THE PLAINTIFF, by and through his undersigned counsel, who seeks permission of the Court to proceed in the accompanying tort action for defamation, slander, and/or libel confidentially and under the fictitious name of "John Doe."

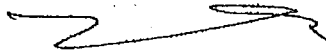
The Plaintiff John Doe is an employee of ACE in Jasper County. Plaintiff has contemporaneously brought an action for libel, slander, and defamation as a result of untrue, false, and harmful letters of which the Plaintiff is the subject. These letters are defamatory, falsely accuse the married Plaintiff of a sexual relationship with a co-worker, and the letters were published to the Plaintiff's wife, other family members, and other third parties. As a result of the false, untrue, and harmful statements contained in the letters at issue, the Plaintiff has already suffered injury to his reputation within his immediate family, his professional community, and his community at large. Due to the sensitive and personal nature of the false accusations and the existing harm to his reputation caused by the publication of those letters, the Plaintiff seeks to limit the continued publication of the statements by being

anonymous in this litigation. At the same time, however, the Plaintiff is entitled to and wishes to pursue civil remedies for the harms, losses, and injuries to his reputation caused by the communications.

In an effort to limit or control the continued damage to his reputation caused by the defamatory statements, but also to allow the prosecution of his legal claims, the Plaintiff respectfully requests that the Court allow him to proceed anonymously in this matter. The Plaintiff so moves under the discretionary power of the Court and pursuant to common law such as *Doe v. Howe*. Furthermore, allowing anonymity promotes the ends of justice and creates no prejudice to any party.

Respectfully submitted,

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



R. Alexander Murdaugh
Matthew V. Creech
Post Office Box 457
Hampton, S.C. 29924
P: 803.943.2111
F: 803.943.3943

ATTORNEYS FOR THE PLAINTIFF

August 17, 2015
Ridgeland, South Carolina

STATE OF SOUTH CAROLINA)
)
COUNTY OF JASPER)

IN THE COURT OF COMMON PLEAS

John Doe,)

C.A. No. 2015-CP-27-364

Plaintiff,)

**ANSWER AND AFFIRMATIVE
DEFENSES**

vs.)

Beaufort-Jasper Academy for Career)
Excellence; Beaufort County School)
District; and, Jasper County School)
District,)

Defendants.)

Defendant, Jasper County School District ("District"), by and through its undersigned counsel, hereby responds to the allegations of Plaintiff's complaint, in accordance with the numbered paragraphs thereof, as follows:

1. Denied for lack of knowledge.
2. Denied.
3. Denied.
4. Denied.
5. Denied for lack of knowledge.
6. Denied for lack of knowledge.
7. Denied for lack of knowledge.
8. Denied for lack of knowledge.

FOR A FIRST CAUSE OF ACTION
(Negligence)

9. Defendant incorporates responses to paragraphs 1 through 8 of the Complaint as it sets forth herein verbatim.

10. Denied for lack of knowledge.
11. Denied for lack of knowledge.

FOR A SECOND CAUSE OF ACTION
(Defamation)

12. Denied for lack of knowledge.
13. Denied for lack of knowledge.
14. Denied for lack of knowledge.
15. Denied for lack of knowledge.
16. Denied for lack of knowledge.
17. Denied for lack of knowledge.
18. Denied.
19. Denied.
20. The District denies that the Plaintiff is entitled to the relief requested in the complaint or any other recovery whatsoever.
21. The District denies each and every other allegation of the complaint except those allegations expressly admitted herein.

FIRST AFFIRMATIVE DEFENSE

Defendant Jasper County School District is not liable because the Complaint fails to state facts sufficient to constitute a cause of action or to state a claim on which relief can be granted against Defendant.

SECOND AFFIRMATIVE DEFENSE

Defendant Jasper County School District at all times acted in good faith.

THIRD AFFIRMATIVE DEFENSE

Plaintiff was not, and has never been, an employee or agent of the Defendant, Jasper

County School District. Plaintiff has no relationship with the Defendant, Jasper County School District, and Jasper County School District has no relationship with Plaintiff.

FIFTH AFFIRMATIVE DEFENSE

Plaintiff's claims are barred in whole and part under the applicable statute of limitations.

SIXTH AFFIRMATIVE DEFENSE

Plaintiff has failed to mitigate any damages allegedly suffered and her claims are otherwise barred by the doctrine of waivers and/or unclean hands.

SEVENTH AFFIRMATIVE DEFENSE

To the extent that Plaintiff seeks to recover from the Defendant, Jasper County School District, for any alleged torts, the Defendant is covered by the South Carolina Tort Claims Act, which is pled as a bar to and a limitation on liability and an award of damages.

WHEREFORE, having fully answered the Complaint, Jasper County School District respectfully prays that the Court dismiss Plaintiff's claims against it.

WHEREFORE, having fully answered Plaintiff's complaint, Defendant respectfully prays that this Court dismiss this action in its entirety and award Defendant its costs as permitted by law.

Respectfully submitted,

CHILDS & HALLIGAN, P.A.

By: Mary Allison Caudell
Dwayne T. Mazyck, S.C. Bar No. 70240
dmazyck@childs-halligan.net

Thomas K. Barlow, S.C. Bar No. 8995
tbarlow@childs-halligan.net

Mary Allison Caudell, S.C. Bar No. 101187

macaudell@childs-halligan.net

P.O. Box 11367
Columbia, South Carolina 29211
(803) 254-4035

Attorneys for Defendant Jasper County School
District

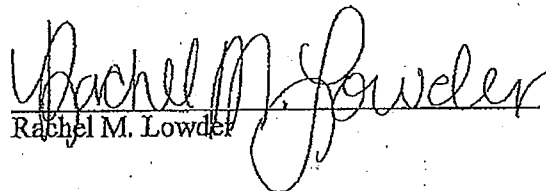
November 9, 2015

Columbia, South Carolina

CERTIFICATE OF SERVICE BY MAIL

The undersigned of Childs & Halligan, P.A., hereby certifies that she has served the following counsel of record with the foregoing ANSWER AND AFFIRMATIVE DEFENSES by mailing a copy of same, postage prepaid and return address clearly indicated, to the following on this 1st day of November 2015:

Matthew Creech, Esq.
Peters Murdaugh Parker Eltzroth & Detrick
P.O. Box 2500
Ridgeland, SC 29936


Rachel M. Lowder

FILED

STATE OF SOUTH CAROLINA

COUNTY OF JASPER

John Doe,

Plaintiff,

v.

Beaufort-Jasper Academy for Career
Excellence; Beaufort County School
District; and, Jasper County School District,

Defendants.

IN THE COURT OF COMMON PLEAS FOR
THE FOURTEENTH JUDICIAL CIRCUIT

2016 AUG 26 AM 9:41

Case No. 2015-CP-27-00364

CLERK OF COURT
JASPER COUNTY

**DEFENDANT BEAUFORT-JASPER
ACADEMY FOR CAREER EXCELLENCE'S
NOTICE OF MOTION AND MOTION
TO COMPEL DISCOVERY**

TO: MATTHEW V. CREECH, ESQ., ESQUIRE, ATTORNEY FOR PLAINTIFF

YOU WILL PLEASE TAKE NOTICE that pursuant to Rule 37(a) of the South Carolina Rules of Civil Procedure ("SCRCP"), Defendant Beaufort-Jasper Academy for Career Excellence (hereinafter "Defendant") by and through its undersigned counsel, will move before the Court on the tenth day following service hereof, or at such other time and place as is convenient for the Court, for an order compelling Plaintiff to fully answer the Defendant's First Set of Requests for Production and First Set of Interrogatories, which were served on June 7, 2016, and due on July 12, 2016. (See Exhibits A and B attached).

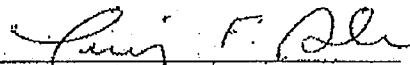
In accordance with Rule 11, SCRCP, counsel for the Defendant certifies that it communicated in good faith to resolve this matter on July 22, 2016, and August 2, 2016. (See Exhibits C and D attached). Notwithstanding these communications, the Plaintiff's discovery responses remain outstanding. As such, the Defendant respectfully asks this Court to compel the Plaintiff to answer its First Set of Interrogatories and First Set of Requests for Production.

[SIGNATURE BLOCK ON FOLLOWING PAGE]

ROA-0050

Respectfully submitted,

BOYKIN & DAVIS, LLC

By: 

Charles J. Boykin
Kenneth A. Davis
Tierney F. Dukcs

P. O. Box 11844
Columbia, South Carolina 29211
Telephone: 803-254-0707
Facsimile: 803-254-5609

Attorneys for Defendant Beaufort-Jasper
Academy for Career Excellence

August 22, 2016
Columbia, South Carolina

ATTACHMENT A

STATE OF SOUTH CAROLINA

COUNTY OF JASPER

John Doe,

Plaintiff,

v.

Beaufort-Jasper Academy for Career
Excellence; Beaufort County School District;
and, Jasper County School District,

Defendants.

IN THE COURT OF COMMON PLEAS FOR
THE FOURTEENTH JUDICIAL CIRCUIT

Case No. 2015-CP-27-00364

**DEFENDANT BEAUFORT-JASPER
ACADEMY FOR CAREER EXCELLENCE'S
FIRST SET OF REQUEST FOR
PRODUCTION TO PLAINTIFF**

YOU ARE HEREBY REQUESTED to produce and permit Defendant Beaufort-Jasper Academy for Career Excellence (hereinafter "Defendant" or "ACE") to inspect and copy the following documents and/or things. You are requested to produce the records or copies thereof at the offices of Boykin & Davis, L.L.C., P.O. Box 11844, Columbia, South Carolina 29211, at a mutually convenient time, not later than 30 days after the service hereof.

DIRECTIONS AND INSTRUCTIONS

1. "Possession, custody and control" of documents means possession, custody or control or right to possession, custody or control including your attorneys, employees, officers, representatives, agents, and all other persons acting or purporting to act on your behalf.
2. "Documents" means all written or printed matter of any kind, including the originals and all non-identical copies, different from the originals by reason of any notation made on such copies or otherwise, including, but not limited to any correspondence, memoranda, notes, diaries, electronic communications, electronic mail (e-mail), electronic bulletin board postings, World Wide Web site postings, documents or materials stored on computer floppy disks, computer hard drives, computer internal caches, computer ZIP/external storage drives, statistics, letters, telegrams, telexes, teletypes, telefax, telecopies, minutes, agendas, contracts, reports, studies, surveys, statements, receipts, returns, summaries, pamphlets, books, prospectuses, interoffice and intraoffice communications, offers, notations of any sort of conversations including telephone conversations and meetings, bulletins, computer printouts and records, invoices, work sheets, accountants' notes, work papers, and all drafts, alterations, modifications, changes and amendments of any kind and, in addition thereto, any graphic or manual records, or representations of any kind including, without limitation, photographs, charts, graphs, microfiche, microfilm, videotape camera records, and motion pictures, and electronic or mechanical records or reproductions of any kind, including without limitation, tapes, cassettes, disks, recordings, or the hard copies thereof or any other data compilations. If

such documents consist of other data compilations, they shall be translated by the Plaintiff into reasonable usable form through appropriate detection devices.

3. "All documents" means every document as defined above, which is in your possession, custody or control and includes documents which are not in your possession, custody or control which are known to you or which can be located or discovered by reasonably diligent efforts.
4. "Including" means including but not by way of limitation.
5. "Related," "relates" or "relating to" means constituting, comprising, evidencing, containing, setting forth, showing, disclosing, describing, explaining, summarizing, concerning, or referring to, directly or indirectly.
6. "Identity," "Identification" or to "give the identity of" means:
 - (a) In the case of an individual--to state his or her name, present or last known residence, present or last known telephone number, business affiliations, business address, job description, and if different from the latter, the last position held with the Plaintiff, and if applicable, the date the individual was last employed by or for Plaintiffs;
 - (b) In the case of a document, whether or not such document is deemed to be privileged, objectionable or subject to any claims of privilege, to provide the following information:
 - (1) The title or other means of identification of each such document;
 - (2) The subject matter of each such document;
 - (3) The date each such document was prepared;
 - (4) The identity of the person or persons who prepared each such document.
 - (5) The identity of the person or persons receiving the document for whom such document was prepared as well as the identity of each person receiving copies of said document;
 - (6) The present location of any and all copies of each such document in the possession, custody or control of Plaintiff;
 - (7) The identity of any and all persons who have custody or control of each such document or copies thereof; and
 - (8) Whether the Plaintiff claims any privilege or other reason for non-production with respect to each such document or copies thereof, and if so the factual and legal basis for the alleged privilege for non-production. In

lieu of the foregoing, a copy of each such document may be supplied but said copy must indicate to which Interrogatory it relates.

- (c) If any requested document existed at one time and was in the possession, custody or control of Plaintiff, but has been lost, discarded or destroyed, removed from the possession, custody or control of the Plaintiff, indicate for each such document;
- (1) The identity of the document and the description of its contents indicating its dates, title and type of document;
 - (2) When the document was most recently in the possession, custody or control of the Plaintiff and what disposition was made of it; and
 - (3) Identify any person who currently possesses the document.

REQUESTS FOR PRODUCTION

1. Any and all written or recorded statements of any party or witness herein or their agents or other representatives regarding the subject matter of this lawsuit.
2. Any and all copies of correspondence, including but not limited to e-mails, between Plaintiff and Defendant concerning the alleged defamatory statements.
3. Any and all documents relating to any of the allegations contained in Plaintiff's Complaint.
4. Any and all documents which Plaintiff will rely upon during discovery or at trial which Plaintiff contends support allegations made against the Defendant.
5. Any and all documents relied upon to assess the actual damages Plaintiff alleges to have sustained.
6. Any and all documents referred to in Plaintiff's responses to Defendant's Interrogatories to the Plaintiff.
7. Any and all documents and or reports generated by any and all expert witnesses whom the Plaintiff has retained in connection with this case.
8. Any and all documents concerning the alleged defamatory conduct by Defendants and other ACE employees as outlined in the Complaint in this action including, without limitation, dates, content, factual details and outcomes thereof.
9. Any and all documents concerning conversations or other communications between Plaintiff and any current or former employees, officers, representatives, attorneys or agents of Defendant, concerning any and all claims raised by Plaintiff in this action.

STATE OF SOUTH CAROLINA
COUNTY OF JASPER

John Doe,

Plaintiff,

v.

Beaufort-Jasper Academy for Career
Excellence; Beaufort County School District;
and, Jasper County School District,

Defendants.

IN THE COURT OF COMMON PLEAS FOR
THE FOURTEENTH JUDICIAL CIRCUIT

Case No. 2014-CP-27-00364

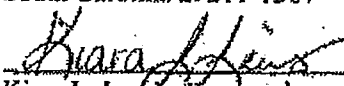
CERTIFICATE OF SERVICE

The undersigned of Boykin Davis & Smiley, LLC, hereby certifies that she has served the following counsel of record with the foregoing **DEFENDANT BEAUFORT-JASPER ACADEMY FOR CAREER EXCELLENCE'S FIRST SET OF REQUEST FOR PRODUCTION TO PLAINTIFF**, by mailing a copy of same, postage prepaid and return address clearly indicated, to the following on this 7th day of June, 2016:

R. Alexander Murdaugh, Esq.
Matthew V. Crecch, Esq.
Peters, Murdaugh, Parker, Eitzroth & Detrick, P.A.
P.O. Box 2500
Ridgeland, SC 29936

Andrew F. Lindermann, Esq.
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Kiaru L. Lewis, Paralegal

ATTACHMENT B

STATE OF SOUTH CAROLINA

COUNTY OF JASPER

John Doe,

Plaintiff,

v.

Beaufort-Jasper Academy for Career
Excellence; Beaufort County School District;
and, Jasper County School District,

Defendants.

IN THE COURT OF COMMON PLEAS FOR

THE FOURTEENTH JUDICIAL CIRCUIT

Case No. 2015-CP-27-00364

**DEFENDANT BEAUFORT-JASPER
ACADEMY FOR CAREER EXCELLENCE'S
FIRST SET OF INTERROGATORIES TO
PLAINTIFF**

YOU ARE HEREBY served the following written Interrogatories to be answered separately and in writing within 30 days from the date of service hereof, pursuant to and in accordance with Rule 33, SCRCP.

1. Give the names, addresses and telephone numbers of persons known to Plaintiff or counsel to be witnesses concerning the facts of the case and indicate whether or not written or recorded statements have been taken from the witnesses and indicate who has possession of such statements.
2. Set forth a list of photographs, plats, sketches or other prepared documents in possession of Plaintiff or counsel that relate to the claim or defense of the case.
3. Set forth an itemized, specific statement of all damages, complete with monetary amounts but exclusive of pain and suffering, claimed to have been sustained by Plaintiff.
4. List the name, address and telephone number of any expert witnesses whom Plaintiff or counsel propose to use as a witness at the trial of the case.
5. For each person known to Plaintiff or counsel to be a witness concerning the facts of the case, set forth either a detailed summary sufficient to inform Defendants of the important facts known or observed by such witness, or provide a copy of any written or recorded statements taken from such witnesses.
6. Please state the nature of any other legal actions (civil, worker's compensation, disability claims, domestic, or criminal, including arrests, if any) that the Plaintiff has been involved in either as a Plaintiff or Defendant; and, if you have been so involved, please state the dates of your involvement, the courts in which these actions were pending and the resolutions.
7. Please state the specific alleged defamatory statement(s) made to third parties concerning Plaintiff, and include:

- a. Who made the statement;
 - b. The name and address of the third party to whom the statement was made;
 - c. When the statement was made; and
 - d. Where the statement was made.
8. Provide the name of every agent, employee, or servant of Defendant that Plaintiff communicated with concerning the alleged defamatory statements.
9. Provide the basis for Plaintiff's belief that the Defendant is responsible for the alleged defamatory statement(s).
10. List each and every policy Plaintiff contends was violated, and explain in detail how each policy was violated, and by whom.
11. Provide the basis for Plaintiff's belief that the alleged defamatory statements were created specifically by members of the administration of Defendant as alleged in Paragraph Six (6) of the Complaint.
12. Identify each individual of the community that Plaintiff alleges the District published defamatory statements to concerning the Plaintiff as stated in Paragraph Fourteen (14) of the Complaint.
13. Set forth any special damages allegedly incurred as stated in Paragraph Fifteen (15) of the Complaint.
14. Identify any individuals, psychologists, counselors, or therapists Plaintiff is was treated or is being treated for the alleged psychological and emotional district stated in Paragraph Eighteen (18) of the Complaint.

Respectfully submitted,

BOYKIN DAVIS & SMILEY, LLC

By: 

Charles J. Boykin, Esq.
Kenneth A. Davis, Esq.
Ralph J. Smiley, Esq.
Tierney F. Dukes, Esq.

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Telephone (803) 254-0707
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Attorneys for Beaufort-Jasper Academy for
Career Excellence

June 7, 2016
Columbia, South Carolina

STATE OF SOUTH CAROLINA

COUNTY OF JASPER

John Doe,

Plaintiff,

v.

Beaufort-Jasper Academy for Career
Excellence; Beaufort County School District;
and, Jasper County School District,

Defendants.

IN THE COURT OF COMMON PLEAS FOR

THE FOURTEENTH JUDICIAL CIRCUIT

Case No. 2014-CP-27-00364

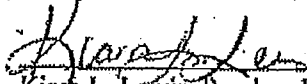
CERTIFICATE OF SERVICE

The undersigned of Boykin Davis & Smiley, LLC, hereby certifies that she has served the following counsel of record with the foregoing **DEFENDANT BEAUFORT-JASPER ACADEMY FOR CAREER EXCELLENCE'S FIRST SET OF REQUEST FOR INTERROGATORIES TO PLAINTIFF**, by mailing a copy of same, postage prepaid and return address clearly indicated, to the following on this 7th day of June, 2016:

R. Alexander Murdaugh, Esq.
Matthew V. Creech, Esq.
Peters, Murdaugh, Parker, Eltzroth & Detrick, P.A.
P.O. Box 2500
Ridgeland, SC 29936

Andrew F. Lindermann, Esq.
Davidson & Lindermann, P.A.
Post Office Box 8568
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Dwayne T. Mazyck, Esq.
Childs & Halligan, P.A.
Post Office Box 11367
Columbia, South Carolina 29211-1367


Kiara L. Lewis, Paralegal

ATTACHMENT C

STATE OF SOUTH CAROLINA

FILED IN THE COURT OF COMMON PLEAS
FOURTEENTH JUDICIAL CIRCUIT

COUNTY OF JASPER

CASE NO.: 2015-CP-27-00364

2015 NOV 4 AM 10:58

John Doe

MOTION AND ORDER INFORMATION

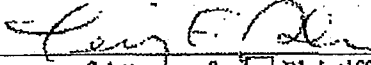
Plaintiff

FORM AND COVERSHEET

vs.

Beaufort Jasper Academy for Career
Excellence, et al.

Defendant.

Plaintiff's Attorney: Matthew V. Creech, Esq., Bar No. 74072 Address: P.O. Box 2500, Ridgeland, SC 29936 Phone: 843-726-6131 Fax _____ E-mail: mcreech@prmped.com Other: _____	Defendant's Attorney: Tierney F. Dukes, Bar No. 102035 Address: P.O. Box 11844, Columbia, SC 29229 Phone: 803-254-0707 Fax 803-254-5609 E-mail: tdukes@boykinlawsc.com Other: _____
<input checked="" type="checkbox"/> MOTION HEARING REQUESTED (attach written motion and complete SECTIONS I and III) <input type="checkbox"/> FORM MOTION, NO HEARING REQUESTED (complete SECTIONS II and III) <input type="checkbox"/> PROPOSED ORDER/CONSENT ORDER (complete SECTIONS II and III)	
SECTION I: Hearing Information	
Nature of Motion: Notice and Petition for Rule to Show Cause Estimated Time Needed: 15 min. Court Reporter Needed: <input checked="" type="checkbox"/> YES / <input type="checkbox"/> NO	
SECTION II: Motion/Order Type	
<input checked="" type="checkbox"/> Written motion attached <input type="checkbox"/> 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 <input type="checkbox"/> Plaintiff / <input checked="" type="checkbox"/> Defendant	November 2, 2016 Date submitted
SECTION III: Motion Fee	
<input checked="" type="checkbox"/> PAID - AMOUNT: \$ _____ <input type="checkbox"/> EXEMPT: (check reason)	
<input type="checkbox"/> Rule to Show Cause in Child or Spousal Support <input type="checkbox"/> Domestic Abuse or Abuse and Neglect <input type="checkbox"/> Indigent Status <input type="checkbox"/> State Agency v. Indigent Party <input type="checkbox"/> Sexually Violent Predator Act <input type="checkbox"/> Post-Conviction Relief <input type="checkbox"/> Motion for Stay in Bankruptcy <input type="checkbox"/> Motion for Publication <input type="checkbox"/> Motion for Execution (Rule 69, SCRCP) <input type="checkbox"/> 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: _____ <input type="checkbox"/> Other: _____	
JUDGE'S SECTION	
<input type="checkbox"/> Motion Fee to be paid upon filing of the attached order. <input type="checkbox"/> Other: _____	JUDGE CODE _____ Date: _____
CLERK'S VERIFICATION	
Collected by: _____ Date Filed: _____ <input type="checkbox"/> MOTION FEE COLLECTED: \$ _____ <input type="checkbox"/> CONTESTED - AMOUNT DUE: \$ _____	

FILED

STATE OF SOUTH CAROLINA
COUNTY OF JASPER

John Doe,

Plaintiff,

v.

Beaufort-Jasper Academy for Career
Excellence; Beaufort County School District;
and, Jasper County School District,

Defendants.

IN THE COURT OF COMMON PLEAS FOR
THE FOURTEENTH JUDICIAL CIRCUIT

Case No. 2015-CP-27-00364

DEFENDANT BEAUFORT-JASPER
ACADEMY FOR CAREER
EXCELLENCE'S NOTICE AND
PETITION FOR RULE TO SHOW CAUSE

TO: MATTHEW V. CREECH, ESQ., ATTORNEY FOR PLAINTIFF

YOU WILL PLEASE TAKE NOTICE that Defendant Beaufort-Jasper Academy for Career Excellence (hereinafter "Defendant"), by and through his undersigned counsel, will move before the Court for an Order requiring Plaintiff to show cause as to why he should not be held in contempt of court for failure to provide responses to Defendant's discovery requests by September 23, 2016, as set forth before the Court on September 20, 2016. In support of this Petition, Defendant submits the following:

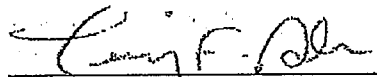
1. On June 7, 2016, Defendant served Plaintiff with Defendant's First Set of Interrogatories and Requests for Production, due on or before July 12, 2016. Plaintiff failed to respond.
2. In accordance with Rule 11, SCRPC, Defendant communicated in good faith to resolve these issues by letters dated July 22, 2016, and August 2, 2016. Plaintiff did not respond to letters.
3. Defendant filed a Motion to Compel Plaintiff to respond to discovery with the Court on August 26, 2016.

4. On September 20, 2016, a hearing was held on Defendant's Motion to Compel. At the hearing, Defendant granted Plaintiff an extension to respond to discovery requests by Friday, September 23, 2016. The agreement was placed on the record.
5. To date, Plaintiff has not provided her discovery responses, nor requested an extension.

WHEREFORE, the District prays for an ORDER of this Court granting the following relief:

- (a) Requiring Plaintiff to show cause why she should not be held in contempt;
- (b) Holding Plaintiff in Contempt;
- (c) Requiring Plaintiff to immediately respond to Defendant's First Set of Interrogatories and Request for Production, however, such response shall be no later than 5 days after this Court's Order;
- (d) Requiring that Plaintiff pay Defendant's attorney's fees and costs associated with this Rule to Show Cause; and
- (e) For such other and further relief as this Court may deem just, and equitable.

Respectfully submitted,
BOYKIN & DAVIS, LLC

By: 

Charles J. Boykin
Kenneth A. Davis
Tierney F. Dukes

P. O. Box 11844
Columbia, South Carolina 29211
Telephone: 803-254-0707
Facsimile: 803-254-5609

Attorneys for Defendant Beaufort-Jasper
Academy for Career Excellence

November 2, 2016
Columbia, South Carolina

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STATE OF SOUTH CAROLINA

COUNTY OF JASPER

John Doe,

Plaintiff,

v.

Beaufort-Jasper Academy for Career Excellence; Beaufort County School District; and, Jasper County School District,

Defendants.

IN THE COURT OF COMMON PLEAS FOR

THE FOURTEENTH JUDICIAL CIRCUIT

Case No. 2015-CP-27-00364

DEFENDANT BEAUFORT-JASPER ACADEMY FOR CAREER EXCELLENCE'S NOTICE OF MOTION AND MOTION FOR SUMMARY JUDGMENT

TO: MATTHEW V. CREECH, ESQUIRE, ATTORNEY FOR PLAINTIFF:

YOU WILL PLEASE TAKE NOTICE that Defendant, Beaufort-Jasper Academy for Career Excellence (hereinafter "ACE" or "Defendant"), by and through its undersigned counsel, will move before the Court on the tenth (10th) day following service hereof, or at such other time and place as is convenient for the Court, for an Order granting dismissal of this matter pursuant to Rule 56 of the South Carolina Rules of Civil Procedure as there is no genuine issue of material fact, and ACE is entitled to judgment as a matter of law. The grounds for this motion are:

1. Plaintiff's claims for negligence fail as a matter of law as Plaintiff has not and cannot establish that ACE committed any negligent act or omission which proximately caused Plaintiff's alleged damages.
2. Plaintiff's claims fail as a matter of law as ACE is not liable for any alleged failure to adopt or enforce any written law or policy concerning management of personnel records or to prevent an employee from creating and publishing the alleged defamatory statements. S.C. Code Ann. § 15-78-60(4).
3. To the extent an employee of ACE created and published the alleged defamatory statements, ACE is immune from liability for all of Plaintiff's claims as a matter of law pursuant to S.C. Code Ann. § 15-78-60(17), as such conduct was outside the scope of any employee's official duties.

- 4. Plaintiff's claim for defamation fails as a matter of law as ACE is not liable for any alleged employee conduct which constitutes actual malice or intent to harm. S.C. Code Ann. § 15-78-60(17).

Thus, as set forth in the supporting Memorandum of Law, to be filed at a later date and incorporated herein, Defendant moves this Court for an Order dismissing this case pursuant to Rule 56 of the South Carolina Rules of Civil Procedure. This motion is based upon the pleadings, depositions, answers to interrogatories, admissions on file, and all other admissible evidence in this action, together with applicable statutory authority and case law.

Respectfully submitted,

BOYKIN & DAVIS, LLC

By: s/Tierney F. Dukes
Kenneth A. Davis, Esq.
Tierney F. Dukes, Esq.

P.O. Box 11844
Columbia SC 29211
Telephone: 803-254-0707
Facsimile: 803-254-5609

Attorneys for Defendant

June 15, 2017
Columbia, South Carolina

STATE OF SOUTH CAROLINA
COUNTY OF JASPER

John Doe,

Plaintiff,

vs.

Beaufort-Jasper Academy for Career
Excellence; Beaufort County School District;
and, Jasper County School District,

Defendants.

IN THE COURT OF COMMON PLEAS
OF THE FOURTEENTH JUDICIAL CIRCUIT

C.A. No. 2015-CP-27-00364

**MEMORANDUM OF LAW IN SUPPORT
OF DEFENDANT'S MOTION FOR
SUMMARY JUDGMENT**

INTRODUCTION AND FACTUAL BACKGROUND

Defendant Beaufort-Jasper Academy for Career Excellence (hereinafter "BJACE" or "Defendant"), by and through its undersigned counsel, hereby submits this Memorandum of Law in Support of its Motion for Summary Judgment in the above-captioned action. Plaintiff's Complaint asserts causes of action for negligence and defamation against the Defendant. Defendant is entitled to summary judgment as Plaintiff cannot establish that Defendant committed any negligent act which proximately caused Plaintiff injury and such claims are precluded against the BJACE pursuant to the South Carolina Tort Claims Act ("the Act").

Plaintiff is a former employee of BJACE. As alleged by Plaintiff, on or about August 21, 2013, Plaintiff received an anonymous letter addressed to his wife alleging that Plaintiff was engaged in an extramarital affair with a female co-worker. (Compl. ¶5; Exhibit A: Letter 1). Plaintiff notified the school resource officer ("SRO") of the letter, but declined to file an official report at that time. Again on August 23, 2013, Plaintiff received another letter addressed to his wife. These letters were mailed to Plaintiff's wife. The author of the letters stated that he or she witnessed Plaintiff and his co-worker kissing in Plaintiff's classroom, and also observed Plaintiff

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engaged in other interactions with co-worker which suggested an affair. On that same day, former BJACE Director, Deonia Simmons, received an anonymous letter alleging that Plaintiff was engaged in an affair with the same female co-worker. (Exhibit B: Letter 2)

After receipt of the second letter addressed to Plaintiff's wife, Plaintiff contacted the SRO to file a report. (Exhibit C: Jasper County Sheriff's Office Incident Report). Based on Plaintiff's belief that the letters were published by a BJACE employee, the JCSO retrieved computer hard-drives from several BJACE staff.¹

Plaintiff initiated this suit on August 18, 2015, in the Jasper County Court of Common Pleas. Plaintiff alleges that BJACE, through the conduct of its employees, caused defamatory statements falsely accusing Plaintiff of an extramarital sexual relationship with another BJACE employee to be published to third parties. (Compl. ¶5). The Complaint further alleges that BJACE was negligent in failing to supervise its employees and prevent defamatory statements from being published; and failing to create and enforce personnel policies, procedures, safeguards and goals to ensure that such alleged defamatory statements not be created and published by administrators concerning lower level staff/personnel or others. (Compl. ¶10).

During Plaintiff's deposition, when asked whether he knew who wrote or published the letters, Plaintiff answered "No, I don't. But it had to be someone in the front office that had access to the file cabinets." (Depo. p. 37, lines 1-6, p. 41, lines 4-12). While Plaintiff contends that an employee of BJACE published the letters, he testified that such conduct by a person would be knowingly wrongful and not be in the performance of the individual's job duties, nor for the benefit of BJACE. (Depo. p. 38, lines 5-13, p. 40, line 23 - p. 41, line 3, p.41, lines 13-16). Additionally, Plaintiff admitted that BJACE could not have foreseen the use of confidential

¹ By Court Order dated November 14, 2013, JCSO retained possession of the computers until the parties agreed on a successor custodian. (Exhibit D: Consent Order for Permanent Injunction. Criminal charges were not pursued; therefore, the computer hard-drives were not inspected.

personal information in creating and publishing the defamatory statements in violation of BJACE policies. (Exhibit E: Policy GBEA; Depo. p. 41, line 20 - p. 42, line 17).

Based upon the evidence in the record and Plaintiff's testimony, BJACE filed this Motion for Summary Judgment on June 15, 2017.

STANDARD OF REVIEW

Summary judgment is appropriate where "the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law." Rule 56(c), SCRCP; see also Tupper v. Dorchester County, 487 S.E.2d 187, 191 (S.C. 1997); Wells v. City of Lynchburg, 501 S.E.2d 746, 749 (S.C. Ct.App.1998). In determining whether a genuine issue as to any material fact exists, the "evidence and all inferences which can be reasonably drawn from the evidence must be viewed in the light most favorable to the nonmoving party." Strother v. Lexington County Recreation Comm'n, 504 S.E.2d 117, 121 (S.C. 1998).

ARGUMENT

I. Defendant Is Entitled To Summary Judgment On All of Plaintiff's Claims As They Are Barred by the South Carolina Tort Claims Act.

The South Carolina Constitution, Article X, Section 10, shields governmental entities from claims by private individuals. The South Carolina Tort Claims Act (hereinafter "the Act") abridges this absolute immunity under certain prescribed circumstances. Pursuant to the Act, the State, its agencies, political subdivisions, and other governmental entities are "liable for their torts in the same manner and to the same extent as a private individual under like circumstances," subject to certain limitations and exemptions provided in the Act. S.C. Code Ann. § 15-78-40 (Supp. 2003).

The Act sets out thirty-seven "exceptions" to the waiver of sovereign immunity which significantly limit the tort liability of government entities. Section 15-78-60 limits liability against a governmental entity for loss resulting from the following:

- (a) employee conduct outside the scope of his official duties or which constitutes actual fraud, actual malice, intent to harm, or a crime involving moral turpitude as set forth in S.C. Code Ann. § 15-78-60(17); and
- (b) failure to adopt or enforce any law, whether valid or invalid, including but not limited to, any charter, provision, ordinance, resolution, rule, regulation, or written policies as set forth in S.C. Code Ann. § 15-78-60(4).

A. Plaintiff's claim that an employee misused personal information of Plaintiff and published defamatory statements fail as a matter of law because such conduct of an employee of Defendant is outside the scope of his or her official duties.

Plaintiff's claims fail as a matter of law because Plaintiff is precluded from asserting a claim against a governmental entity for conduct of an employee outside the scope of employment.

The Act provides that "the provisions this chapter establishing limitations on and exemptions to the liability of the State, its political subdivisions, and employees, while acting in the scope of official duty, must be liberally construed in favor of limiting the liability of the [governmental entity]." S.C. Code Ann. § 15-78-20(f). Thus, the Act pointedly sets out that an act of an employee must be within the scope of his or her official duties for liability to attach to the entity. Moreover, section 15-78-60(17) of the Act limits liability against an agency, political subdivision, or governmental entity for a loss resulting from "employee conduct outside the scope of his official duties"

In taking Plaintiff's allegations that an employee of BJACE published defamatory statements as true, Plaintiff has failed to produce any evidence that such conduct was inside the

scope of employment. Notably, Plaintiff admitted that an employee publishing defamatory statements regarding another is neither for any purpose in the fulfillment of the duties of his position nor for carrying out any purpose or objective of BJACE. Specifically, Plaintiff testified that any publication by a BJACE employee would be knowingly wrongful and not be in performance of the individual's job duties, nor for the benefit of BJACE. (Depo. p. 38, lines 5-13, p. 40, line 23 – p. 41, line 3, p.41, lines 13-16). Thus, any such action was outside the scope of employment for which Defendant cannot be held liable.

Accordingly, BJACE is entitled to summary judgment as it is not liable for employee conduct outside the scope of employment pursuant to the Act.

B. Plaintiff's claim for defamation fails as a matter of law because BJACE cannot be held liable for employee conduct which constitutes actual malice.

Plaintiff alleges that BJACE, through acts of its employees, defamed him by falsely accusing him of an extramarital relationship. (Compl. ¶ 13).

To state a claim for defamation, a Plaintiff must allege the following elements: (1) a defamatory meaning; (2) publication with actual or implied malice; (3) falsity; (4) publication by the defendant; (5) the message concerns plaintiff; and (6) legally presumed damages or special damages to the plaintiff. Parker v. Evening Post Pub. Co., 317 S.C. 236, 242-43, 452 S.E.2d 640, 644 (Ct.App.1994).

Defamation takes two forms: libel or slander. Libel is the written or printed publication of defamatory communication. Parrish v. Allison, 376 S.C. 308, 656 S.E.2d 382 (Ct. App. 2007).

A plaintiff must first establish that the communication is reasonably capable of conveying a defamatory meaning. Id. at 321 320 S.E.2d at 389. When a defamatory meaning is obvious on the face of the communication, the communication is defamatory per se. Id. A court must also

determine whether the statement is actionable per se. This issue is a question of law for the court based on the pleadings and evidence presented. Id. at 322, 656 S.E.2d at 389. The law presumes that the defendant acted with common law malice when the statement is actionable per se.² Id. Libel is actionable per se if the statement tends to “degrade a person, that is, to reduce his character or reputation in the estimation of his friends or acquaintances, or the public, or to disgrace him, or to render him odious, contemptible or ridiculous” Holtzscheiter v. Thomson Newspaper, 332 S.C. 502, 510, 506 S.E.2d 497, 502 (1998). The South Carolina Supreme Court has held that essentially all libel is actionable per se, whereas slander is actionable per se only if it alleges one of five acts or characteristics, to include adultery. Id.

Plaintiff alleges in his complaint that such statements were defamatory per se and published with actual or implied malice. (Compl. ¶ 17). Notably, the alleged defamation is actionable per se as it was in the form of libel; thus, the law presumes the defendant acted with actual malice.

“The [Act] clearly excludes a governmental entity’s liability for an individual’s loss stemming from a [governmental] employee’s conduct that constitutes actual malice.” Gause v. Doe, 312 S.C. 39, 42, 451 S.E.2d 408, 408 (Ct. App. 1994). Because the alleged employee acted with actual malice when he or she allegedly published the defamatory statement, the Act precludes Plaintiff from recovering against BJACE. Therefore, Plaintiff’s claim of defamation fails as a matter of law, and BJACE is entitled to summary judgment.

C. Plaintiff’s negligent supervision claim fails as a matter of law as BJACE is not liable for the intentional acts of employees.

² “When a publication is actionable per se there arises a common law presumption of implied malice, sometimes called . . . presumed malice which substitutes for common law actual malice.” Holtzscheiter v. Thomson Newspaper, 332 S.C. 502, 506 S.E.2d 497, note 3 (1998) (internal quotations omitted).

Plaintiff alleges that BJACE was negligent in failing to adequately and properly supervise and train its employees in the creation and publication of defamatory statements and in the proper and appropriate management of personnel matters. (Compl. ¶ 10).

While the Act bars liability against a governmental entity for acts of employees outside the course of their employment, our Supreme Court has held that under certain circumstances an employer may have a duty to exercise reasonable care to restrict an employee from acting outside the scope of his employment. Degenhart v. Knights of Columbus, 309 S.C. 114, 116-17, 420 S.E.2d 495; 496 (1992). In Degenhart, the Court held that an employer may be liable for negligent supervision if its employee intentionally harms the plaintiff when the employee (1) is on the premises in possession of the employer or uses a chattel of the employer; and (2) the employer (a) knows or has reason to know that he has the ability to control his employee, and (b) knows or should know of the necessity and opportunity for exercising such control. Id.

Plaintiff's negligent supervision claim fails as a matter of law because there is no evidence, even in the light most favorable to Plaintiff, that BJACE knew or had reason to know that an employee would engage in the misconduct alleged by Plaintiff. Plaintiff even admits that BJACE could not have foreseen the use of confidential personal information in creating and publishing the defamatory statements in violation of BJACE policies. (Exhibit B; Depo. p. 41, line 20 - p. 42, line 17).

Accordingly, BJACE is entitled to summary judgment as a matter of law on Plaintiff's claim for negligent supervision because Plaintiff cannot establish an essential element of his claim.

D. BJACE cannot be held liable for failure to adopt or enforce any policy regarding the publication of defamatory statements.

Plaintiff alleges the BJACE was negligent in "failing to create and enforce personnel policies, procedures, safeguards and goals to ensure that such alleged defamatory statements not be created and published by administrators concerning lower level staff/personnel or others." (Compl. ¶10).

The Act provides that a governmental entity is not liable for a loss as the result of failure to adopt or enforce any written policies. S.C. Code Ann. § 15-78-60(4). Accordingly, Plaintiff's negligence claim based on BJACE's failure to adopt or enforce any policy to prevent an employee from publishing defamatory statements is barred by the Act. Thus, BJACE is entitled to summary judgment.

II. Plaintiff's Claim For Negligence Fails As A Matter Of Law As Plaintiff Has Not Produced Any Evidence That Defendant Committed Any Negligent Act Or Omission Which Proximately Caused Plaintiff Injury.

Plaintiff's Complaint alleges that BJACE was negligent in failing to properly supervise and train its employees and enforce policies to ensure that defamatory statements are not created or published. Plaintiff's claim fails as a matter of law because Plaintiff has not and cannot establish any negligent act or omission by BJACE which proximately caused Plaintiff's alleged injury.

To recover on a claim of negligence, the plaintiff must prove (1) a duty of care owed by the defendant to the plaintiff; (2) a breach of that duty by a negligent act or omission; and (3) damage proximately resulting from the breach. Chakrabarti v. City of Orangeburg, 403 S.C. 308, 314, 743 S.E.2d 109, 112 (Ct. App. 2013). "If any of these elements is absent a negligence claim is not stated." Summers v. Harrison Constr., 298 S.C. 451, 455, 381 S.E.2d 493, 495 (Ct. App. 1989). A plaintiff must prove that the defendant's conduct was the proximate cause of plaintiff's injury. Hurd v. Williamsburg Cty., 353 S.C. 596, 611, 579 S.E.2d 136, 144 (Ct. App. 2003)

("Negligence is not actionable unless it proximately causes the plaintiff's injury."). A plaintiff proves proximate cause by showing that the injury would not have occurred "but for" defendant's alleged negligent act and the injury was the natural and probable consequence of defendant's conduct. Id. at 612, 579 S.E.2d at 144.

In the instant case, Plaintiff has failed to establish any breach of duty resulting from a negligent act or omission on the part of BJACE which proximately caused Plaintiff's injury. Plaintiff asserts that Defendant was negligent in failing to supervise its employees, prevent defamatory statements from being published, and adopt or enforce policies to ensure that defamatory statements not be published by employees. However, Plaintiff has not produced any evidence that an employee of Defendant published the defamatory statement.

When questioned about the identity of the individual who published the defamatory statements, Plaintiff responded that he does not know who published the statements, but assumes that it was "someone in the front office; someone that had access to the cabinets or access to my files." (Depo, p. 41, lines 4-12). Plaintiff's theory of liability against BJACE relies on the doctrine of *res ipsa loquitur* which our courts do not recognize. Graham v. Town of Latta, 417 S.C. 164, 186, 789 S.E.2d 71, 82 (Ct. App. 2006).

Plaintiff's belief that an employee of BJACE published the statements is solely based on his unverified opinion that the addresses to where the letters were sent were only available in his personnel file. As Plaintiff has not produced any evidence in support of his belief, such self-serving statement is not sufficient to create a reasonable inference that this information was obtained in such manner. The South Carolina Court of Appeals has held that it "is not sufficient that one create an inference which is not reasonable or an issue of fact that is not genuine." Priest v. Brown, 302 S.C. 405, 408, 396 S.E.2d 638, 639-40 (Ct. App. 1990). Plaintiff has not

provided any evidence that the statements were created and published by a BJACE employee, nor any evidence that the addresses were obtained by viewing Plaintiff's personnel file.

Further, Plaintiff cannot establish that the publication of the defamatory letters was a natural and probable consequence of Defendant's alleged misconduct. Specifically, Plaintiff agrees that Defendant could not have foreseen that an employee would use confidential information to publish alleged defamatory statements concerning Plaintiff. (Depo. p. 41, line 20 - p. 42, line 17). Moreover, while Defendant asserts it is immune from liability for the reasons as set forth in Section I, Plaintiff is unable to prove that his injury would not have occurred "but for" Defendant's alleged failure to supervise its employees and enforce policies to prevent the publication of defamatory statements. Accordingly, Plaintiff's claim fails as a matter of law, and, BJACE is entitled to summary judgment.

CONCLUSION

For the reasons stated above, Defendant respectfully requests that this Court grant its Motion for Summary Judgment.

Respectfully submitted,

BOYKIN & DAVIS, LLC

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Excellence

August 24, 2017
Columbia, South Carolina

ELECTRONICALLY FILED - 2017 Aug 24 2:14 PM - JASPER - COMMON PLEAS - CASE#2015CP2700364

STATE OF SOUTH CAROLINA)	IN THE COURT OF COMMON PLEAS
)	
COUNTY OF JASPER)	14 th JUDICIAL CIRCUIT
)	
JOHN DOE,)	C/A No.: 2015-CP-27-0364
)	
Plaintiff,)	Plaintiff John Doe's Motion to Alter,
)	Amend, and/or Reconsider Pursuant to
v.)	59(e), SCRCP.
)	
BEAUFORT JASPER ACADEMY FOR)	
CAREER EXCELLENCE,)	
)	
Defendant.)	

TO: THE HONORABLE KRISTI L. HARRINGTON, PRESIDING JUDGE, AND KENNETH DAVIS, ESQUIRE, COUNSEL FOR THE DEFENDANT BEAUFORT JASPER ACADEMY FOR EXCELLENCE:

YOU WILL PLEASE TAKE NOTICE that the Plaintiff John Doe, by and through his undersigned counsel, respectfully moves pursuant to Rules 52 and/or 59 of the South Carolina Rules of Procedure for an order altering, amending or reconsidering the Court's Form 4 Order of August 24, 2017 which purportedly grants summary judgment in this matter.

This motion is made pursuant to Rules 52 and 59 of the South Carolina Rules of Civil Procedure. A Rule 59 (e) motion is not only "a vehicle to request the trial court 'alter or amend the judgment,' but also a vehicle to seek 'reconsideration' of issues and arguments." See, *Elam v. S.C. Department of Transportation*, 361 S.C. 9, 21-22, 602 S.E. 2d 772, 778-79 (2004). Such a motion is due 10 days after receipt of the entry of the Court's judgment.

As an initial matter, Rule 59(e), SCRCP, requires that a "motion to alter or amend the judgment shall be served not later than 10 days after receipt of written notice of the entry of the order." This Motion to Reconsider or Alter or Amend is being filed and served out of an

abundance of caution, although it may ultimately be deemed premature or unripe. The purpose of filing and serving this Motion now is to protect the ten day service requirement of Rule 59(e).

The undersigned was copied on an email from defense counsel Kenneth Davis, Esquire, to the Court's staff on September 25, 2017. Mr. Davis' email inquired of the status of a Form 4 Order he had discovered or received. The email further inquired whether the Court would require a proposed written order. Mr. Davis provided counsel and the Court with a copy of the Form 4 Order by that email on September 25, 2017..

Prior to Mr. Davis' email of September 25, 2017, neither the undersigned nor his staff received any notice of the entry of any order in this case through the electronic filing system. Therefore, this motion pursuant to Rule 59 has been timely served and filed this date, October 5, 2017. Likewise, there has been no response from the Court as to whether any formal order will be forthcoming, so out of an abundance of caution the Plaintiff files this Motion to Reconsider, in the event that Attorney Davis' email of September 25th email constitutes receipt of entry of the judgment and that the Court wishes this Form Order to serve as final judgment.

As to the substance of the Motion to Reconsider, the Plaintiff seeks clarification and amendment to the Order. While the text of the order states "Defendant Beaufort Jasper Academy for Career Excellence's Motion for Summary Judgement is granted[,]” the order then has checked the Form Order box stating that the case is not ended. Obviously the grant of summary judgment ends the matter. Counsel for the Plaintiff hopes that the intended order was meant to deny summary judgment, and the error on the Form order is simply ministerial or clerical.

If, in fact, the Court's Form 4 was intended to grant summary judgment in this matter, the Plaintiff moves the Court to reconsider on a number of grounds, and hereby incorporates all arguments made at the hearing on this matter. Respectfully seeking reconsideration, Plaintiff

suggest that denial of the motion for summary judgment was appropriate on a number issues, both procedural and substantive:

1. Procedurally, the Court should reconsider and withdraw the Form Order as discovery in this matter, by the acknowledgement of all counsel, is incomplete. At the time of the granting of this motion for summary judgment, the parties in fact were jointly engaged in having the School's computer used (allegedly) to create the defamatory publications examined forensically. Moreover, no scheduling orders had expired. Primarily, though, the suspected publisher of the defamatory statements has not been deposed. THE central issue to analysis of the substantive issues raised by Defendant is the intent of the speaker/publisher. Pursuant to *Baughman v. American Telephone and Telegraph Company*, 306 S.C. 101 (1991), summary judgment is inappropriate where discovery is incomplete. The motion should be reconsidered and withdrawn as a procedural matter.
2. To the extent the Court intended to grant summary judgment concerning Defendant's arguments pursuant to the application of the "Intentional Act" exemption of S.C. Code Ann. 15-78-60(17), or subsection (4) of 15-78-60, summary judgment is inappropriate in this matter (for all reasons argued at the hearing). This conclusion is clearly supported by application of South Carolina Supreme Court precedent. *See, Eldeco, Inc. v. Charleston County School District*, 372 S.C. 470, 642 S.E.2d 726 (2007). *See also, Goodwin v. Kennedy*, 347 S.C. 30, 562 S.E.2d 319 (Ct. App. 2001); *McBride v. School Dist. of Greenville County*, 389 S.C. 546, 698 S.E.2d 845 (Ct. App. 2010); and, finally, *Murphy v. Jefferson Pilot Comm. Co.*, (2005).

Plaintiff respectfully seeks reconsideration and withdrawal of the Order granting summary judgment by Form Order. At a minimum, should the Court desire not to reconsider the Order, the Plaintiff respectfully requests that the Court issue specific findings of fact and conclusions of law on the issues raised by the parties so that appellate review can be had.

Plaintiff reserves the right to supplement this motion by further memoranda.

Respectfully submitted,

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

s/Matthew V. Creech/

BY: _____

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ATTORNEYS FOR PLAINTIFF

October 5, 2017
Ridgeland, SC

STATE OF SOUTH CAROLINA
COUNTY OF JASPER

John Doe,
Plaintiff,

vs.

Beaufort-Jasper Academy for Career
Excellence; Beaufort County School
District; and, Jasper County School
District,

Defendants.

IN THE COURT OF COMMON PLEAS
OF THE FOURTEENTH JUDICIAL CIRCUIT

C.A. No. 2015-CP-27-00364

**DEFENDANT BEAUFORT-JASPER
ACADEMY FOR CAREER
EXCELLENCE'S MEMORANDUM OF
LAW IN OPPOSITION TO
PLAINTIFF'S MOTION TO ALTER,
AMEND, AND/OR RECONSIDER
PURSUANT TO
RULE 59(E), SCRPC**

INTRODUCTION

Defendant Beaufort-Jasper Academy for Career Excellence (hereinafter "Defendant" or "BJACE") submits this Memorandum of Law in Opposition to Plaintiff's Motion to Alter, Amend, and/or Reconsider pursuant to Rule 59(e), SCRPC, filed on October 5, 2017.

BACKGROUND

Plaintiff initiated this action on August 18, 2015, asserting causes of action for defamation and negligence against Defendant. Plaintiff alleges that Defendant, through the conduct of an unidentified employee, caused defamatory statements regarding Plaintiff to be published to third parties, and failed to supervise its employee(s) to prevent such alleged defamatory statements from being created and published.

Based upon the evidence in the record and Plaintiff's testimony, Defendant filed a Motion for Summary Judgment with the Court on June 15, 2017. A hearing was held on August 24, 2017. After hearing oral arguments by both parties and reviewing Defendant's Memorandum of Law in Support of Summary Judgment, the Court entered a Form 4 Order granting Defendant's Motion for Summary Judgment on August 24, 2017, as to all of Plaintiff's claims.

STANDARD OF REVIEW

South Carolina's standard by which a court may consider a motion made pursuant to Rule 59 "is substantially the Federal Rule." Rule 59, SCRCP. As such, federal courts interpreting Rule 59 have recognized three grounds for granting a Rule 59(e) motion: "(1) to accommodate an intervening change in controlling law; (2) to account for new evidence not available at trial; or (3) to correct a clear error of law or prevent manifest injustice." Bogart v. Chapell, et al., 396 F.3d 548, 555 (4th Cir. 2005) (quoting United States v. Westinghouse Savannah River Co., 305 F.3d 284, 290 (4th Cir. 2002)). Granting a Rule 59(e) motion is an extraordinary remedy which should be used sparingly. See Pacific Ins. Co. v. American Nat'l. Fire Assoc., 148 F.3d 396, 403 (4th Cir. 1998).

DISCUSSION

I. Plaintiff's Motion For Reconsideration Should Be Denied As No Intervening Change In Controlling Law Has Occurred, Nor Has New Evidence Come To Light, Nor Is Reversal Of Summary Judgment Necessary To Correct A Clear Error Of Law Or Prevent Manifest Injustice.

Plaintiff's Motion for Reconsideration should be denied as Plaintiff has failed to set forth any change in controlling law which would render this Court's granting of Summary Judgment improper, nor has he set forth any new evidence which was not readily available to him at the time this Court granted Summary Judgment, nor did this Court make any clear error of law or commit manifest injustice by its issuance of Summary Judgment.

A. Reconsideration is inappropriate because there has been no change in controlling law warranting reversal of summary judgment.

To the extent that Plaintiff's Motion for Reconsideration rests upon a purported change in controlling law, no such change has occurred which would affect the outcome of this case, and therefore his motion should be denied.

The South Carolina Constitution, Article X, Section 10 shields governmental entities from claims by private individuals. The South Carolina Tort Claims Act (hereinafter the "Act") abridges this absolute immunity under certain prescribed circumstances. Governmental entities can be "sued only in the manner and upon the terms prescribed by the [Act]." Unisys Corp. v. S.C. Budget & Control Bd., 346 S.C. 158 (2001). The remedy provided in the TCA is the exclusive civil remedy available for any tort committed by a governmental entity. S.C. Code Ann. § 15-78-20(b). Defendant at all times relevant was subject to the Act. To that end, whether Defendant may be held liable for publication of the alleged defamatory statements is governed by the limitations and exemptions in the Act. These provisions of law existed prior to this Court's granting Summary Judgment in this case, and remain applicable in the present motion.

Plaintiff cannot assert an intervening change in this controlling law. As such, Plaintiff has not set forth any basis for which relief may be granted pursuant to Rule 59. Accordingly, this Court's granting of summary judgment should be left undisturbed.

B. This Court should deny Plaintiff's motion for reconsideration because Plaintiff has failed to present any new evidence rendering summary judgment inappropriate.

Plaintiff has not presented, nor can he present any new evidence which was unavailable to him at the hearing which would render summary judgment inappropriate.

Plaintiff contends that summary judgment is inappropriate in this matter as discovery is incomplete, arguing that, at the time of the hearing the parties were engaged in having certain computer hard drives forensically examined. Notwithstanding the fact that Plaintiff had almost four (4) years to conduct a forensic examination of the computers, there is no possible evidence which could cure the legal deficiencies of Plaintiff's claims—namely, that any defamatory statement made about Plaintiff could not have been made by an employee of Defendant (the

identity of whom remains unknown) which was within the scope of his or her employment.

In light of Plaintiff's failure to proffer new evidence which could have affected the outcome of this matter, Plaintiff's motion for reconsideration should be denied.

C. The Court correctly applied the controlling law and standard of review in awarding summary judgment to Defendant.

Plaintiff's request for reconsideration should be denied because Plaintiff has not presented any evidence that reconsideration of the Court's order of summary judgment is necessary to correct a clear error of law or to prevent manifest injustice.

Summary judgment is appropriate where "the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law." Rule 56(c), SCRCP; see also Tupper v. Dorchester County, 487 S.E.2d 187, 191 (S.C. 1997).

The South Carolina Tort Claims Act authorizes governmental entities to be held "liable for their torts in their same manner and to the same extent as a private individual under like circumstances," subject to certain limitations and exemptions provided in the Act. S.C. Code Ann. § 15-78-40 (Supp. 2003). The Act expressly precludes a claim against a governmental entity for conduct of an employee outside the scope of employment. S.C. Code Ann. §§ 15-78-20(f), 15-78-60(17). Thus, for liability to attach against a governmental entity, the conduct of an employee must be within the range of his or her official duties.

Plaintiff's cites Goodwin v. Kennedy, 347 S.C. 30 (Ct. App. 2001), and Murphy v. Jefferson Pilot Comm. Co., 364 S.C. 453 (Ct. App. 2005), in support of his motion. Notably, these cases did not involve claims against governmental entities, nor did they address the application of immunities granted under the Act for conduct of an employee outside the scope of

his official duties or which constitutes actual fraud, actual malice, intent to harm or a crime involving moral turpitude as set forth in § 15-78-60(17).

In Murphy, the Court addressed a claim of defamation against an employer under the doctrine of vicarious liability, affirming that a principal may be held liable for defamatory statements by an agent acting within the scope of employment or apparent authority. The court's decision supports Defendant's argument, which was embraced by this Court on August 24, 2017, that Plaintiff must prove that an employee's publishing of defamatory statements was within the scope of employment or performed while furthering Defendant's interests. Goodwin v. Kennedy, 347 S.C. 30, 562 S.E.2d 319 (Ct. App. 2001); Murphy v. Jefferson Pilot Comm. Co., 364 S.C. 453, 613 S.E.3d 808 (Ct. App. 2005).

Notwithstanding Plaintiff's failure to produce any evidence that an employee of Defendant published the defamatory statements, in taking Plaintiff's allegations as true, Plaintiff also failed to produce any evidence that the alleged wrongful conduct was within the scope of employment. Plaintiff relies solely on the assertions and allegations in the Complaint. Unsupported assertions will not suffice to create a genuine issue of material fact. See Jackson v. Bermuda Sands, Inc., 383 S.C. 11, 677 S.E.2d 612 (Ct. App. 2009). Most importantly, Plaintiff admitted that the misuse of personal information by an employee to publish defamatory statements would neither be in the performance of the individual's job duties, nor for carrying out any purpose or objective of Defendant, nor for the benefit of Defendant. As such, summary judgment was properly granted as Plaintiff failed to establish any genuine issue of material fact as to whether such conduct was within the scope of employment to attach liability on Defendant. Thus, the Court did not err in granting Defendant's summary judgment motion.

Additionally, in order to recover on a claim for defamation, Plaintiff must prove that the defamatory statements were published with actual or implied malice. Parker v. Evening Post Pub. Co., 317 S.C., 236, 242-43, 452 S.E.2d 640, 644 (Ct. App. 1994). Actual malice is presumed where defamation is published in written form. Holtzscheiter v. Thomson Newspaper, 332 S.C. 502, 510, 506 S.E.2d 497, 502 (1998) (noting that the South Carolina Supreme Court has held that essentially all written defamation is actionable per se).

Plaintiff cites Eldeco, Inc. v. Charleston County School Dist., 372 S.C. 470 (2007), and McBride v. School District of Greenville Cty., 389 S.C. 546 (Ct. App. 2010), for the proposition that summary judgment is inappropriate where Defendant has not proved that the publisher of the defamatory statement intended to cause harm to Plaintiff in order for Defendant to be immune from liability under the Act. In Eldeco, the plaintiff brought causes of action for tortious interference with contractual relations and a prospective contract, unlike the present case, in which Plaintiff alleges defamation. The court found that the school district was not immune under § 15-78-60(17) as the elements of the causes of action did not require a showing of intent to harm. Similarly in McBride, the court rejected the school district's argument that it was immune from liability under § 15-78-60(17) because the elements of abuse of process and malicious prosecution did not require plaintiff to prove intent to harm or actual malice.¹ Both courts emphasized that in assessing whether § 15-78-60(17) precludes liability, the elements of the cause of action is determinative. Id.

Here, Plaintiff asserts a claim of defamation against Defendant arising from alleged written statements. As the Act expressly precludes liability against Defendant for employee conduct which constitutes actual malice, which Plaintiff must prove. Defendant is immune from Plaintiff's claim as a matter of law. Additionally, to the extent that Defendant's employee

¹ McBride did not address the application of § 15-78-60(17) as to the plaintiff's defamation claim.

published the statement, because the defamation was in written form, the law presumes that the employee acted with actual malice for which Defendant cannot be held liable. Thus, Plaintiff's defamation claim is barred by § 15-78-60(17).

There is no evidence that reconsideration of the Court's award of summary judgment in favor of Defendant is necessary to correct a clear error of law or to prevent manifest injustice, thus the Court should deny Plaintiff's motion for reconsideration.

CONCLUSION

For the aforementioned reasons, Defendant respectfully requests that this Court deny Plaintiff's Motion for Reconsideration and affirm its Order granting Defendant's Motion for Summary Judgment as to all claims raised in the above-captioned matter.

Respectfully submitted,

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Excellence

November 10, 2017
Columbia, South Carolina

1 A Yes, Ma'am.
2 Q As you respond to my question, I saw
3 you just do a little head nod and the court
4 reporter is here taking down everything, so
5 please be audible with your responses, yes, no;
6 if you want to give an explanation, just please
7 do it verbally.
8 Mr. Gray, now that the deposition has
9 begun you are under oath and you are not allowed
10 to speak with your attorney about any questions
11 or your testimony until the deposition has
12 ended. If you have a question, please direct
13 the question to me, I will try my best to answer
14 it. I am not here to give legal advice, but I
15 will respond to your question however I deem
16 appropriate.
17 If you need to take a break, just
18 remember you still can't speak with your
19 attorney. If you want to take a break, just let
20 me know and we will get to a good stopping point
21 and we can stop.
22 Do you have any questions?
23 A No, Ma'am.
24 Q Or any clarification?
25 Have you been deposed before?

1 A Yes, Ma'am.
2 Q When?
3 A Probably three or four years ago.
4 Q What was the nature of it?
5 A An accident and then a slander case
6 when I used to work for Budweiser.
7 Q When you worked for Budweiser?
8 A Yes, Ma'am. That was years ago,
9 though.
10 Q Okay.
11 Where was it at?
12 A Perlstein.
13 One was in Allendale County was an
14 accident.
15 And then Perlstein was in Beaufort
16 County.
17 Q Okay, Perlstein?
18 A Yes.
19 Q I never heard of that before.
20 A Yeah.
21 Q But it is in Beaufort County?
22 A Out of Charleston.
23 I am sorry, we had an incident that
24 happened I think at Bi-Lo, right? I think
25 Bi-lo, so that was another incident.

1 Q Was that an accident?
2 A Uh-huh -- well, it was a slander,
3 another one.
4 The accident happened in Allendale, and
5 then the slander happened in Walterboro when I
6 used to work for Budweiser.
7 Q Walterboro?
8 A Yes.
9 Q And you said slander, was it a lawsuit
10 that you filed?
11 A Yes, they accused me of stealing and it
12 wasn't so.
13 And there was some names called.
14 Q Have you been involved in any other
15 lawsuits?
16 A No, I haven't.
17 Q That was the only one, including this
18 one, though?
19 A Right.
20 Q The incident in Bi-Lo?
21 A Yes.
22 Q Mr. Gray, is there any reason you
23 cannot testify fully and accurately here today?
24 A No, Ma'am.
25 Q We have to ask these questions just for

1 the record.
2 Are you physically and mentally capable
3 of answering questions today?
4 A I am good.
5 Q Have you consumed any medication or
6 other drugs within the last eight hours that
7 would interfere with your ability to testify
8 truthfully?
9 A No, Ma'am.
10 Q Have you consumed any alcoholic
11 beverages?
12 A No, Ma'am.
13 Q Have you ever been convicted of a crime
14 other than a minor traffic violation?
15 A No, Ma'am.
16 Q And just to reiterate, the only two
17 lawsuits you have been involved in is this
18 present lawsuit and a lawsuit in which a slander
19 you filed against Bi-Lo?
20 A Yes.
21 Q Have you ever been involved in any
22 other legal proceedings? Workers' Comp?
23 A No, Ma'am.
24 Q What is your current address?
25 A Right now it is 300 Middle Street.

1 Q Where is that located?
2 A In Hampton.
3 Q Who resides with you at that address?
4 A Say it again?
5 Q Who resides with you at that address?
6 A My wife and my three boys.
7 Q What is your wife's name?
8 A Tamika Gray.
9 Q And what are your sons' names and how
10 old are they?
11 A Joseph, he is 14 -- I am sorry, Joseph
12 is 15.
13 Samuel is 14.
14 Isaac is 11.
15 Q And those are the only, your wife and
16 your three sons, that stay with you?
17 A Yes, Ma'am.
18 Q Where did you live prior to your current
19 address at 300 Middle Street?
20 A 109 Stande.
21 Q Standell S-t-a-n-d-e-l-l?
22 A L-e.
23 Q How long did you stay there?
24 A Maybe a year and a half.
25 Q Do you know where you lived prior to

1 Q 16 years?
2 A Yes.
3 Q Have you ever been separated?
4 A Yes.
5 Q When?
6 A Probably a year ago.
7 Q What was the reason?
8 A What happened at BJ's.
9 Q You separated.
10 Did either of you file for divorce?
11 A No, Ma'am, just separated.
12 Q When did you, I guess, reconcile?
13 A Five months ago.
14 Q Have you been married before?
15 A Yes, I have.
16 Q How many times?
17 A Just once.
18 Q What is your ex-wife's name?
19 A Laura.
20 Q Laura?
21 A Laura Harley.
22 Q Harley?
23 A Yes.
24 Q Can you spell Harley for me?
25 A H-a-r-l-e-y.

1 that?
2 A 206 Hannah Street.
3 Q How long did you stay there for?
4 A About four years.
5 Q And do you remember prior to that? I
6 am just asking. If you don't, it is okay to say
7 you don't know.
8 A No, Ma'am.
9 Q So how long have you been at your
10 current address at 300 Middle Street?
11 A Two, maybe three years now.
12 Q And all of these addresses are in
13 Hampton?
14 A Yes, Ma'am.
15 MR. CREECH: Tierney, I am sorry.
16 I am going to get the paralegal who
17 sits in here to cut the music off.
18 (Whereupon, a short break was
19 taken.)
20 BY MS. DUKES:
21 Q so Mr. Gray, you say that your wife
22 currently lives at your address.
23 How long have you and your wife been
24 married?
25 A 16 years?

1 Q Harley?
2 A Yeah.
3 Q How long were you and Miss Harley
4 married?
5 A Stayed together about two weeks, three
6 weeks.
7 Q So less than six months?
8 A Less than six months probably.
9 Q Do you and Miss Harley have any
10 children?
11 A Yes, we do. We have a daughter.
12 Q What is your daughter's name?
13 A Shanika Simone Gray.
14 Q How old is your daughter?
15 A 24.
16 Q 24.
17 And does she reside in Jasper County?
18 A No, she don't.
19 Q Where does she live?
20 A Allendale.
21 Q Do you have any family in Jasper
22 County?
23 A No, I don't.
24 Q Does your wife have any family?
25 A I don't think she does.

1 Q Was your ex-wife from this area?
2 A No.
3 Q So she wouldn't have any family?
4 A No.
5 Q Where did you attend high school?
6 A Wade Hampton in Hampton.
7 Q What year did you graduate?
8 A 1990.
9 Q Did you attend college or any other
10 post secondary school, technical?
11 A OC Tech and Midland Tech.
12 Q When did you attend OC Tech?
13 A 1994.
14 And again Midland Tech, 2007.
15 Q It was just for an ordinary length of
16 time or was it just for a year?
17 A Yeah, just -- yeah, four times, yeah.
18 Q Did you graduate or receive any
19 certifications?
20 A Yes, I had a degree in automotive.
21 Q From where?
22 A In Midland Tech.
23 Q When was that? Was that 2007?
24 A Actually it would be 2007.
25 Q Okay.

1 A When I got out of high school?
2 Q Yes or just --
3 A Yes.
4 I worked to Wade Hampton High School
5 for a period of time.
6 Q How long?
7 A At first about three years.
8 Q When you say at first, was there a
9 subsequent after that?
10 A Not really.
11 Q When was that?
12 A '97 to 2000.
13 Q Okay.
14 A Then I went to Budweiser Perlstein.
15 Q What period of time?
16 A From 2000 to maybe 2007.
17 Q After that?
18 A Then I went to Henry Jay Lee.
19 Q What is that?
20 A That was Miller as a sales rep.
21 Q For what period?
22 A About a year.
23 Q So subsequently right after Budweiser
24 Perlstein?
25 A Yes.

1 And you say your degree is in
2 automotive?
3 A Yes, automotive technology.
4 Q Do you have any other education or
5 training or credentials or certificates?
6 A That is it.
7 Q That is it.
8 So what did you do after college?
9 A I worked at my dad's shop for years.
10 Q Is your dad a mechanic?
11 A Yes, he is.
12 Q Where is his shop?
13 A In Hampton.
14 Q What is the name of his shop?
15 A Gray's garage.
16 Q Gray's Garage?
17 A Yes.
18 Q About how long would you say you were
19 there?
20 A Still there, back and forth.
21 Q One of those you can't get out?
22 A Can't get out.
23 Q Okay.
24 Did you work for anyone else other than
25 your dad?

1 Q After that?
2 A I still went back, I was still working
3 at my dad's shop.
4 I went to -- I went back to Wade
5 Hampton.
6 Q Wade Hampton High?
7 A Right.
8 Q What was your position there?
9 A At first it was a sub, teaching
10 assistant; and I worked, I did bus inspections.
11 Q Was that your second time around when
12 you did the bus inspections or was that within
13 the --
14 A Yes.
15 Q How long were you there the second time
16 around?
17 A Two, maybe two years.
18 Q And what did you do after that?
19 A That is when I went back, I think I
20 went to BJ ACE after that.
21 Q Around what year would you say?
22 A I don't remember.
23 Q We can move on.
24 How long have you been at BJ ACE?
25 A Six years.

1 Q And what led you to apply for
2 employment at BJ ACE?
3 A A guy named Marvin McKnight called me
4 and said they were looking for an instructor and
5 for me to apply. And I went and I got hired by
6 Chris Dinkins.
7 Q Chris Dinkins, okay.
8 And were you hired as an instructor?
9 A A teacher.
10 Q And I guess what was your title?
11 A Automotive technology technician.
12 Q So in your position as automotive
13 technician, what are some of your duties and
14 things that you do?
15 A Well, I had to go back to school to get
16 a teacher's certificate.
17 Q When did you do that?
18 A Six years ago.
19 Q Where at?
20 A In Columbia.
21 Q What school?
22 A Actually Midland Tech and Lexington
23 High.
24 Q Is that the same degree you got from
25 Midland Tech, the automotive degree?

1 A Somewhat.
2 Q How is it different?
3 A Well, the certificate part was
4 different because I had go back and learn how to
5 be a teacher.
6 Q Okay.
7 So you have a degree in automotive
8 technology?
9 A Yes.
10 Q And a certificate I guess in —
11 A Right, the certificate was being just a
12 certifying AC in engine performance.
13 But the certificate, the teaching part
14 was different, which they gave me five years to
15 get.
16 Q Who gave you five years?
17 A DIRECT.
18 Q DIRECT?
19 A That was the name of the program. It
20 was like a PACE program.
21 Q Okay.
22 A So after you get out of school you can
23 go back to school and work at the same time and
24 get paid.
25 Q So it was through that program that you

1 went back and got your teaching credentials?
2 A Yes.
3 Q So can you just kind of tell me what
4 your typical day is like? Your typical duties
5 as an instructor at ACE?
6 A At ACE?
7 Q Yes.
8 A When I leave and get there I do my hall
9 duties and class start and I am ready to teach.
10 Q Do you know Miss Jennifer Werner?
11 A Yes, I do.
12 Q How so?
13 A We work together.
14 Q Work or worked?
15 A Work together.
16 Q Currently?
17 A Not now.
18 Q Past tense?
19 A Past tense, right.
20 Q When was your interaction with Miss
21 Werner while she was employed at BJ ACE?
22 A It wasn't any.
23 She was the bookkeeper or the
24 accountant.
25 Q So you said there was no interaction?

1 You guys didn't speak in the hallway?
2 A Yes, we speak, talk, cut up.
3 We all ate lunch together, the faculty.
4 Q Did you ever eat lunch separately?
5 MR. DAVIS: Off the record.
6 (Whereupon, an off-the-record
7 discussion was held.)
8 BY MS. DUKES:
9 Q You are now at Wade Hampton?
10 A I am at Wade Hampton.
11 Q When did you leave BJ ACE?
12 A Last year was my first year at Wade
13 Hampton.
14 Q What was the reason?
15 A They were thinking about closing down,
16 and they asked if I would start a program at
17 Wade Hampton.
18 Q Is it an auto program?
19 A Yes, it is.
20 Q Mr. Gray, are you familiar with the
21 Complaint your attorney filed on your behalf in
22 this matter? Have you seen it?
23 A Yes.
24 MS. DUKES: Can you mark it as
25 Exhibit I.

1 (Whereupon, Defendant's Exhibit
2 Number 1 was marked for
3 identification.)
4 BY MS. DUKES:
5 Q Mr. Gray, you can take the time and
6 peruse it. I was going to ask you nothing
7 really major. Flip through it a little bit.
8 Mr. Gray, have you had a chance to look
9 through your Complaint and are you familiar with
10 all of the allegations stated in there?
11 A Yes.
12 Q To the best of your knowledge?
13 A Right.
14 Q I want to ask you just a couple of
15 questions about your Complaint, and if you
16 reference -- well, tell me just what happened.
17 I know you said earlier that you and your wife
18 separated for a period of time because of what
19 happened at ACE.
20 Can you tell me the circumstances?
21 A (No answer).
22 Q Can you tell me what happened at ACE --
23 A That caused that?
24 Q Yes.
25 A A letter was sent to my house stating

1 that I was having an affair with this young
2 lady. It went from there. So over the years, I
3 guess a couple of years it just took effect and
4 I just kind of got tired of it. So trust issues
5 and just going back and forth about the same old
6 thing so -- I think it was the time to take the
7 time apart and just go back at it.
8 Q You said things went back and forth,
9 what is going back and forth?
10 A Well, really on what happened. Are we
11 doing anything about it. Basically that is
12 about it.
13 Q I guess what do you mean by are we
14 doing anything about it?
15 A Are they going to do anything about it?
16 Are you going to clear your name or is it true
17 or is it not true?
18 Q Okay.
19 (Whereupon, Defendant's Exhibit
20 Number 2 was marked for
21 identification.)
22 BY MS. DUKES:
23 Q Mr. Gray, are you familiar, have you
24 ever seen this document before?
25 A Yes.

1 Q When did you see it?
2 A When she called me.
3 Q When your wife called you?
4 A Yes.
5 Q What did she say?
6 A That I need to come home and we need to
7 talk about it. Talk about something. And I
8 asked her what and she said just come on home.
9 So I came home. She asked me what happened
10 during the first week back at school. I
11 explained it to her detail to detail, and she
12 say here. She gave me the letter. I read the
13 letter. I am like are you serious. So I called
14 Jennifer Wernier. Put me on speaker phone. Her
15 husband was there and he was like are you
16 serious. And I went yes. My wife got a letter
17 stating that your wife and I had an affair or
18 something was going on. She was upset about it,
19 my wife was.
20 She believed me because the letter
21 stated that I would not give her the number and
22 it wasn't like I was already pre-planning that
23 she knew about it. Jennifer knew I was coming
24 home about it, so she didn't know anything about
25 it and the husband didn't know anything about

1 it. That was it.
2 Q Okay.
3 How did your wife receive the letter?
4 Was it hand-delivered?
5 A No, through the mail.
6 Q What was the address it was sent to?
7 A It was sent to a 300 Middle Street,
8 which was a house that was in a foreclosure, and
9 the house that I was living at, 109 Standle, we
10 were just renting that house.
11 So the 300 Middle Street was a house
12 that belonged to someone else that they could
13 never get the paperwork right. So we decided to
14 go ahead and move and start back fresh until
15 they could get their paperwork right.
16 Q So during this time you were living
17 when the letter was sent, you were living at 109
18 Standle?
19 A Yes.
20 Q And the letter was sent to 300 Middle
21 Street?
22 A Right, and it was forwarded to 109
23 Standle.
24 Q Forwarded to 109?
25 A Right, because the carrier knew where

1 we lived at.
2 **Q Okay.**
3 **And what is your current address?**
4 **A Right now it is 300 Middle Street.**
5 **Q So did you buy the property?**
6 **A Yes, I went back and I bought the**
7 **property.**
8 **Q Bought the property after this?**
9 **A Right.**
10 **Q Had anybody -- had you lived at 300**
11 **Middle Street before this or --**
12 **A Yes, I had.**
13 **Q You had?**
14 **When did you live at 300 Middle Street?**
15 **A Probably about two years before I went**
16 **to 109 Standle.**
17 **Q So I just want to make sure I have it,**
18 **you are at 300 Middle Street and then you moved**
19 **to 109 Standle?**
20 **A Correct.**
21 **Q The letter came to Standle, but was**
22 **forwarded to 300 Middle Street because you said**
23 **the carrier knew where you lived?**
24 **A Right, yes.**
25 **Q And then afterward you bought the**

1 **property which is where you currently live?**
2 **A Yes.**
3 **Q I just want to make sure I have it**
4 **right.**
5 **Are you aware of any other letters that**
6 **were sent?**
7 **A Yes.**
8 **Q Tell me about what letters are you**
9 **aware of?**
10 **A From my understanding there was another**
11 **letter sent to my dad's box post office box 844.**
12 **I did not know the letter was sent there**
13 **until -- well, my mom call me and said, you**
14 **know, you got a letter here and it was addressed**
15 **to me. At the time I am, okay, I didn't think**
16 **nothing of it.**
17 **So I finally went by the shop to see**
18 **the letter and I saw the letter. And I am like**
19 **are you serious. I say okay, it was the same**
20 **letter that she got the first one.**
21 **So I went back and called I guess**
22 **Bilcze or there be some folks at my school that**
23 **told me they had received another letter. And**
24 **that is when I knew that someone went in my**
25 **personnel file.**

1 **Q How did you know?**
2 **A The only way he knew about my dad's**
3 **address, the post office box 844, I used to**
4 **work -- all my mail used to go to my dad's box,**
5 **which was post office box 844 when I was single,**
6 **when I used to work for Wade Hampton in the**
7 **past. So all my insurance plans and all that**
8 **stuff used to go there. It was never 300 Middle**
9 **Street or 109 Standle -- well, actually I am not**
10 **sure exactly which one it was, but I know post**
11 **office box 844 was not in my personnel file -- I**
12 **mean it was in my personnel file. And the only**
13 **way that you could know that, you had to go in**
14 **the personnel file to get that address.**
15 **Q And this second letter, who was it**
16 **addressed to?**
17 **A Tamika.**
18 **Q To your wife again?**
19 **A Right.**
20 **Q Are you aware of any other letters?**
21 **Anything else?**
22 **A No, it was a letter I sent to Deon**
23 **Simmons, but I didn't really know about that**
24 **letter.**
25 **Q You didn't know about it?**

1 **How are you aware of that letter?**
2 **A I just saw it just now.**
3 **Q Oh, in the office?**
4 **A Right, in the office.**
5 **MS. DUKES: Okay. I will**
6 **introduce this.**
7 **(Whereupon, Defendant's Exhibit**
8 **Number 3 was marked for**
9 **identification.)**
10 **THE WITNESS: I mean if we can go**
11 **back on my address. All my address in**
12 **my box in my personnel file, that is**
13 **where the letter was sent, to all of**
14 **those address.**
15 **BY MS. DUKES:**
16 **Q To every single address?**
17 **A Yes.**
18 **Q So letters were sent?**
19 **A Letters, right.**
20 **Q To all previous addresses?**
21 **A Right.**
22 **Then you add Google and did a search**
23 **for my name, that 300 Middle Street would never**
24 **have come up.**
25 **Q So a Google search it would never**

1 reveal?
2 A It would never reveal. I checked it.
3 You wouldn't have gotten a 206 Hannah Street.
4 You would have gotten my dad's box in Brunson,
5 post office box 162. Those are the addresses
6 that you would have gotten. Like you would have
7 probably got post office box 844. It was all my
8 dad's. It didn't have anything to do with me.
9 Q You said you were aware of a letter
10 from a Mr. Simmons -- sent to Mr. Simmons.
11 Have you seen that document before?
12 A Right.
13 Q When was the time you saw it?
14 A I don't remember. I am pretty sure I
15 saw that letter before. So it was like -- that
16 is four years ago so ...
17 Q Okay.
18 So to your knowledge were there any
19 other statements or letters made referencing an
20 affair between you and another person?
21 A No, Ma'am.
22 Q So the letters are the only evidence of
23 publication that you are aware of?
24 A Yes.
25 Q So I can imagine how this made you

1 you know, they asked about it.
2 Q How did they hear about it?
3 A I have no idea. Because when I went
4 back to work in, I guess, from me talking and
5 they knew what was going on. So I guess
6 word-of-mouth.
7 Q Word-of-mouth, did you speak with
8 anyone about receiving the letters?
9 A Oh, yes.
10 Q Who did you speak to?
11 A My principal, director, assistant
12 principal.
13 Q Who is the director at the time?
14 A At the time it was Spencer Bobian, but
15 the Director was Deon Simmons; assistant was
16 Dandi Daniels, Spencer Bobian.
17 Q Is that it? Are those all the people
18 that you --
19 A Regina Webster.
20 Q Who was Miss Webster?
21 A She was the finance lady.
22 Q To your knowledge is she still at BJ
23 ACE?
24 A She is not.
25 Q Do you know where she is? Does she

1 feel, but can you describe to me what was your
2 response when you received -- your wife received
3 a letter, another letter was sent, and you are
4 aware of all of these letters being sent?
5 A At first I thought it was a joke. I
6 mean I got pissed, upset. She was upset. She
7 was screaming. She was yelling. But after the
8 fact I knew I didn't do anything, so -- and it
9 went from there.
10 So at the end of the day she asked me
11 back to what do you do. Where you been at.
12 What time. And I give them detail to detail.
13 So and I was pissed. I was upset. So now, you
14 know, so why this or how this could happen to me
15 over something that didn't make any sense.
16 Q Okay.
17 And to your knowledge did anyone
18 believe the statement?
19 A Did they believe it?
20 Q Yes.
21 A I have no idea.
22 Q Did anyone approach you about, you
23 know, the statements or anything in reference to
24 these allegations that --
25 A Well, just my colleagues at the job,

1 live in the area?
2 A She is from Ridgeland, Jasper area.
3 Actually her husband own a garage shop down the
4 road here.
5 Q So the persons that you, you know,
6 spoke about the allegations of this issue was
7 Mr. Simmons, Spencer Bobian, Miss Daniels, and
8 Miss Regina Webster?
9 A Yes, and Aaron Bilcze.
10 Q Who was that?
11 A Aaron Bilcze.
12 Q Who was that?
13 A He is the Resource Officer.
14 Q At BJ ACE?
15 A Yes.
16 Q So aside from those you didn't speak
17 with anyone else about this?
18 A No.
19 Q To your knowledge was there some type
20 of investigation?
21 A Oh, yes. Yes.
22 Q So what do you know about the
23 investigation?
24 A What I know is that when she
25 received -- when we find out about the letters,

1 I called Bilcze. Well, he said there would
2 probably be another letter that may come through
3 coming through. So if they do, don't open the
4 letter. Do not touch them. If you do, use a
5 pair of gloves. So that is what I did.
6 So I called him and we talk about it,
7 and I called one of my friends from Hampton,
8 which got in contact with Detective Wright.
9 Detective Wright did an investigation against
10 the school, like three of employees and came
11 back to me and said well, there is something
12 fishy going on.
13 So he went back. I did not know what
14 was going on at the time and I kept calling him
15 and I said what is going on? He is like,
16 Mr. Gray, just be patient. I am going to make
17 it happen. And probably within the next two
18 weeks I got a text for me to come up front.
19 They are asking for the computers, whatever. So
20 they asked for the computers, and from my
21 understanding the guy, Deon Simmons, tampered
22 with the computers. Had an IT guy put in
23 another hard drive. The hard drive was in the
24 back of his car and Detective Wright asked him
25 where is the hard drive. He said, what are you

1 Q So with that investigation did you
2 submit a statement of any kind?
3 A I don't remember.
4 Q You don't remember.
5 (Whereupon, Defendant's Exhibit
6 Number 4 was marked for
7 identification.)
8 THE WITNESS: Yes, it is a
9 statement that I sent to Deon Simmons.
10 BY MS. DUKES:
11 Q You sent this to Mr. Simmons?
12 A Right.
13 Q But do you recall it, does this jog
14 your memory?
15 A Yes.
16 And Deon Simmons replied back to me
17 stating he was going to look into it.
18 Q Was this before -- I know you said you
19 had talked to --
20 A Yes, this is before we went. Before
21 this stuff happened.
22 Q Before --
23 A Before.
24 Q Before Bilcze --
25 A Right.

1 talking about. He said, well, if you don't
2 produce this hard drive, we are going to take
3 you to jail for tampering with the computers.
4 And Deon Simmons went to his trunk and got the
5 hard drive and the next day he resigned.
6 Q Okay.
7 So have you seen an Incident Report?
8 Do you know have you seen a report?
9 A I did and maybe I didn't. It has been
10 so long.
11 Q I understand.
12 A It has been years now. I will give you
13 the short version.
14 Q So I may be repeating myself.
15 A Okay.
16 Q After the investigation and they asked
17 for the hard drives, did anything else happen
18 after that after they got the computer?
19 A Yes, my pay, they changed my pay for no
20 reason. I was under contract. They told me
21 that my salary wasn't right, so they changed the
22 pay.
23 And me and Miss Daniels, we would kind
24 of like get into it back and forth, and it just
25 was a nightmare.

1 Q Before you spoke to Mr. Bilcze?
2 A Yeah.
3 Q So is that the only statement that you
4 made to any individuals, like a written
5 statement?
6 A Yes.
7 Q And the only person that you spoke with
8 about these allegations were the five people you
9 told me earlier?
10 A Yes, Ma'am.
11 Q Simmons, Bobian, Bilcze, Miss Webster,
12 and Miss Daniels?
13 A Yes.
14 Q Do you know if your wife spoke with
15 anyone?
16 A No, she hasn't.
17 Q She didn't call a family member or
18 anybody else and tell them what was going on?
19 A No, she didn't. Actually she was too
20 embarrassed to even tell anybody.
21 Q Mr. Gray, I know you said earlier that
22 you kind of believed that it was somebody at the
23 school that had wrote the letters because of the
24 addresses?
25 A Yes.

1 Q Do you know who wrote and published the
2 letters?
3 A No, I don't. But it had to be someone
4 in the front office that had access to the file
5 cabinets, and only two people who have access to
6 the file cabinet.
7 Q Who do you believe?
8 A Deon Simmons, Dandi Daniels; and maybe
9 Jennifer Werner maybe had a key too, but I don't
10 know.
11 Q But you don't know exactly who wrote
12 the statements?
13 A If I had to put my life on it, yes; but
14 that is for someone else to find out.
15 Q Okay.
16 So do people just normally make
17 negative comments about people?
18 A Meaning?
19 Q Have you have heard anybody, you know,
20 any co-workers talk bad about another co-worker
21 just in general?
22 A Oh, I mean everybody makes jokes and
23 fool around.
24 Q So it is kind of normal sometimes for
25 people to have negative things, and even if they

1 were untrue they may still be negative?
2 A I mean that is life. I mean that is
3 what people does. They joking and playing
4 around, so, yes.
5 Q So in your opinion was the person who
6 made this statement, was this person doing --
7 acting doing their job when they made the
8 statement? Were they doing it for the benefit
9 of BJ ACE, for the school?
10 A No, they wasn't.
11 Q So it wasn't for the benefit of the
12 school? It was in a personal regard?
13 A Personal.
14 Q So why do you think somebody would make
15 a statement? Was it to hurt or harm you?
16 A Actually, I think whoever did it either
17 they wanted Jennifer Werner or either liked me.
18 Q You think it was they either liked her
19 or liked you?
20 A Yes.
21 Q And they, I guess, felt some type of
22 way about it; but that still -- I guess I am
23 trying to get why would they do that if they
24 just liked her?
25 A I think jealousy.

1 Q What did they have to be jealous about?
2 A I have no idea. I don't know.
3 Q You don't know.
4 So did you and Miss Werner ever have
5 like private conversations or do any lunches?
6 A Never. We all ate together.
7 Q Everyone?
8 A We all ate together.
9 Q So you and her never spent any kind of
10 one-on-one interaction?
11 A No. We all ate together. Besides if
12 she had to come to my classroom or she had to
13 come to the class and bring something for me to
14 sign; or I had to go to her office, because she
15 is the finance lady, she is the accountant. It
16 has always been business.
17 Q So did you have any interaction with
18 her outside of the school and the community?
19 A No, I didn't -- actually, I worked on
20 her husband's Four Wheeler.
21 Q You worked on her husband's Four
22 Wheeler?
23 A Yes, and changed the oil in her
24 husband's vehicle at the school.
25 Q But no interaction outside of the work

1 environment?
2 A No, I haven't.
3 Q So Mr. Gray, I asked earlier about the
4 people just -- and you said as a matter of
5 course people just sometimes just make bad
6 comments about people.
7 So would you agree with me that certain
8 comments, people will knowingly make are false,
9 that if you make a false statement about
10 somebody and somebody knows it is wrong?
11 A Whether you know it is wrong?
12 Q Yeah.
13 A Rephrase that.
14 Q I am sorry, that was probably a bad
15 question.
16 So is it common knowledge that a person
17 should not make false accusations or bad, you
18 know, statements about somebody?
19 A Yes, if it is not true.
20 Q So you would say that if they know it
21 is not true they shouldn't do it?
22 A Yes.
23 Q I know earlier you said that whoever
24 wrote this statement was definitely not
25 acting -- you know, had a personal interest in

1 it and was not working for the benefit of BJ
2 ACE?
3 A Yes.
4 Q And again, you said you are not quite
5 sure who, but you have an inkling of a thought,
6 but you are not quite sure who did it?
7 A Yes.
8 Q But you are assuming it was an employee
9 of ACE?
10 A Someone in the front office. Someone
11 that had access to the cabinets or access to my
12 files.
13 Q But you said personal was not doing in
14 their official capacity? You know, a personal
15 nature against you?
16 A Right.
17 And there is only one who had access to
18 the file that had a key. Only a few people had
19 keys to the file.
20 Q And Mr. Gray, so because this was --
21 you know, this individual was not acting in
22 their -- you know, this wasn't a job duty this
23 individual was performing, would ACE have known
24 that a person would have sent these kind of
25 letters to you? Would BJ ACE have kind of known

1 that was going to happen?
2 A Will BJ ACE?
3 Q Would BJ ACE have known it was going to
4 happen that somebody was going to send letters?
5 A No, they wouldn't have known that.
6 Q They wouldn't have known?
7 A No.
8 Q So it wasn't foreseeable that somebody
9 would use a computer as you allege and type
10 letters?
11 A No, Ma'am.
12 Q Or it wasn't foreseeable that someone
13 would go in the files and get personal
14 information to carry out personal -- I am not
15 the going to say vendetta -- but personal -- I
16 will say a vendetta against you and Miss Werner?
17 A No, Ma'am.
18 Q It wasn't foreseeable.
19 So Mr. Gray, I know this is a lot. We
20 will jog through it.
21 How did all of this kind of affect your
22 life? I know you said earlier that you and your
23 wife separated for a time and you reconciled
24 after five months.
25 How did this affect you?

1 A Well, what affected me was we didn't
2 have no trust issues. So now it is a trust
3 issue now about me or what I am doing. I can
4 leave my house at any time and say I am going to
5 so and so and I will be back. But now there is
6 always a question now, where are you going, what
7 time are you coming back.
8 Q Had you and your wife experienced these
9 trust issues before?
10 A Never.
11 Q Never until this?
12 A Yes.
13 Q Did you and your wife go to any types
14 of counseling or anything like that?
15 A No, I haven't.
16 Q Did you speak with anybody? Maybe not
17 professional counseling, but did you kind of
18 speak with anybody?
19 A Not really.
20 Like I said we talked about it over and
21 over again. To the fact that hey, about this is
22 what happened to this person.
23 Well, I did talk to someone, and the
24 first thing they told me the same thing too, so
25 if that would happen to my wife she had no

1 choice but feeling that type of way so ...
2 Q But other than that brief separation,
3 did anything else in regards to your life change
4 as far as like the relationships in the
5 community? Did anybody --
6 A Well, yes. You know, I know a lot of
7 people. People that don't know what happened
8 questioned me, asked what happened. You know, I
9 heard you know you got caught cheating. I heard
10 this happened. I had heard probably five or six
11 different stories and not one were true.
12 And I have, you know said hey, it
13 didn't went like that. It didn't happen like
14 that. So but other than that that is about it.
15 Q Okay, I am going to kind of revisit one
16 thing.
17 So, if you will, count with me down to
18 the eighth line, and if you go all the way to
19 the end of that eighth line there is a word that
20 says DeLoach and Singleton.
21 A "I used to think that DeLoach and
22 Singleton were lying, but them bitches was
23 right."
24 Q Okay, because that is where I want you.
25 Do you know who DeLoach is, or are you

1 aware of anybody at the school district that had
2 that name?
3 A Yes, Ashley DeLoach.
4 Q And Singleton, are you aware of anybody
5 with the name like Singleton that worked at BJ
6 ACE while you were there?
7 A Yes, but I don't know her name. She
8 worked there briefly.
9 Q Did she leave before you left?
10 A Yes, she did. She got fired.
11 Q And you are not aware of this person's
12 first name?
13 A Audria or Adrian?
14 Q But that is it. That is all I have
15 with that.
16 There is some wrap-up questions for
17 you, Mr. Gray.
18 When was the last time you spoke with
19 Miss Werner?
20 A I tried to call her two or three --
21 about three years ago, but her number has
22 changed now.
23 Q Why were you trying to call her?
24 A To see what was going on, to check up
25 on her.

1 Q Was that something normal that you
2 would do?
3 A Yes.
4 Q So you would normally just call and
5 check up on her?
6 A Not normally, but we always talk or
7 text or whatever.
8 Q You guys used to text and talk.
9 I think earlier you talked about you
10 only kind of interacted at work?
11 A Right.
12 Q So you guys were texting?
13 A Yes, if needed something from work,
14 whatever, she would call. Like Gray, I need so
15 and so, whatever. Can you send a student or
16 whatever. And so she would send me a text my
17 husband needs something at work done, or either
18 her son needs some work done to a Four Wheeler;
19 but basically that was about it.
20 Q So you knew Jennifer Werner's cell
21 phone number prior to this incident happening?
22 A Yes.
23 Q How did you know?
24 A We have a call log at our school that
25 we have everybody's number.

1 Q That includes cell phone numbers?
2 A Yes.
3 Q What was your cell phone number when
4 this incident occurred?
5 A 803-842-8285.
6 Q 842-8285?
7 A Yes, Ma'am.
8 Q What is your carrier?
9 A Verizon.
10 Q Mr. Gray, have you ever been terminated
11 from employment?
12 A Never.
13 Q Ever been laid off or anything?
14 A Never.
15 Q And you said you and Miss Werner would
16 exchange text messages, and you said the
17 substance of the text messages come fix the Four
18 Wheeler or can you perform work on my husband's
19 car? Is that all you guys would text about?
20 A Right, it was work related. She did
21 text me because if we in the shop I got my cell
22 phone. There was a lot more of communication.
23 So if something going on, I need so and so to
24 come up front. Are you going to be able to do
25 this for us today, or we got something coming

1 in. Basically that is about it.
2 Q Mr. Gray, when were you divorced from
3 Miss Laura Harley?
4 A 16 years ago, 17 years ago.
5 Q I think you said you and your wife have
6 been married for 16 years or so, right?
7 A Right.
8 Q In what county?
9 A Allendale.
10 Q Who filed for divorce?
11 A I did.
12 Q I believe this is my last question.
13 My last question, have you ever
14 committed adultery during your marriage to
15 Tamika?
16 A Never.
17 Q Ever been accused of other than --
18 A Never.
19 Q I am done.
20 Please answer any questions your
21 attorney has.
22 CROSS-EXAMINATION
23 BY MR. CREECH:
24 Q I just have a few questions for you and
25 I will try to make them straight up and direct

1 to you.
2 Exhibit 1, the letter that your wife
3 received, is there any true statement in that
4 entire letter?
5 A None.
6 Q Were you friends with Jennifer Werner?
7 A Yes.
8 Q Colleagues with Jennifer Werner?
9 A Yes.
10 Q Talked to her at school?
11 A Yes.
12 Q Saw her at school? Liked being around
13 her at school?
14 A Yes.
15 Q Communicated with her on the telephone
16 occasionally, texted with her occasionally?
17 A Yes.
18 Q Did you ever kiss Jennifer Werner?
19 A Never.
20 Q Ever touch her sexually?
21 A Never.
22 Q Ever have sex with her?
23 A Never.
24 Q That is all the questions I have.
25 MS. DUKES: That is it.

1 Thank you, Mr. Gray.
2 THE COURT REPORTER: Ms. Dukes
3 ordered the original transcript and an
4 electronic copy of the deposition.
5 Mr. Creech ordered an electronic
6 copy of deposition.
7 (Whereupon, the deposition of
8 Lane Romon Gray was concluded at
9 approximately 11:44 a.m.)
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1 CERTIFICATE
2 STATE OF SOUTH CAROLINA:
3 BEAUFORT COUNTY:

4
5 I, Ceil Weser, CSR and Notary
6 Public in and for the above county and state, do
7 hereby certify that the foregoing testimony was
8 taken before me at the time and place
9 herein before set forth; that the witness was by
10 me first duly sworn to testify to the truth, the
11 whole truth, and nothing but the truth, that
12 thereupon the foregoing testimony was later
13 reduced by computer transcription; and I certify
14 that this is a true and correct transcript of my
15 stenographic notes so taken.

16 I further certify that I am not of
17 counsel to either party, nor interested in the
18 event of this cause.
19

20
21
22 _____
23 Ceil Weser, CCR
24 Notary Public
25 Beaufort, South Carolina

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APPEARANCES

REPRESENTING

Matthew Vernon Creech, Esquire

843-726-6131

REPRESENTING

Tierney Felicia Dukes, Esquire

803-254-0707

PROCEEDINGS

1
2 THE COURT: Counsel, state your name for the
3 record and what party you represent.

4 MS. DUKES: My name is Tierney Dukes, and I
5 represent Beaufort Jasper Academy for Career
6 Excellence, or known as BJACE.

7 MR. CREECH: Good morning, Your Honor, I'm Matthew
8 Creech and I represent the plaintiffs in two separate
9 actions, John Doe and Jane Doe. And I think we agreed
10 that the motion applies equally to both.

11 MS. DUKES: No, just on John Doe?

12 MR. CREECH: Okay. Just on John Doe, I misspoke,
13 Your Honor, so I represent John Doe.

14 THE COURT: We are here on your motion for summary
15 judgment?

16 MS. DUKES: Yes, Your Honor.

17 THE COURT: There's just one motion for summary
18 judgment?

19 MS. DUKES: It's just one motion for summary
20 judgment. And we're also -- Matt and I are also on a
21 companion case, kind of the same facts, it's number 21
22 on the roster, Jane Doe v. BJACE. And Matt and I
23 worked it out prior to, so we just have a consent order
24 to compel plaintiff's deposition in that case, if you
25 don't mind.

1 THE COURT: So you had -- on the Jane Doe,
2 companion 365 case, you had a motion for summary
3 judgment because?

4 MS. DUKES: It was a motion to dismiss for failure
5 to prosecute. And Matt and I worked it out to where an
6 order to compel plaintiff to attend deposition would
7 suffice.

8 THE COURT: So that motion has been resolved by
9 consent?

10 MS. DUKES: Yes, and we just request that you --

11 THE COURT: Are the two matters arising out of the
12 same incident?

13 MS. DUKES: Yes.

14 THE COURT: So, all that remains is the John Doe
15 matter; is that correct?

16 MS. DUKES: Yes.

17 THE COURT: And that's correct, Mr. Creech?

18 MR. CREECH: Yes, Your Honor, and I'm sorry to
19 confuse things.

20 THE COURT: I'm not confused, I just want to make
21 sure that, first of all, the record is clear and we
22 have all the motions heard.

23 MR. CREECH: Thank you.

24 THE COURT: All right, Ms. Dukes.

25 MS. DUKES: Thank you, Your Honor.

1 THE COURT: Tell me why I should grant your
2 motion.

3 MS. DUKES: Well, first is, plaintiff contends
4 that an employee of BJACE defamed him by publishing
5 certain letters and alleging that he engaged in an
6 extramarital affair. Our position is, certainly, that
7 someone -- even -- plaintiff has failed to prove that
8 an employee did this, but even in the sense that an
9 employee did, such acts are outside the scope of any
10 employment -- you know, outside the scope of the
11 policies, which under the tort claims act, you know,
12 we're not liable -- BJACE is not liable for acts of an
13 employee outside the scope of their employment. And
14 that is, essentially, plaintiff's claims, that some
15 employee, who has not been identified, defamed him.
16 And our position is that, certainly, someone publishing
17 defamatory statements is not in the scope of their
18 employment for our client.

19 THE COURT: All right. Mr. Creech?

20 MR. CREECH: Your Honor, may it please the Court,
21 I will address that issue first. I would like to note
22 for the Court as part of our argument, Ms. Dukes and I
23 spoke yesterday and I told her I felt this was
24 premature. We have discovery left to do. The actor or
25 actors who published these defamatory statements

1 haven't been deposed yet. One of those, at least, is
2 not an employee anymore, so there's been some
3 difficulty. So I would first note for the Court --

4 THE COURT: How was it published?

5 MR. CREECH: Your Honor, there was a letter -- and
6 to give you some background, both of my clients, the
7 plaintiffs, Jane Doe and John Doe, were employees of
8 ACE. ACE is, for lack of a better term, a technical
9 school, nonprofit joint venture between two counties.
10 They were both teachers there, currently employed there
11 when they each received a letter in the mail, one to my
12 client's father's home, which in very strange terms
13 alleged they were having an affair with each other.
14 Both are married to other people. So it was alleged
15 that they were having an adulterous affair, that they
16 had witnessed them kissing around the school property
17 and going to lunches together and that sort of thing.
18 They've attached that letter as an exhibit to their
19 motion. And it's a fairly bizarre accusation and the
20 terms it's couched in is pretty shocking, frankly. But
21 anyway, it's untrue.

22 So it was published -- and it was then again
23 published a second time by mailing a second time. The
24 Jasper County Sheriff's Department got involved to the
25 point that they went in and seized the director, Yonda

1 Simmons', office computer. It's a school, or ACE-owned
2 the computer. Thankfully, they got in there and seized
3 it. The police report, which is part of the record,
4 and through discovery shows all indications that the
5 police suspected. And I want to ask Mr. Simmons about
6 this. We have the computer and it's, actually, being
7 jointly looked at now.

8 But the police thought that the paper -- first of
9 all, information was gathered from school property from
10 personnel files because it had the permanent residence
11 addresses for both these people. School computer,
12 school property was used. And we suspect strongly, as
13 everybody did, that this director is the one who
14 published it. Also, we think there was involvement
15 from a second, kind of administrative level person. So
16 bizarre set of facts and circumstances, Your Honor,
17 untrue, defamatory.

18 I would note that under the Holsweitzer (phonetic)
19 case and just kind of black letter law in South
20 Carolina, false statements imputing adulterous conduct
21 to persons is slanderous per se, defamatory per se.
22 You don't have to, because it's slanderous per se, have
23 to prove malice, prove intent, any of that.

24 So, a lot of their brief is spent addressing the
25 Gouge case, which is a police officer case, a public

1 official. It's hard for a public official to truly
2 slander somebody else. This is a statutorily created
3 non-profit director. There's a case I'll cite for Your
4 Honor and hand up that's clear on point. It actually
5 --

6 THE COURT: How is Ms. Dukes' client -- what duty
7 is there to control this behavior?

8 MR. CREECH: Well, there's a duty. First of all,
9 they are vicariously liable --

10 THE COURT: How is it related to their employment?
11 I mean, I think that's the logical question.

12 MR. CREECH: Well, I think it's a factual issue
13 right now, but it's a relational point because you've
14 got school property being used by the school's director
15 addressing the alleged conduct of two school employees.

16 The Murphy case out of Charleston, which my
17 partner, Mr. Parker, handled, that was a different
18 context with a similar issue. The trial court there
19 was reversed for directing a verdict. The station
20 director in that Murphy case used stationary from the
21 news station. It was addressing issues and, clearly --

22 THE COURT: It's factually very distinguishable
23 from what I'm hearing from this one.

24 MR. CREECH: Well, Your Honor, the linchpin in the
25 Court of Appeals analysis there was the factual issues

1 were using the property of the station and that created
2 a factual issue about whether it was within the course
3 of their employment. So, I think the facts are the
4 same, you've got the school versus the newsroom here.

5 Your Honor, also, frankly, you asked about the
6 duty. The duty is clear through the law. The law that
7 applies to all of us, whether we work for a government
8 entity or not, is you have a duty not to defame and
9 slander people. Employers, clearly and historically,
10 have been liable for those actions of their clients --
11 I mean, their employees.

12 And the biggest distinction is this, Your Honor,
13 the case of Gouge, which is relied upon there, is
14 directly contradicted a little while later on in a case
15 which is similar to this one. It was a nonprofit,
16 school-type corporation, which an assistant principal
17 made horrible accusations against an employee. It's
18 called Goodwin vs. Kennedy. And if I might approach,
19 I'll hand this up, Your Honor.

20 THE COURT: Okay.

21 MR. CREECH: In speaking of the terms of duty,
22 what this case says -- this was a factual issue about
23 whether -- the statements were actually slanderous.
24 But the court distinguished in this case and, clearly,
25 said that all the kind of cases, like, Gouge vs. Doe,

1 and all of the South Carolina cases dealing with,
2 quote, public officials do not apply and do not control
3 here. They go through an analysis. And the question
4 within schools of whether or not an employee is a
5 public official or not is not directly addressed here.
6 The court in this instance decides that the assistant
7 principal is not a public official. I highlighted on
8 Page 8 or 11 there, that analysis, Your Honor.

9 And it says the essential question about the
10 public official issue is whether, in this case, the
11 principal, is among the hierarchy of government
12 employees who have or appear to the public to have
13 substantial responsibility of the control over the
14 conduct of governmental affairs.

15 The designation of these actors as public
16 officials is important because it addresses the intent
17 and the malice issues. First of all, it's slanderous
18 per se, the statements that were made. So you don't
19 have to prove intent or malice. The statement speaks
20 for itself and the law presumes damages that flow from
21 it.

22 Second of all, if we do get under the tort claims
23 act -- and, obviously, they argue -- besides it being
24 not within the scope of their employment, they argue
25 this is an intentional act, so we're not responsible

1 for it. The question of intent is highly factual and I
2 have not deposed, haven't had the ability to depose the
3 actor here to determine what his intent was. I expect
4 --

5 THE COURT: It's been 300 days, what have y'all
6 been doing?

7 MR. CREECH: We've got scheduling orders and it's
8 moved a little slower than I would like and I know Ms.
9 Dukes would like. We, actually, in July entered a
10 scheduling order and we've got dates coming up in
11 September. So we've agreed --

12 THE COURT: Depositions?

13 MR. CREECH: No, ma'am, we've got mediation.
14 We've got --

15 THE COURT: You haven't mediated this case yet?

16 MS. DUKES: No, Your Honor, we have been kind of
17 working -- we've done one deposition of plaintiff. Mr.
18 Creech has not deposed any of the individuals that he
19 has just alleged may have did these statements. Again,
20 this is -- we've done the deposition of the plaintiff.

21 THE COURT: So, at this point, you don't even know
22 who wrote the letters? You have just retrieved
23 computers that were assigned to a particular individual
24 at the school, is that correct?

25 MR. CREECH: That's correct. Your Honor. And to

1 be fair, I have asked to depose that individual. And
2 they don't have control over him anymore because he's
3 not an employee anymore. We highly suspect we know who
4 did it, but he's not been confronted with the evidence
5 and put under oath yet. And the issue dealing with
6 intent, we don't know what his intention was.

7 THE COURT: You agree with that, at this point, we
8 don't know who wrote the letter?

9 MS. DUKES: Yes, I will agree to that.

10 THE COURT: But we do agree, everybody agrees that
11 it was your client's property that was utilized to
12 craft that letter?

13 MS. DUKES: We do not agree with that. Again,
14 that has not been determined. Plaintiff has assumed
15 that an employee of ours used our property to do such
16 act, but that has not been proven.

17 THE COURT: I'm sorry, I thought I read in one of
18 the documents that the hard drive had been retrieved.

19 MS. DUKES: Yes, Your Honor. And so, this case --
20 the whereabouts came in 2013, so, plaintiff at that
21 time, thought an employee of ours had published these
22 statements at our school, using school equipment and
23 contacted the Sheriff's Department and the department
24 came and retrieved those hard drives. But because
25 criminal charges were not pursued or prosecuted, they

1 never inspected the hard drives, so the case kind of
2 just languished there after they took the hard drive in
3 2013, and then plaintiff filed this action in 2015.

4 THE COURT: Who's looked at it in the last two
5 years?

6 MR. CREECH: We recently agreed -- Your Honor, I'm
7 sorry, I'm slow moving today. I've got a leg issue.

8 THE COURT: I'm sorry to hear that.

9 MR. CREECH: They have it, I think, in Columbia.
10 And we've agreed to split the cost of having the
11 initial preliminary assessment done. We, frankly, are
12 trying not to go broke getting into the computer's hard
13 drive. So we, actually, have jointly agreed to have
14 their folks look at it and pull the info off of the
15 computer. It's there now.

16 And, Your Honor, I think that will be some more
17 evidence we'll have of where it came from.

18 THE COURT: Ms. Dukes?

19 MS. DUKES: Yes, Your Honor.

20 THE COURT: What is the analysis that I need? Do
21 I need to know who wrote the letter? Does that matter?
22 Does it matter if it was an employee? Or is it
23 sufficient if it was found on the hard drive on your
24 property, or am I missing the point completely?

25 MS. DUKES: Well, your Honor, I think -- to point

1 out some things that Mr. Creech, he correctly stated
2 that, you know, malice here is presumed. And one part
3 of our argument is under defamation, under the tort
4 claims act, a government entity is not liable for
5 conduct that constitutes actual malice. So, on the
6 law, he's admitted that this defamation requires actual
7 malice. Our argument is that, under the tort claims
8 act, we're barred.

9 But he offered the analysis of the negligent
10 supervision. Mr. Creech does argue -- and it's the
11 Degenhart v. Knights of Columbus (phonetic) case where
12 some of this law comes out of. You know, courts have
13 found that employers are liable for certain conduct
14 outside the scope under limited circumstances. And one
15 of the factors is that the channel that the employees
16 used, but also, the employer must know of the reason --
17 know of the reason that he has the ability to control
18 the employee and know or should know of the necessity
19 and opportunity for exercising such control.

20 And our position is that even if, you know,
21 nothing has been shown that an employee did take this
22 conduct, even if that were the case and -- and our
23 argument is that conduct is outside the scope,
24 notwithstanding our argument under the tort claims act
25 that it's outside the scope, plaintiff has not proved

1 and it is our belief that an employee, to the extent
2 that one did publish such statements, that it would be
3 foreseeable to BJACE that such employee would take this
4 kind of action against its policy. So they did not
5 have a reason or on notice to control this employee.
6 And that's the Degenhart v. Knights of Columbia
7 (phonetic) case that's cited in our memo.

8 THE COURT: Anything further, Mr. Creech?

9 MR. CREECH: Your Honor, one more case and one
10 more issue, which I think really gets to the heart of
11 it. Their argument has been made time and time again
12 by government entities, essentially, asserting this
13 malice or intent requirement. In effect, they say,
14 look, we're the government, we can't be sued for
15 anything that's intentional or would show malice.
16 That's clearly not the law.

17 I've got a case here, Your Honor, if I might hand
18 it up to you, it's Elko vs. Charleston County School
19 District, the school district itself. Judge Nicholson
20 ruled in that case because of acts that were a little
21 bit different from slander, they were intentional
22 interference with contract, intentional interference.
23 By the definition of those cases -- I mean, those
24 causes of action, it's intent, it's intentional. Those
25 are elements of the cause of action. Judge Nicholson

1 took that analysis and said, you know, you can't sue
2 them. It's an exemption here because the causes
3 themselves are intentional in nature. And I think
4 that's a Chief Justice Toal opinion. She, clearly,
5 said no, we're reversing you on that because it's not
6 an element. You've got to show intent to harm as
7 opposed intent to act.

8 So, typing a letter on a computer owned by the
9 school district is absolutely intentional, but they
10 only get protections if -- they have the burden of
11 showing this, too, even though directed verdict states
12 that the actor who did it intended to harm the other
13 people. He may admit, when I depose him, yes, I
14 intended to ruin these people's lives and harm them and
15 do all that. I doubt we'll get that, but that intent
16 aspect right now is ripe for factual determination by a
17 jury as to all of these issues. They have strong
18 arguments that what this guy did, to a jury, was not
19 within the course of being a director at a school. We
20 have arguments to counter --

21 THE COURT: Assuming you even get it to a jury at
22 this point, right?

23 MR. CREECH: That's right. We hope to and want
24 to. Honestly, I think if we develop some more
25 evidence, this could be more ripe in the future and,

1 certainly, in the directed verdict stage. I assume a
2 judge will shoot me and put me down if I don't have the
3 evidence to prove my case in that setting. But I think
4 right now --

5 THE COURT: Anything further?

6 MS. DUKES: Yes, Your Honor. Just to wrap up, you
7 know, the plaintiff has not identified any individual
8 who may have did this, you know, in evidence. So,
9 given that, you know, outside of identifying somebody
10 to even see if this person, you know, was an employee
11 or was even in the scope -- our argument would be, such
12 act is not in the scope of anybody employed and working
13 for an educational institute to defame someone.

14 You know, our position still stands that this is
15 kind of outside the scope of employment, and even the
16 defamation. We're alleging that it's actual malice.
17 He said intent to harm. The statute reads, Conduct
18 that constitutes actual malice, intent to harm or crime
19 of moral turpitude. That's how the statute reads. So
20 we don't have to prove that he intended to harm
21 someone. The cause of action that requires proof of
22 actual malice, we think is sufficient. Thank you.

23 THE COURT: All right. I'll take the matter under
24 advisement. Good luck to you both.

25 Do you have anything further, Mr. Creech?

1 MR. CREECH: Your Honor, I think that takes care
2 of all of mine on the roster. I've got one with Mr.
3 Achurch. I guess I need to ask and make sure.

4 (Hearing concluded.)

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2 CERTIFICATE

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4 STATE OF SOUTH CAROLINA:

5 COUNTY OF BEAUFORT:

6 I, MONA L. MANLEY, Court Reporter, certify that I was
7 authorized to and did stenographically report the foregoing
8 proceedings and that the transcript is a true and complete
9 record of my stenographic notes.

8

DATED this 14th day of July, 2018.

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Mona L. Manley /s/

MONA L. MANLEY

Official South Carolina Court Reporter

Circuit Reporter for the 14th Circuit

(850) 893-6662

mmanley@sccourts.org

Kenneth A. Davis

From: Tierney F. Dukes
Sent: Wednesday, February 8, 2017 5:13 PM
To: Matthew Creech
Cc: Kenneth A. Davis
Subject: Jane Doe v. BJACE/John Doe v. BJACE

Hey Matt:

As stated in our last conversation, we reached out to JCISO attorney, David Tedder, regarding the computer hard-drives retrieved from ACE. Attorney Tedder advised that the hard-drives are located in the evidence room.

As you may recall, pursuant to the Consent Order for Permanent Injunction entered on November 14, 2013, the parties agreed to remove the evidence from its current location at JCISO to a mutually agreed upon location. Is there any particular place that you would like the materials moved to?

Also, have you had a chance to review the proposed ADR extensions? The current ADR deadline is Friday, February 10, 2017.

Best,

Tierney F. Dukes

Associate
Boykin & Davis, LLC
P.O. Box 11844
Columbia, SC 29211
Telephone: 803.254.0707
Facsimile: 803.254.5609

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ROA-0123

BOYKIN & DAVIS, LLC

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220 STONERIDGE DRIVE, SUITE 100
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POST OFFICE BOX 11844
COLUMBIA, SOUTH CAROLINA 29211

Kenneth A. Davis
kdavis@boykinlawsc.com

April 25, 2017

VIA ELECTRONIC MAIL

Matthew V. Creech, Esq.
Peters, Murdaugh, Parker, Eltzroth & Detrick, P.A.
P.O. Box 2500
Ridgeland, South Carolina 29936

Re: Jane Doe v. Beaufort-Jasper Academy for Career Excellence, et al.
C.A. No.: 2015-CP-27-0365

John Doe v. Beaufort-Jasper Academy for Career Excellence, et al.
C.A. No.: 2015-CP-27-00364

Dear Mr. Creech:

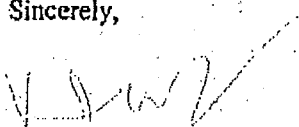
This letter is a follow-up to correspondence dated February 8, 2017, wherein I informed you that the attorney for Jasper County Sheriff's Office ("JCSO") advised our office that the hard-drives seized from Beaufort-Jasper Academy for Career Excellence ("ACE") remain in the possession of JCSO.

Accordingly, we intend to inspect the materials on Wednesday, April 26, 2017, at 2:00 p.m. at the JCSO located at 1460 Carters Mill Road, Ridgeland, SC 29936. You may observe the inspection.

Further, as you may recall, pursuant to the Consent Order for Permanent Injunction entered on November 14, 2013, the parties agreed to remove the evidence from its current location at JCSO to a mutually agreed upon location. Please advise us as to who you wish to serve as successor custodian.

Should you have any questions, please do not hesitate to contact our office.

Sincerely,


Kenneth A. Davis

/clm

cc: Tierney F. Dukes, Esq.

ROA-0124

BOYKIN & DAVIS, LLC

Attorneys and Counselors at Law

220 STONERIDGE DRIVE, SUITE 100
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POST OFFICE BOX 11844
COLUMBIA, SOUTH CAROLINA 29211

Tierney F. Dukes
tdukes@boykinlawsc.com

July 26, 2017

VIA ELECTRONIC MAIL & U.S. MAIL

Matthew V. Creech, Esq.
Peters, Murdaugh, Parker, Eltzroth & Detrick, P.A.
P.O. Box 2500
Ridgeland, South Carolina 29936

Re: Jane Doe v. Beaufort-Jasper Academy for Career Excellent, et al.
C.A. No.: 2015-CP-27-0365

John Doe v. Beaufort-Jasper Academy for Career Excellence, et al.
C.A. No.: 2015-CP-27-00364

Dear Mr. Creech:

This letter is a follow-up to my correspondence on June 29, 2017 and July 14, 2017, regarding the inspection of the computer hard-drives maintained in our office pursuant to our verbal agreement.

Pursuant to the Order for Permanent Injunction dated November 14, 2013, any party that intends to inspect the materials must give timely and reasonable notice of the time and place of the inspection and permit the other party to observe the inspection.

As we discussed, our office has secured an information technology specialist to inspect the hard-drives for any documents and information relevant to the claims and/or defenses in this matter. The cost for the services is \$1,000.00. We believe that an inspection of the hard-drives would be beneficial to both parties in discovery. The specialist would provide each party with a listing of the contents found on the hard-drives.

If the above arrangement is agreeable to you and you wish to share in the costs of this service, please advise our office as soon as possible, but no later than August 18, 2017. If not, we intend to conduct the inspection on August 21, 2017.

Should you have any questions or concerns, please do not hesitate to contact me or Kenneth Davis directly.

Sincerely,



Tierney F. Dukes

STAFF ETHICS

Code GBEA Issued 10/2011

Prohibitions

Staff members will not engage in any activity that conflicts or raises a reasonable question of conflict with their responsibilities for the ACE.

No employee will engage in or have a financial interest, directly or indirectly, in any activity that conflicts or raises a reasonable question of conflict with his/her duties and responsibilities for ACE.

Staff members will not engage in work of any type where information concerning a customer, client, or the ACE originates from any information available to him/her through ACE sources.

Certified employees may not sell instructional supplies, equipment, or reference books in Beaufort or Jasper Counties. No staff member may furnish the names of ACE students or their parents/legal guardians to anyone selling these types of materials.

Nepotism

The Board will not accept a recommendation for the appointment of an immediate family member of the ACE Director and/or Assistant Director for any position at ACE.

Additionally, no members of the same immediate family will be hired to work at ACE without prior approval of the Board; however, this procedure will not affect the continued employment of current personnel who are related to other staff members.

State Ethics Law Provisions

A public school employee is under the jurisdiction of the "Ethical Conduct of Public Officials and Employees," Section 8-13-700, et seq. of the South Carolina Code of Laws and is subject to its rules of conduct. These include the following.

A public employee:

See #?

1. may not use his/her position or office for personal financial gain.
2. must report the receipt of anything of value worth \$25 or more under certain circumstances.
3. may not receive compensation to influence action.
4. may not receive additional money as payment for advice or assistance given in the course of their employment.
5. may not receive anything of value for speaking before a public or private group if the

PAGE 2 – GBEA – STAFF ETHICS

- employee is acting in an official capacity.
6. may not use government personnel, equipment or materials in an election campaign.
 7. may not use or disclose confidential information gained in the course of employment.
 8. may not serve as a member or employee of a governmental regulatory commission that regulates any business with which the employee is associated.
 9. may not represent another person before a governmental entity.
 10. may not have an economic interest in a contract if the employee is authorized to perform an official function relating to the contract.
 11. may not use or disclose confidential information in any way that would affect his/her economic interest.

In cases where an ACE employee is required to take action or make a decision that affects him/her or other individuals, the employee will take such steps as the State Ethics Commission will prescribe to remove himself/herself from the potential conflict of interest.

The ACE Director must file an annual statement of economic interest with the State Ethics Commission.

Adopted 10/20/11

Legal References:

- A. South Carolina Code, 2004, as amended
 1. Section 8-13-20 et seq. - State ethics law
 2. Section 59-15-10 - No employee may serve on the county board of education
 3. Section 59-19-300 - A board member may not receive pay as a teacher in same district where s/he serves on the board of trustees.
 4. Section 59-31-590 - A teacher may not have pecuniary interest in textbook selection

Is this report a General Sessions Case which needs to go to the G/S Court Coordinator? YES NO

INCIDENT REPORT							
Agency ID: SC 0070000		Cooler, Bonnie		Case Number: 201308260451			
Available for Records Section <input checked="" type="checkbox"/>		08/28/2013		Section: SRO Juvenile		NO	
Incident Type		Completed		Forced Entry		Premise Type	
Assist Other Agency		<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		School: Elem/Secondary	
Suspicious Activity		<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		School: Elem/Secondary	
INCIDENT LOCATION:							
Victim Type		Latitude		Longitude		NCIC Inq	NCIC Ent'd
Individual		32.353812		-80.921619			
St #	Street Name	Unit	Subdivision/Complex	City	State	Zip	Grid #
80	Lowcountry Drive		ACE	Ridgeland	SC	29936	9002
Incident Date		Incident Time		Incident Date		Incident Time	
08/21/2013		17:30		TO			
Dispatch Date	Dispatch Time	Arrival Time	Departure Time	Weapon Type			
08/22/2013	08:15	08:20	09:30	None			
Reporting Officer		Date	Unit #	Shift Supervisor	Date	Unit #	
Bileze		08/26/2013	B1992	Fripp, Isaac	08/28/2013	F5930	
Division Supervisor		Date	Unit #	Reviewed By/Investigator	Date	Unit #	
Givens, Alfredo		08/27/2013	G0817	Fripp, Isaac	08/28/2013	F5930	
Case Dispo.	Reason for Ex-Clear	Follow Up Inv.	Officer Assigned	Unit #			
Admin Closed		<input type="checkbox"/> Yes <input type="checkbox"/> No					

Certified to be a true and correct copy of the original document on file with the Office of Sheriff for Beaufort County.
Michael M. Hatfield
 Chief Deputy, Beaufort County Sheriff's Office

Provided by: Beaufort County Sheriff's Office
 Criminal Records Division
 Released by: *JOB* Date: *10/22/13*

COMPLAINANT/VICTIM/SUSPECT:

Person Type	Last Name	First Name	Middle Name	Suffix	DOB	Sex	Race			
Complainant	Daniels	Dandi			12/05/1971	F	B			
Age	Eth	Ht	Wt	Hair	Eyes	J/S/O/U	Relationship to Subject	#1	#2	#3
41	N	507	200	BLK	BRO	S	Unknown			
Facial Hair/Scars/Tattoos/Etc										
This Jurisdiction/S-State/O-Out of State/U-Unknown										
St #	Street Name	Unit	Subdivision/Complex	City	State	Zip				
80	Lowcountry Drive		ACE	Ridgeland	SC	29936				
Home Phone	Work Phone	Cell Phone								
	843-987-8107									

FOR VICTIMS	Visible Injury	Explain	Complaint Non-Visible Injury
	<input type="checkbox"/> Yes <input type="checkbox"/> No		<input type="checkbox"/> Yes <input type="checkbox"/> No
	Victim Using	Alcohol: <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Unknown	Drugs: <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Unknown
	Subst. Type		

FOR SUSPECTS	Type	Identified	Arrested Near Scene	#Arrested	Date/Time of Incident	Date/Time of Arrest
	<input type="checkbox"/> Suspect <input type="checkbox"/> Runaway <input type="checkbox"/> Wanted <input type="checkbox"/> Warrant <input type="checkbox"/> Arrest <input type="checkbox"/> Jail <input type="checkbox"/> Summons	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No			
	Located	Suspect Using	Alcohol: <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Unknown	Drugs: <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Unknown		
	<input type="checkbox"/> Yes <input type="checkbox"/> No	Subst. Type				

Person Type	Last Name	First Name	Middle Name	Suffix	DOB	Sex	Race			
Victim	Gray	Romon			07/10/1971	M	B			
Age	Eth	Ht	Wt	Hair	Eyes	J/S/O/U	Relationship to Subject	#1	#2	#3
42	N	601	240	BLD	BRO	S	Unknown			
Facial Hair/Scars/Tattoos/Etc										
This Jurisdiction/S-State/O-Out of State/U-Unknown										
St #	Street Name	Unit	Subdivision/Complex	City	State	Zip				
109	Standale			Hampton	SC	29924				
Home Phone	Work Phone	Cell Phone								
	843-987-8107									

FOR VICTIMS	Visible Injury	Explain	Complaint Non-Visible Injury
	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		<input type="checkbox"/> Yes <input type="checkbox"/> No
	Victim Using	Alcohol: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Unknown	Drugs: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Unknown
	Subst. Type		

FOR SUSPECTS	Type	Identified	Arrested Near Scene	#Arrested	Date/Time of Incident	Date/Time of Arrest
	<input type="checkbox"/> Suspect <input type="checkbox"/> Runaway <input type="checkbox"/> Wanted <input type="checkbox"/> Warrant <input type="checkbox"/> Arrest <input type="checkbox"/> Jail <input type="checkbox"/> Summons	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No			
	Located	Suspect Using	Alcohol: <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Unknown	Drugs: <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Unknown		
	<input type="checkbox"/> Yes <input type="checkbox"/> No	Subst. Type				

Person Type	Last Name	First Name	Middle Name	Suffix	DOB	Sex	Race			
Victim	Gray	Tamika			05/29/1975	F	B			
Age	Eth	Ht	Wt	Hair	Eyes	J/S/O/U	Relationship to Suspect	#1	#2	#3
38	N	504	161	BLK	BRO	S	Unknown			
Facial Hair/Scars/Tattoos/Etc										
*J-This Jurisdiction/S-State/O-Out of State/U-Unknown										
St #	Street Name	Unit	Subdivision/Complex	City	State	Zip				
109	Standale			Hampton	SC	29924				
Home Phone	Work Phone	Cell Phone								

FOR VICTIMS	Visible Injury	Explain	Complaint Non-Visible Injury
	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
	Victim Using Subst. Type	Alcohol: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Unknown	Drugs: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Unknown

FOR SUSPECTS	Type	<input type="checkbox"/> Suspect	<input type="checkbox"/> Runaway	<input type="checkbox"/> Wanted	<input type="checkbox"/> Warrant	<input type="checkbox"/> Arrest	<input type="checkbox"/> Jail	<input type="checkbox"/> Summons
Identified	Arrested Near Scene	#Arrested	Date/Time of Incident	Date/Time of Arrest				
<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No							
Located	Suspect Using Subst. Type	Alcohol: <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Unknown	Drugs: <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Unknown					
<input type="checkbox"/> Yes <input type="checkbox"/> No								

Person Type	Last Name	First Name	Middle Name	Suffix	DOB	Sex	Race			
Victim	Werner	Jennifer			08/23/1971	F	W			
Age	Eth	Ht	Wt	Hair	Eyes	J/S/O/U	Relationship to Suspect	#1	#2	#3
42	N	500	130	BLK	HAZ	S	Unknown			
Facial Hair/Scars/Tattoos/Etc										
*J-This Jurisdiction/S-State/O-Out of State/U-Unknown										
St #	Street Name	Unit	Subdivision/Complex	City	State	Zip				
80	Lowcountry Drive			Ridgeland	SC	29936				
Home Phone	Work Phone	Cell Phone								
	843-987-8107									

FOR VICTIMS	Visible Injury	Explain	Complaint Non-Visible Injury
	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
	Victim Using Subst. Type	Alcohol: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Unknown	Drugs: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Unknown

FOR SUSPECTS	Type	<input type="checkbox"/> Suspect	<input type="checkbox"/> Runaway	<input type="checkbox"/> Wanted	<input type="checkbox"/> Warrant	<input type="checkbox"/> Arrest	<input type="checkbox"/> Jail	<input type="checkbox"/> Summons
Identified	Arrested Near Scene	#Arrested	Date/Time of Incident	Date/Time of Arrest				
<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No							
Located	Suspect Using Subst. Type	Alcohol: <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Unknown	Drugs: <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Unknown					
<input type="checkbox"/> Yes <input type="checkbox"/> No								

Person Type	Last Name	First Name	Middle Name	Suffix	DOB	Sex	Race
-------------	-----------	------------	-------------	--------	-----	-----	------

Original Report - 201308260451

On 08-26-13 at 1530 hours, this officer took a report in reference to the above incident type. For details see Jasper County Report # 13-2358.

Certified to be a true and correct
copy of the original document set file with
the Office of the Sheriff for Jasper County.

Michael B. [Signature]
Chief Deputy, Executive Secretary, Sheriff's Office

20130826 451

AGENCY I.D.
SCO 270000

INCIDENT REPORT

CASE NUMBER

13-2358

NCIC

INQ. ENTD.

INCIDENT TYPE		COMPLETED	FORCED ENTRY	PREMISE TYPE	UNITS ENTERED	TYPE VICTIM						
1. Suspicious Activity		<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	School		<input checked="" type="checkbox"/> Individual <input type="checkbox"/> Business <input type="checkbox"/> Financial Inst. <input type="checkbox"/> Government <input type="checkbox"/> Rellig. Organ. <input type="checkbox"/> Soc./Public <input type="checkbox"/> Other <input type="checkbox"/> Unknown <input type="checkbox"/> Police Off.						
2. SRO		<input type="checkbox"/> YES <input type="checkbox"/> NO	<input type="checkbox"/> YES <input type="checkbox"/> NO									
3. SRO		<input type="checkbox"/> YES <input type="checkbox"/> NO	<input type="checkbox"/> YES <input type="checkbox"/> NO									
INCIDENT LOCATION (SUBDIVISION, APARTMENT AND NUMBER, STREET NAME AND NUMBER)				ZIP CODE	WEAPON TYPE							
80 Lowcountry Drive (ACE)				29936	None							
INCIDENT DATE	24HR. CLOCK	TO	DATE	24HR. CLOCK	DISP. DATE	DISP. TIME	TIME ARRIVED	DEPART. TIME	LOCATION NO.			
8/21/2013	1730				8/22/2013	0815	0820	0930	9002			
COMPLAINANT'S NAME (LAST, FIRST MIDDLE)		RELATIONSHIP TO SUBJECT		RESIDENT*	RACE	SEX	AGE	ETH	DAY TIME PHONE	EVENING PHONE		
Daniels, Dandi		#1 R/U	#2	J S O U	B	F	41	N	843-987-8107 B	H B		
ADDRESS		CITY		STATE		ZIP CODE		LOCATION NO.				
80 Lowcountry Drive		Ridgeland		SC		29936						
VICTIM'S NAME (LAST, FIRST MIDDLE)		RELATIONSHIP TO SUBJECT		RESIDENT*	RACE	SEX	AGE	ETH	DAY TIME PHONE	EVENING PHONE		
Gray, Romon		#1 R/U	#2	J S O U	B	M	42	N	843-987-8107 B	H B		
ADDRESS		CITY		STATE		ZIP CODE		LOCATION NO.				
109 Standale Street		Hampton		SC		29924						
HEIGHT	WEIGHT	HAIR	EYES	FACIAL HAIR, SCARS, TATTOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC.								
601	240	Bld	Brn									
VISIBLE INJURY (VICT 1): <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO				EXPLAIN:			COMPLAINANT OF ANY NON-VISIBLE INJURIES: <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO					
VICTIM (NO. 1) USING: ALCOHOL: <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO <input type="checkbox"/> UNK. DRUGS: <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO <input type="checkbox"/> UNK. TYPE:												
TWO-MAN VEH. <input type="checkbox"/> ONE-MAN VEH. <input type="checkbox"/> DETECTIVE/SPL ASMNT <input type="checkbox"/> OTHER <input type="checkbox"/> ALONE <input type="checkbox"/> ASSISTED <input type="checkbox"/> * J - This Jurisdiction S - State O - Out of State U - Unknown												
<input checked="" type="checkbox"/> SUSPECT	NAME (LAST, FIRST MIDDLE)			RACE	SEX	AGE	ETH.	DATE OF BIRTH	HEIGHT	WEIGHT	HAIR	EYES
<input type="checkbox"/> RUNAWAY	Unknown			U	U	00	U					
<input type="checkbox"/> WANTED	FACIAL HAIR, SCARS, TATTOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC.											
<input type="checkbox"/> WARRANT	ADDRESS			CITY			STATE		ZIP CODE		LOCATION NO.	
<input type="checkbox"/> ARREST	Unknown											
<input type="checkbox"/> JAIL	SUBJECT (NO.1) USING: ALCOHOL: <input type="checkbox"/> YES <input type="checkbox"/> NO <input checked="" type="checkbox"/> UNK.			ARRESTED NEAR SCENE <input type="checkbox"/> YES <input type="checkbox"/> NO			DATE/TIME OF OFFENSE		DATE/TIME OF ARREST			
<input type="checkbox"/> SUMMONS	DRUGS: <input type="checkbox"/> YES <input type="checkbox"/> NO <input checked="" type="checkbox"/> UNK. TYPE:			TOTAL # ARRESTED:								
Synopsis:												
On 08-22-13 at 0815 while on active patrol of ACE, I was notified over the two way radio to report to Daniels office in reference to the above Incident type.												
Certified to be a true and correct copy of the original which was on file with the Office of the Sheriff, Berkeley County, Georgia.												
JURISDICTION OF THEFT LAW ENFORCEMENT AGENCY:						JURISDICTION OF RECOVERY LAW ENFORCEMENT AGENCY:						
Berkeley County, Georgia						Berkeley County, Georgia						
TYPE (GROUP)										TOTAL VALUE		
STOLEN												
DAMAGED												
BURNED												
RECOVERED												
SEIZED												
SUBJECT IDENTIFIED		SUBJECT LOCATED		<input type="checkbox"/> ACTIVE <input type="checkbox"/> ADM. CLOSED		<input type="checkbox"/> ARRESTED UNDER 18		<input type="checkbox"/> EX-CLEAR UNDER 18				
<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO		<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO		<input type="checkbox"/> UNFOUNDED		<input type="checkbox"/> ARRESTED 18 AND OVER		<input type="checkbox"/> EX-CLEAR 18 AND OVER				
REASON FOR EXCEPTIONAL CLEARANCE: 1. <input type="checkbox"/> OFFENDER DEATH 2. <input type="checkbox"/> NO PROSECUTION 3. <input type="checkbox"/> EXTRADITION DENIED 4. <input type="checkbox"/> VICTIM DECLINES COOPERATION 5. <input type="checkbox"/> JUVENILE - NO CUSTODY												
REPORTING OFFICER(S)		DATE		UNIT NUMBER		APPROVING OFFICER		DATE		UNIT NUMBER		
Cpl. Bilcze, A.		08-26-13		B1992								
FOLLOW-UP INVESTIGATION				OFFICER ASSIGNED								
<input type="checkbox"/> YES <input type="checkbox"/> NO												

20130826-451

AGENCY I.D.
SCO 270000

SUPPLEMENTAL INCIDENT REPORT

CASE NUMBER

13-2358

NCIC

INQ. RTD.

ORIGINAL REPORT SUPPLEMENTAL REPORT ADDITIONAL VICTIMS ADDITIONAL STOLEN PROPERTY PAGE 2 OF 6 PAGES
 MODIFIES ORIGINAL CASE STATUS CHANGE ADDITIONAL OFFENDERS ADDITIONAL RECOVERED PROPERTY

<input type="checkbox"/> COMPLAINANT <input checked="" type="checkbox"/> VICTIM # 2 <input type="checkbox"/> SUSPECT # <input type="checkbox"/> RUNAWAY <input type="checkbox"/> WANTED <input type="checkbox"/> WARRANT <input type="checkbox"/> ARREST <input type="checkbox"/> JAIL <input type="checkbox"/> SUMMONS <input type="checkbox"/>	NAME (LAST, FIRST MIDDLE) Gray, Tamika	VICTIM RELATIONSHIP TO SUBJECT #1 R/U #2 #3			RESIDENT # <input checked="" type="checkbox"/> <input type="checkbox"/> S <input type="checkbox"/> O <input type="checkbox"/> U	RACE B	SEX F	AGE 38	D.O.B. 05-29-75	ETH. N	
	HEIGHT 504	WEIGHT 161	HAIR Blk	EYES Brn	FACIAL HAIR, SCARS, TATTOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC.						
	ADDRESS 109 Standaloe Street		CITY Hampton		STATE SC	ZIP CODE 29924	LOCATION NO.	DAY TIME PHONE	EVENING PHONE		
	<input checked="" type="checkbox"/> VICTIM NO. 2 <input type="checkbox"/> VISIBLE INJURY <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO <input type="checkbox"/> COMPLAINT OF NON-VISIBLE INJURIES: <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO EXPLAIN: _____ SUBJECT NO. _____ USING ALCOHOL: <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO <input type="checkbox"/> UNK USING DRUGS: <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO <input type="checkbox"/> UNK TYPE: _____		<input type="checkbox"/> VICTIM USING: ALCOHOL: <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO <input type="checkbox"/> UNK <input type="checkbox"/> DRUGS: <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO <input type="checkbox"/> UNK, TYPE: _____		<input type="checkbox"/> TWO-MAN VEH <input type="checkbox"/> DETECTIVE/SPL ASMT <input type="checkbox"/> ALONE <input type="checkbox"/> ONE-MAN VEH <input type="checkbox"/> OTHER <input type="checkbox"/> ASSISTED						

<input type="checkbox"/> COMPLAINANT <input type="checkbox"/> VICTIM # <input type="checkbox"/> SUSPECT # <input type="checkbox"/> RUNAWAY <input type="checkbox"/> WANTED <input type="checkbox"/> WARRANT <input type="checkbox"/> ARREST <input type="checkbox"/> JAIL <input type="checkbox"/> SUMMONS <input checked="" type="checkbox"/> POI	NAME (LAST, FIRST MIDDLE) Daniels, Dandi	VICTIM RELATIONSHIP TO SUBJECT #1 #2 #3			RESIDENT # <input checked="" type="checkbox"/> <input type="checkbox"/> S <input type="checkbox"/> O <input type="checkbox"/> U	RACE B	SEX F	AGE 41	D.O.B. 12-05-71	ETH. N	
	HEIGHT 507	WEIGHT 200	HAIR Blk	EYES Brn	FACIAL HAIR, SCARS, TATTOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC.						
	ADDRESS 80 Lowcountry Drive		CITY Ridgeland		STATE SC	ZIP CODE 29936	LOCATION NO.	DAY TIME PHONE 843-987-8107	EVENING PHONE		
	<input type="checkbox"/> VICTIM NO. _____ <input type="checkbox"/> VISIBLE INJURY <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO <input type="checkbox"/> COMPLAINT OF NON-VISIBLE INJURIES: <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO EXPLAIN: _____ SUBJECT NO. _____ USING ALCOHOL: <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO <input type="checkbox"/> UNK USING DRUGS: <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO <input type="checkbox"/> UNK TYPE: _____		<input type="checkbox"/> VICTIM USING: ALCOHOL: <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO <input type="checkbox"/> UNK <input type="checkbox"/> DRUGS: <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO <input type="checkbox"/> UNK, TYPE: _____		<input type="checkbox"/> TWO-MAN VEH <input type="checkbox"/> DETECTIVE/SPL ASMT <input type="checkbox"/> ALONE <input type="checkbox"/> ONE-MAN VEH <input type="checkbox"/> OTHER <input type="checkbox"/> ASSISTED						

General:

On the listed date and time Spencer Boblan (Assistant Director) and I were requested to respond to Mrs. Daniels office.

Interview of Complainant / POI: Dandi Daniels (Assistant Director of ACE)

Daniels informed she was approached on the morning of 08-21-13, by Romon Gray (ACE Faculty Member). Daniels advised Gray stated he had received an anonymous letter which had been addressed to his wife, Tamika Gray. Daniels stated the content of the letter in which she read had been directed towards Tamika informing her about an alleged relationship which was taking place between her husband and Jennifer Werner (ACE Accountant). Daniels informed the letter felt as if it had been possibly written by a faculty member, due to the content. Daniels advised Gray wished to talk to this officer about the incident.

Continued on Next Page...

JURISDICTION OF THEFT LAW ENFORCEMENT AGENCY:				JURISDICTION OF RECOVERY LAW ENFORCEMENT AGENCY:					
STATUS TYPE <input type="checkbox"/> STOLEN <input type="checkbox"/> VEHICLE <input type="checkbox"/> RECOVERED <input type="checkbox"/> GUN <input type="checkbox"/> FOUND <input type="checkbox"/> BOAT <input type="checkbox"/> TOWED <input type="checkbox"/> LICENSE PLATE <input type="checkbox"/> SUSPECT <input type="checkbox"/> SECURITIES/BONDS, STOCKS <input type="checkbox"/> VICTIM <input type="checkbox"/> ARTICLE	VIN AND/OR OWNER APPLIED NO.		BOAT HULL NO. AND/OR REG NO.		SERIAL AND/OR OWNER APPLIED NO.		STATE		
	YEAR OF REGISTRATION	YEAR OF EXPIRATION	YEAR	MAKE	TYPE				
	MODEL	STYLE	COLOR	BRAND NAME	CALIBER				
	NIC NO.	DENOMINATION	ISSUER	SECURITIES DATE					
	MISCELLANEOUS								
TYPE (GROUP)							TOTAL VALUE		
STOLEN									
DAMAGED									
BURNED									
RECOVERED									
SEIZED									
SUBJECT IDENTIFIED <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO		SUBJECT LOCATED <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO		<input type="checkbox"/> ACTIVE <input type="checkbox"/> ADM. CLOSED		<input type="checkbox"/> ARRESTED UNDER 18		<input type="checkbox"/> EX-CLEAR UNDER 18	
				<input type="checkbox"/> UNFOUNDED		<input type="checkbox"/> ARRESTED 18 AND OVER		<input type="checkbox"/> EX-CLEAR 18 AND OVER	
REASON FOR EXCEPTIONAL CLEARANCE: 1. <input type="checkbox"/> OFFENDER DEATH 2. <input type="checkbox"/> NO PROSECUTION 3. <input type="checkbox"/> EXTRADITION DENIED 4. <input type="checkbox"/> VICTIM DECLINES COOPERATION 5. <input type="checkbox"/> JUVENILE - NO CUSTODY									
REPORTING OFFICER(S) Cpl. Bilcze, A.			DATE 8/26/13	UNIT NUMBER B1992	APPROVING OFFICER			DATE	UNIT NUMBER
					FOLLOW-UP INVESTIGATION <input type="checkbox"/> YES <input type="checkbox"/> NO		OFFICER ASSIGNED		

20130826-457

AGENCY I.D.
SCO 270000

SUPPLEMENTAL INCIDENT REPORT

CASE NUMBER
13-2358

NCIC
INQ. RPTD.

ORIGINAL REPORT SUPPLEMENTAL REPORT ADDITIONAL VICTIMS ADDITIONAL STOLEN PROPERTY PAGE 3 OF 6 PAGES
 MODIFIES ORIGINAL CASE STATUS CHANGE ADDITIONAL OFFENDERS ADDITIONAL RECOVERED PROPERTY

<input type="checkbox"/> COMPLAINANT <input type="checkbox"/> VICTIM# <input type="checkbox"/> SUSPECT# <input type="checkbox"/> RUNAWAY <input type="checkbox"/> WANTED <input type="checkbox"/> WARRANT <input type="checkbox"/> ARREST <input type="checkbox"/> JAIL <input type="checkbox"/> SUMMONS <input checked="" type="checkbox"/> FOI	NAME (LAST, FIRST MIDDLE) Boblan, Spencer	VICTIM RELATIONSHIP TO SUBJECT #1 #2 #3	RESIDENT* <input checked="" type="checkbox"/> J <input type="checkbox"/> S <input type="checkbox"/> O <input type="checkbox"/> U	RACE B	SEX M	AGE 29	D.O.B. 02-11-84	ETH. N							
	FACIAL HAIR, SCARS, TATTOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC.														
	HEIGHT 509	WEIGHT 300	HAIR Bld	EYES Brn	ADDRESS 80 Lowcountry Drive					CITY Ridgeland	STATE SC	ZIP CODE 29936	LOCATION NO.	DAY TIME PHONE 843-987-8107	EVENING PHONE
	<input type="checkbox"/> VICTIM NO. <input type="checkbox"/> VISIBLE INJURY <input type="checkbox"/> YES <input type="checkbox"/> NO		<input type="checkbox"/> COMPLAINT OF NON-VISIBLE INJURIES: <input type="checkbox"/> YES <input type="checkbox"/> NO		<input type="checkbox"/> VICTIM USING ALCOHOL: <input type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> UNK		<input type="checkbox"/> TWO-MAN VEH <input type="checkbox"/> DETECTIVE/SPL ASMT <input type="checkbox"/> ALONE		<input type="checkbox"/> ONE-MAN VEH <input type="checkbox"/> OTHER <input type="checkbox"/> ASSISTED						
EXPLAIN: SUBJECT NO. _____ USING ALCOHOL: <input type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> UNK USING DRUGS: <input type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> UNK TYPE: _____															
<input type="checkbox"/> COMPLAINANT <input checked="" type="checkbox"/> VICTIM# 2 <input type="checkbox"/> SUSPECT# <input type="checkbox"/> RUNAWAY <input type="checkbox"/> WANTED <input type="checkbox"/> WARRANT <input type="checkbox"/> ARREST <input type="checkbox"/> JAIL <input type="checkbox"/> SUMMONS <input checked="" type="checkbox"/> FOI	NAME (LAST, FIRST MIDDLE) Werner, Jennifer	VICTIM RELATIONSHIP TO SUBJECT #1 #2 #3	RESIDENT* <input checked="" type="checkbox"/> J <input type="checkbox"/> S <input type="checkbox"/> O <input type="checkbox"/> U	RACE W	SEX F	AGE 42	D.O.B. 08-23-71	ETH. N							
	FACIAL HAIR, SCARS, TATTOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC.														
	HEIGHT 500	WEIGHT 130	HAIR Bln	EYES Hzl	ADDRESS 80 Lowcountry Drive					CITY Ridgeland	STATE SC	ZIP CODE 29936	LOCATION NO.	DAY TIME PHONE 843-987-8107	EVENING PHONE
	<input type="checkbox"/> VICTIM NO. <input type="checkbox"/> VISIBLE INJURY <input type="checkbox"/> YES <input type="checkbox"/> NO		<input type="checkbox"/> COMPLAINT OF NON-VISIBLE INJURIES: <input type="checkbox"/> YES <input type="checkbox"/> NO		<input type="checkbox"/> VICTIM USING ALCOHOL: <input type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> UNK		<input type="checkbox"/> TWO-MAN VEH <input type="checkbox"/> DETECTIVE/SPL ASMT <input type="checkbox"/> ALONE		<input type="checkbox"/> ONE-MAN VEH <input type="checkbox"/> OTHER <input type="checkbox"/> ASSISTED						
EXPLAIN: SUBJECT NO. _____ USING ALCOHOL: <input type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> UNK USING DRUGS: <input type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> UNK TYPE: _____															

Officer's Actions:

This officer then responded to meet with Ramon Gray to have an interview conducted.

Interview of Victim #1: Romon Gray (ACE Faculty Member)

Gray informed upon his arrival home on 08-21-13, his wife Tamika confronted him about an anonymous letter she had received in the mail. Gray advised he read the letter and was astonished someone would have written such a letter to his wife. Gray informed he loves his wife dearly and would never do such an act. Gray informed Tamika told him she didn't want to have anything to do with the letter and knew it was not true.

Gray stated he strongly felt after reading the letter it had been written by a faculty member at ACE. Gray advised the letter referred to this unknown person allegedly watching him and Werner kissing while in his classroom on the ACE campus. The letter also gave the direct line to Werner's office, which only faculty would know. Gray informed the letter also contained names of former employees of the school. Gray stated he didn't wish for the assistance of the JCISO at this time and didn't wish for a report to be completed.

Continued on Next Page...

JURISDICTION OF THEFT LAW ENFORCEMENT AGENCY:				JURISDICTION OF RECOVERY LAW ENFORCEMENT AGENCY:							
STATUS TYPE		VIN AND/OR OWNER APPLIED NO.		BOAT HULL NO. AND/OR REG NO.		SERIAL AND/OR OWNER APPLIED NO.		STATE			
<input type="checkbox"/> STOLEN	<input type="checkbox"/> VEHICLE	YEAR OF REGISTRATION YEAR OF EXPIRATION YEAR MAKE		MODEL STYLE COLOR BRAND NAME CALIBER		TYPE		SECURITY DATE			
<input type="checkbox"/> RECOVERED	<input type="checkbox"/> GUN	NIC NO. DENOMINATION ISSUER		SECURITY DATE		MISCELLANEOUS		TOTAL VALUE			
<input type="checkbox"/> FOUND	<input type="checkbox"/> BOAT	SUBJECT IDENTIFIED		SUBJECT LOCATED		<input type="checkbox"/> ACTIVE <input type="checkbox"/> ADM. CLOSED		<input type="checkbox"/> ARRESTED UNDER 18 <input type="checkbox"/> EX-CLEAR UNDER 18			
<input type="checkbox"/> TOWED	<input type="checkbox"/> LICENSE PLATE	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO		<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO		<input type="checkbox"/> UNFOUNDED		<input type="checkbox"/> ARRESTED 18 AND OVER <input type="checkbox"/> EX-CLEAR 18 AND OVER			
<input type="checkbox"/> SUSPECT	<input type="checkbox"/> SECURITIES/BONDS, STOCKS	REASON FOR EXCEPTIONAL CLEARANCE: 1. <input type="checkbox"/> OFFENDER DEATH 2. <input type="checkbox"/> NO PROSECUTION 3. <input type="checkbox"/> EXTRADITION DENIED 4. <input type="checkbox"/> VICTIM DECLINES COOPERATION 5. <input type="checkbox"/> JUVENILE - NO CUSTODY									
<input type="checkbox"/> VICTIM	<input type="checkbox"/> ARTICLE	REPORTING OFFICER(S) Cpl. Bilcze, A.		DATE 8/26/13		UNIT NUMBER B1992		APPROVING OFFICER			
<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO				<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO				<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO			
FOLLOW-UP INVESTIGATION				OFFICER ASSIGNED				DATE UNIT NUMBER			

20130826-451

AGENCY I.D.
SCO 270000

SUPPLEMENTAL INCIDENT REPORT

CASE NUMBER
13-2358

NCIC
TRG. ENFD.

ORIGINAL REPORT SUPPLEMENTAL REPORT ADDITIONAL VICTIMS ADDITIONAL STOLEN PROPERTY PAGE 4 OF 6 PAGES

MODIFIES ORIGINAL CASE STATUS CHANGE ADDITIONAL OFFENDERS ADDITIONAL RECOVERED PROPERTY

<input type="checkbox"/> COMPLAINANT <input type="checkbox"/> VICTIM# <input type="checkbox"/> SUSPECT# <input type="checkbox"/> RUNAWAY <input type="checkbox"/> WANTED <input type="checkbox"/> WARRANT <input type="checkbox"/> ARREST <input type="checkbox"/> JAIL <input type="checkbox"/> SUMMONS <input checked="" type="checkbox"/> Witness/POI	NAME (LAST, FIRST MIDDLE)	VICTIM RELATIONSHIP TO SUBJECT			RESIDENT*	RACE	SEX	AGE	D.O.B.	ETH.	
	Simmons, Deonla	#1	#2	#3	<input checked="" type="checkbox"/> J <input type="checkbox"/> S <input type="checkbox"/> O <input type="checkbox"/> U	B	M	43	11-19-69	N	
	HEIGHT	WEIGHT	HAIR	EYES	FACIAL HAIR, SCARS, TATTOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC.						
	601	238	Blk	Brn							
	ADDRESS	CITY	STATE	ZIP CODE	LOCATION NO.	DAY TIME PHONE	EVENING PHONE				
80 Lowcountry Drive	Ridgeland	SC	29936		843-987-8107						
<input type="checkbox"/> VICTIM NO. <input type="checkbox"/> VISIBLE INJURY <input type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> COMPLAINT OF NON-VISIBLE INJURIES: <input type="checkbox"/> YES <input type="checkbox"/> NO		<input type="checkbox"/> VICTIM USING: ALCOHOL: <input type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> UNK <input type="checkbox"/> DRUGS: <input type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> UNK. TYPE:			<input type="checkbox"/> TWO-MAN VEH <input type="checkbox"/> DETECTIVE/SPL ASMT <input type="checkbox"/> ALONE <input type="checkbox"/> ONE-MAN VEH. <input type="checkbox"/> OTHER <input type="checkbox"/> ASSISTED						
EXPLAIN:											
SUBJECT NO. USING ALCOHOL: <input type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> UNK											
SUBJECT NO. USING DRUGS: <input type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> UNK TYPE:											

<input type="checkbox"/> COMPLAINANT <input type="checkbox"/> VICTIM# <input type="checkbox"/> SUSPECT# <input type="checkbox"/> RUNAWAY <input type="checkbox"/> WANTED <input type="checkbox"/> WARRANT <input type="checkbox"/> ARREST <input type="checkbox"/> JAIL <input type="checkbox"/> SUMMONS <input checked="" type="checkbox"/> POI	NAME (LAST, FIRST MIDDLE)	VICTIM RELATIONSHIP TO SUBJECT			RESIDENT*	RACE	SEX	AGE	D.O.B.	ETH.	
	Webster, Regina	#1	#2	#3	<input checked="" type="checkbox"/> J <input type="checkbox"/> S <input type="checkbox"/> O <input type="checkbox"/> U	W	F	55	07-26-58	N	
	HEIGHT	WEIGHT	HAIR	EYES	FACIAL HAIR, SCARS, TATTOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC.						
	507	157	Brn	Brn							
	ADDRESS	CITY	STATE	ZIP CODE	LOCATION NO.	DAY TIME PHONE	EVENING PHONE				
80 Lowcountry Drive	Ridgeland	SC	29936								
<input type="checkbox"/> VICTIM NO. <input type="checkbox"/> VISIBLE INJURY <input type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> COMPLAINT OF NON-VISIBLE INJURIES: <input type="checkbox"/> YES <input type="checkbox"/> NO		<input type="checkbox"/> VICTIM USING: ALCOHOL: <input type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> UNK <input type="checkbox"/> DRUGS: <input type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> UNK. TYPE:			<input type="checkbox"/> TWO-MAN VEH <input type="checkbox"/> DETECTIVE/SPL ASMT <input type="checkbox"/> ALONE <input type="checkbox"/> ONE-MAN VEH. <input type="checkbox"/> OTHER <input type="checkbox"/> ASSISTED						
EXPLAIN:											
SUBJECT NO. USING ALCOHOL: <input type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> UNK											
SUBJECT NO. USING DRUGS: <input type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> UNK TYPE:											

Interview of Romon Gray Continued:
 Gray Informed prior to taking the issue to Daniels, he did contact the school's Director, Deonla Simmons and Informed him of the incident. Gray stated Simmons was in much disbelief as he was.

Officer's Actions:
 The letter was not taken into custody at this time, due to the request of Gray not wishing for a report to be completed. I did inform Gray, if this persists and another letter is received, do not open and touch the contents for the letter could possess latent prints.

Officer's Notes:
 An interview was not conducted of Werner, due to her working off campus on 08-22-13.

Continued on Next Page..

JURISDICTION OF THEFT LAW ENFORCEMENT AGENCY:				JURISDICTION OF RECOVERY LAW ENFORCEMENT AGENCY:				
STATUS TYPE <input type="checkbox"/> STOLEN <input type="checkbox"/> VEHICLE <input type="checkbox"/> RECOVERED <input type="checkbox"/> GUN <input type="checkbox"/> FOUND <input type="checkbox"/> BOAT <input type="checkbox"/> TOWED <input type="checkbox"/> LICENSE PLATE <input type="checkbox"/> SUSPECT <input type="checkbox"/> SECURITIES/BONDS, STOCKS <input type="checkbox"/> VICTIM <input type="checkbox"/> ARTICLE	VIN AND/OR OWNER APPLIED NO.		BOAT HULL NO. AND/OR REG NO.					
	SERIAL AND/OR OWNER APPLIED NO.				STATE			
	YEAR OF REGISTRATION	YEAR OF EXPIRATION	YEAR	MAKE	TYPE			
	MODEL	STYLE	COLOR	BRAND NAME	CALIBER			
	NIC NO.		DENOMINATION		ISSUER		SECURITIES DATA	
MISCELLANEOUS								
TYPE (GROUP)						TOTAL VALUE		
STOLEN						None		
DAMAGED								
BURNED								
RECOVERED								
SEIZED								
SUBJECT IDENTIFIED		SUBJECT LOCATED		<input type="checkbox"/> ACTIVE <input type="checkbox"/> ADM. CLOSED <input type="checkbox"/> UNFOUNDED		<input type="checkbox"/> ARRESTED UNDER 18 <input type="checkbox"/> ARRESTED 18 AND OVER		
<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO		<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO				<input type="checkbox"/> EX-CLEAR UNDER 18 <input type="checkbox"/> EX-CLEAR 18 AND OVER		
REASON FOR EXCEPTIONAL CLEARANCE: 1. <input type="checkbox"/> OFFENDER DEATH 2. <input type="checkbox"/> NO PROSECUTION 3. <input type="checkbox"/> EXTRADITION DENIED 4. <input type="checkbox"/> VICTIM DECLINES COOPERATION 5. <input type="checkbox"/> JUVENILE - NO CUSTODY								
REPORTING OFFICER(S)		DATE	UNIT NUMBER	APPROVING OFFICER		DATE	UNIT NUMBER	
Cpl. Bilcze, A.		8/26/13	B1992					
FOLLOW-UP INVESTIGATION				OFFICER ASSIGNED				
<input type="checkbox"/> YES <input type="checkbox"/> NO								

20130826-451

AGENCY I.D.
SCO 270000

SUPPLEMENTAL INCIDENT REPORT

CASE NUMBER
13-2358

NCIC
INQ. RPTD.

ORIGINAL REPORT SUPPLEMENTAL REPORT ADDITIONAL VICTIMS ADDITIONAL STOLEN PROPERTY PAGE 5 OF 6 PAGES
 MODIFIES ORIGINAL CASE STATUS CHANGE ADDITIONAL OFFENDERS ADDITIONAL RECOVERED PROPERTY

Additional Notes: 08-23-13
Interview of Victim #1: Romon Gray
On 08-23-13 at 1803 hours this officer received a telephone call from Gray. Gray informed he received an additional letter again addressed to Tamika. Gray stated this letter came to his father's PO Box # 844 in Hampton SC. Gray advised he was 100% sure now someone in the front office of ACE had gone through his personnel files to retrieve the two addresses. Gray informed these were the only place and only addresses he had on file at the school. Gray stated you couldn't get these two addresses any other way. Gray advised the PO Box #844 belongs to his father. Gray informed all of his health insurance information goes to his father PO Box. Gray advised he just never got around to change it. Gray also advised the 300 Middle Street address is also still listed on his personnel files, but he doesn't live there. Gray stated he never received a letter at his new address because he never updated the school to his new address. Gray informed he received a telephone call earlier from his father informing him they had mail. Gray advised when he got the mail, a letter matching the other one was in the pile again addressed to Tamika. Gray stated he did open the letter by slicing one side of the envelope, but with gloves. Gray informed the same letter which he and Tamika had received the first time.
Gray stated he truly felt someone had abused their authority by going through his personnel file to retrieve his addresses to send he and his wife these letters. Gray advised this was wrong to attempt to discredit or put a bad name on himself and Werner. Gray stated he wanted a report now, due to receiving a second letter. Gray informed he felt this should be documented. Gray advised he was going to secure the second letter and bring it to school on 08-26-13. This officer informed Gray, I would be contacting my Supervisor on 08-26-13 to inform him of the events.

Additional Notes: 08-24-13
Interview of Victim #3 / POI: Jennifer Werner (Accountant for ACE)
On 08-24-13 at 1214 hours this officer was contacted by Jennifer Werner (Accountant for ACE). Werner had informed she had talked to Gray and was advised he had received another letter. Werner stated she was advised the letter was sent to his father's PO Box # of 844 in Hampton. Werner advised she told Gray the address seemed familiar to her. Werner then informed Gray she remembered the address on his personnel file. Werner stated she and Gray both came to the conclusion someone at the school intently went into the schools personnel file to gain access to Gray's addresses.
Werner also informed Deonia Simmons (Director of ACE), had received a letter on 08-23-13. Werner stated around 1330 hours on 08-23-13, she was summoned to Simmons' office. Werner advised Simmons questioned her as to what was going on with her and Gray. Werner informed she had gotten the feeling from Simmons to just "Shrug it off", that it's nothing. Werner stated during the conversation with Simmons, he removed an envelope from his desk and pointed out his letter was also stamped from Charleston. Werner stated she asked to see the letter, but Simmons refused and simply placed it right back into his desk drawer.
Werner informed she thought this officer should know, it was her birthday on 08-23-13. Werner stated she didn't know if this had any correlation with the events, but between 1052 hours and 1116 hours she had left her office unsecured while she went to eat lunch in the teacher lounge. Werner advised upon her return, a jewelry box containing a bracelet was on her desk. Werner also informed a card, handwritten with the letters "XO", was next to the box. Video surveillance only shows Simmons exiting from the side door near Werner's office during the 1052 and 1116 hours.

Officer's Actions / Observations:
On 08-26-13, I contacted my Supervisor, SSgt. I. Fripp and informed him of the recent events leading up to 08-26-13. SSgt. Fripp informed he would respond to the school to further discuss the issue. I then immediately secured the second letter addressed to the PO Box 844 (The contents of this letter have not been tampered with (Suitable for possible latent evidence)). Prior to SSgt. Fripp's arrival, I was again contacted over the two way radio to respond to Daniels' office.
Arriving at Daniels' office, I observed Werner sitting across from her. Daniels informed she and Werner had a theory, I then observed Daniels lift up a plain white envelope. Daniels then opened and asked if the inside of the letter had looked like the one she had in her hand. I then took the envelope and responded to my patrol vehicle where I had secured the evidence. Placing department issued evidence gloves on, I pulled back the part where Gray had cut and the envelopes inner security patterns had matched (Later securing Simmons letter, the same envelope was also used). I then returned to Daniels office and informed her of my findings. Daniels informed ACE ordered the envelopes special; as a result, they came from someone at the school.

SUBJECT IDENTIFIED <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO		SUBJECT LOCATED <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO		<input type="checkbox"/> ACTIVE	<input type="checkbox"/> ADM. CLOSED	<input type="checkbox"/> ARRESTED UNDER 18	<input type="checkbox"/> EX-CLEAR UNDER 18
REASON FOR EXCEPTIONAL CLEARANCE: 1. <input type="checkbox"/> OFFENDER DEATH 2. <input type="checkbox"/> NO PROSECUTION 3. <input type="checkbox"/> EXTRADITION DENIED 4. <input type="checkbox"/> VICTIM DECLINES COOPERATION 5. <input type="checkbox"/> JUVENILE - NO CUSTODY				<input type="checkbox"/> UNFOUNDED		<input type="checkbox"/> ARRESTED 18 AND OVER	<input type="checkbox"/> EX-CLEAR 18 AND OVER
REPORTING OFFICER(S) Cpl. Bilcze, A.		DATE 8/26/13	UNIT NUMBER B1992	APPROVING OFFICER		DATE	UNIT NUMBER
				FOLLOW-UP INVESTIGATION <input type="checkbox"/> YES <input type="checkbox"/> NO		OFFICER ASSIGNED	

20130826-451

AGENCY I.D.
SCO 270000

SUPPLEMENTAL INCIDENT REPORT

CASE NUMBER
13-2358

NCIC
INQ. BNTD.

<input checked="" type="checkbox"/> ORIGINAL REPORT	<input type="checkbox"/> SUPPLEMENTAL REPORT	<input type="checkbox"/> ADDITIONAL VICTIMS	<input type="checkbox"/> ADDITIONAL STOLEN PROPERTY	PAGE 6 OF 6 PAGES
<input type="checkbox"/> MODIFIES ORIGINAL	<input type="checkbox"/> CASE STATUS CHANGE	<input type="checkbox"/> ADDITIONAL OFFENDERS	<input type="checkbox"/> ADDITIONAL RECOVERED PROPERTY	

Interview of Witness / POI: Deonla Simmons (Director of ACE)

In the presence of SSgt. Fripp, Simmons informed he had missed work on 08-21-13 and 08-22-13, due to him being ill. He returned to work on 08-23-13. Simmons stated he retrieved his mail to find a letter addressed to him. After opening the letter, he knew it was the same type of letter in which Gray had received due to the content (This letter was different from the two that Gray had received, this one was written to Simmons). Simmons informed he did talk to Gray about the issue, but didn't have an answer for him.

In reference to the personnel closet, anyone who has possession of a master key could have access to opening the door to where the cabinet is located. Daniels is the only one who has a key to the actual file cabinet containing the personnel files.

Officer's Actions:

Simmons did retrieve the letter addressed to him and I took possession of it. This letter had been compromised by several people and is not being requested to be tested for latent evidence.

Officer's Notes:

On 08-27-13, this officer was able to make contact with Tamika Gray by telephone to conduct an interview.

Interview of Victim #3: Tamika Gray

Tamika informed she had received the letter in the mail on 08-21-13. Tamika stated she is not worried about the letter and wants to forget about it. Tamika advised she didn't want to have anything to do with it and that her husband was going to look in to it.

Officer's Notes:

All of the POI's listed have physical contact with the personnel files.

Officer's Actions:

All parties were advised of a case number and to contact JCSO if any further assistance was needed. All evidence will be submitted to the JCSO Evidence Section as soon as possible. A copy of this report and a request for latent examination on the PO Box 844 letter will be submitted to the Investigation Section for further review.

Attachments:

- Statement of Romon Gray
- Statement of Jennifer Werner
- Receipt for Property for a letter addressed to Tamika Gray (PO Box 844) and (300 Middle Street)
- Receipt for Property for a letter addressed to Deonla Simmons
- Copy of letter addressed to Tamika Gray
- Copy of letter addressed to Deonla Simmons
- S.C. Attorney General School Crime Incident Report

Confirmed to be a copy and correct copy of the original document on file with the Office of Sheriff in Beaufort County.

Michael R. [Signature]
Chief, Beaufort County Sheriff's Office

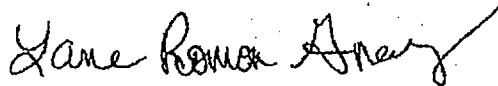
SUBJECT IDENTIFIED <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	SUBJECT LOCATED <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	<input type="checkbox"/> ACTIVE <input type="checkbox"/> ADM. CLOSED	<input type="checkbox"/> ARRESTED UNDER 18	<input type="checkbox"/> EX-CLEAR UNDER 18
REASON FOR EXCEPTIONAL CLEARANCE: 1. <input type="checkbox"/> OFFENDER DEATH 2. <input type="checkbox"/> NO PROSECUTION 3. <input type="checkbox"/> EXTRADITION DENIED 4. <input type="checkbox"/> VICTIM DECLINES COOPERATION 5. <input type="checkbox"/> JUVENILE - NO CUSTODY		<input type="checkbox"/> UNFOUNDED	<input type="checkbox"/> ARRESTED 18 AND OVER	<input type="checkbox"/> EX-CLEAR 18 AND OVER
REPORTING OFFICER(S) Cpl. Bilcze, A.	DATE 8/26/13	UNIT NUMBER B1992	APPROVING OFFICER	DATE
		FOLLOW-UP INVESTIGATION <input type="checkbox"/> YES <input type="checkbox"/> NO	OFFICER ASSIGNED	UNIT NUMBER

13-2358 / 20130826-451

To whom it may concern:

On Wednesday August 21, 2013, I Romon Gray received an anonymons letter delivered to my old mailing address at 300 middle St in Hampton ,SC 29924 . This letter was sent to my wife Tamika Gray. The letter defamed my character and alleged that I was having an affair with a co-worker on my job. This letter was slanderous and cruel. On Friday August 23,2013 I received a call from my mother stating that she had also received a letter for my wife in her mailbox. It was later discovered that this same letter of defamation and slander to my character, had been mailed to my mother's address too. These two addresses are only located in my personal file at my place of employment at B J ACE. Therefore I have requested that this matter be investigated and the person and/or persons held responsible for this wrongful act that violated my employee confidentiality agreement be reprimanded to the fullest extent:

Respectfully Submitted,



Lane Romon Gray

Certified to be a true and correct
copy of the original document on file with
the Office of the
Michael B. [Signature]
Chief Deputy, Rowan County Sheriff

18-2358 / 20130826-451

Statement of Jennifer K. Werner

August 27, 2013

Pg. 1 of 2

I was notified by Romon Gray on Wednesday evening August 21, 2013 that his wife had received a letter in the mail at their old address on the envelope stating that I was having a sexual relationship with him. We discussed the letter for several minutes and then got on speaker phone and I spoke to him and his wife about the letter. On Thursday August 22, 2013 I worked at Beaufort County District Office. I worked at BJACE on Friday August 23, 2013. On that day, several people asked me about the letter and what I thought. One of the persons was Dr. Simmons. He expressed his concern if we were having a sexual relationship and then proceeded to pull a letter out of his middle desk drawer to show me he received a letter as well. He only showed me the outside of the envelope and said to me that "see here it has a Charleston postmark on it". He said I needed not to worry about the letter that it had no reflection on the type of person I was. Also on Friday, there was a bracelet left on my keyboard when I went to lunch. Friday August 23 was my birthday. I am not sure who placed the item in my office. I did not ask around who gave it to me.

On Friday evening of August 23, 2013 Romon Gray called me and said he received another letter at a different address. It went to his parent's PO Box 844 in Hampton, SC. I talked with him for several minutes and I know I saw that address somewhere before. I remembered that the PO Box address shows up in EIP which is our employee health insurance. So I said the only place someone could have gotten both addresses had to have been his personnel file. No other place on campus has those two addresses. So I am remembering back to prior meetings I have had with my director and assistant director and one conversation stands out. We had a leadership team meeting the week before teachers came on campus. The assistant director, Ms. Daniels, asked me to add her and Dr. Simmons as users in CSI. CSI is my accounting software that also houses payroll information. I thought that request was strange and told them that the answer would be no for right now until I had a chance to confirm with our auditors that it would be alright. There would be no reason that they needed to have access to CSI. If they wanted to see something, I could always pull it up in my office for them.

I called Cpl. Bilcze on Saturday August 24, 2013 to let him know a second letter was received. I told him my concern of where the addresses were taken from, out of Romon Gray's personnel file. I expressed to Cpl. Bilcze that this is a breach of an employee's confidential information and no one should use this information to harm another employee. An employee file must be kept secure and in a safe place. Cpl. Bilcze said that I should not talk to anyone about the letters. Cpl. Bilcze said that he will talk to his staff sergeant and get back to me on Monday August 26, 2013.

I received an email from Romon Gray on Monday August 26, 2013 asked if I would look in his personnel file to see what addresses show up in his file. I am HR benefits manager and also Director of Finance so I have access to the files. I looked in his file and emailed him back the two addresses I saw. They are: 300 Middle St, Hampton, SC 29924 and PO Box 844, Hampton, SC 29924. These are the two addresses where the letters were sent to.

With my position here at BJACE I have access to the personnel files. The file cabinet is located in a locked room beside the assistant director's office, Ms. Daniels. Only persons with a master key have access to go into that room. Most of the time, the file cabinet that houses the personnel records was kept unlocked. Several weeks ago, I had to file some unemployment documents in the files and it was locked. Dr. Simmons also tried to file his letter to Ms. Anderson into her husband's file and the cabinet was locked. I said that I would mention to Ms. Daniels to unlock the file cabinet. Since then the file cabinet remained unlocked.

Since these letters were brought to the administration attention, I have approached many times stating that I should think that these letters were written by a white person, specifically my assistant in my office. It is also interesting that before these letters were brought to administration, my director would communicate with me all day every day in person and on the phone. I have only had one short conversation with him in last two days and he sent me an email today asking me a few questions about work. Typically that would have been a verbal conversation. I feel he is treating me 100% different because we have not dropped this. The assistant director also expressed yesterday to me that she felt like Romon Gray was making this too big and that he blew it way out of proportion. She wanted me to get the letter from him and read the letter in front of her. I told her I would not do that. I am actually very uncomfortable now with these working conditions and hope that this is resolved quickly and we can find out who would do this. It is very disheartening that only a small group of people have access to these records and these addresses and my teammate could say such awful things about me and my character. I have not ever had a sexual relationship with Romon Gray. We have been great friends and have grown a strong friendship over the past several years. My husband is fully aware of my friendship with Mr. Gray and he is fully aware of this situation as well. He is willing to talk with Cpl. Blicze or any other law enforcement officer so we can get to a resolution of who could do this. This has been a breach of trust and in our board policy it states that personnel files should be kept under lock and key and secured.

Print Name: Jennifer Werner
Signature: Jennifer Werner
Date: Aug. 27, 2013

Certified to be a true and correct copy of the original document on file with the Office of Sheriff for Beaufort County.
Michael M. [Signature]
Chief Deputy, Beaufort County Sheriff's Office

JW

20130826-451



P.J. Tanner
Sheriff

**OFFICE OF SHERIFF
BEAUFORT COUNTY
POST OFFICE BOX 1758
BEAUFORT, SOUTH CAROLINA 29901**

AREA CODE (843)

SHERIFF	255-3200
CHIEF DEPUTY	255-3192
CRIMINAL RECORDS	255-3232
CRIMINAL WARRANTS	255-3228
CIVIL PROCESS	255-3188
JUDGMENTS	255-3189
FAX#	255-9405
WEB SITE	www.bcso.net

RECEIPT FOR PROPERTY

Case Number: 13-2358

TO WHOM IT MAY CONCERN:

I, Cpl. Bilcze, A., of the Beaufort County Sheriff's Office, have received from Romon Gray the below listed items.

x1 Letter and Envelope Addressed to Tamika Gray (300 Middle Street, Hampton SC 29924)

x1 Letter and Envelope Addressed to Tamika Gray (PO Box 844, Hampton SC 29924)

Certified to be a true and correct copy of the original with the Office of Sheriff, Beaufort County

[Signature]

Clerk, Beaufort County Sheriff's Office

This property is being secured in connection with an investigation currently being done by this department.

Date/Time: 08-26-13 / 1020 Hours

Officer Securing Property: Cpl. Bilcze, A.

20130826-451



P.J. Tanner
Sheriff

**OFFICE OF SHERIFF
BEAUFORT COUNTY
POST OFFICE BOX 1758
BEAUFORT, SOUTH CAROLINA 29901**

AREA CODE (843)

SHERIFF	255-3200
CHIEF DEPUTY	255-3192
CRIMINAL RECORDS	255-3232
CRIMINAL WARRANTS	268-3228
CIVIL PROCESS	255-3188
JUDGMENTS	255-3189
FAX#	255-9405
WEB SITE	www.bcsos.net

RECEIPT FOR PROPERTY

Case Number: 13-2358

TO WHOM IT MAY CONCERN:

I, Cpl. Bilcze, A., of the Beaufort County Sheriff's Office, have received from Deonla Simmons the below listed items.

x1 Letter and Envelope Addressed to Dr. Deonla Simmons (80 Lowcountry Drive, Ridgeland SC 29936)

Certified to be a true and correct copy of the original document on file with the Office of the Sheriff, Beaufort County, South Carolina.

Michael S. [Signature]
Deputy Beaufort County Sheriff

This property is being secured in connection with an investigation currently being done by this department.

Date/Time: 08-26-13 / 1515 Hours

Officer Securing Property: Cpl. Bilcze, A.

Ms. Gray

I heard the rumors for a long time. I figure I should mine my own business because it did not concern me or my job. but i cant sit by and watch that white bitch mess with your husband and diss you. I am sure you know who i am talking about, Jennifer Werner. That aint right at all. I really was not gonna say anything but it was not until i saw him kiss her the other day in his classroom. They dont even know i saw them. i always wondered why she was in his office or in his face every day. i guess i know now. All the stuff people been saying is true. and he walk round the school talking bout they just friends and thats some bullshit. I heard the principal had to call them in last year becasue people was talking so much about them. I used to think DeLoach and Singleton was lieing but them bitches was right. that ho is fucking your husband. they used to eat lunch together everyday and they done started back doing it again this year. I wonder what is gonna happen when they get caught. I heard him one day telling some guys that you think they just friends. something about he put her on speaker phone one time casue you though somethig was going on. you thought right too. i betcha if you call that bitch she will lie but you know when a bitch is lieing about fucking your man. call that hoe and see how she talk on the phone. aint no way she can hide that cause she be with him every day! I hate to see my sister getting played you dont have to put up with that kind of shit from no nigga. i betcha if you call her you will be able to tell she if lieing. her number is 987-7607. thats her office number. i betcha if you check his cell i betcha you will see a bunch of text message. i betcha if you get his text messages from the phone company i betcha you will see just how long this shit been going on. i betcha there are some text that they been sendng to each other. i betcha if you ask for her cell number he want give it to you. i wish you could see how they act around school. i should have knew it all the time. aint no way the hole school wrong. i used to think they was just talking but after what i seen i know better. you can sit back and believe what he say if you wont to but the bitch is messing with you husband. aint this some shit. he was riding that bitch in your car last week. they went off campus in your car. what kind of friend is that. what kind of shit is that. why would he be riding her in your car. yall go a open marriage. riding his bitch in his wife car. if that dont tell you something what do. i know you dont like what you are reading but it is better to know now than to learn when that nigga walk out talking bbut he in love with some white bitch. i wonder what her husband gonna do when he catch them. it wont be long. how can you give this nigga three babies and he go get a white bitch in yo place. i wonder if you stupid enough to continue to believe that aint nothing going on. if you were to look in that bitch face she you would see how guilty she is. well it is up to you now. i just though i better tell you before he come tell you he leaving you for this bithch. white bitch. no good nigga. dont be stupid sister. put a stop to that shit now before it to late!

Signed
sister to sister

Caution to be a true and correct
copy of the original document as filed with
the Office of the State Auditor
Michael S. [Signature]
State Auditor

Doctor Simmons

I wanted to let you know that the rumors about romon and jennifer are true. the other day i saw them kiss in the classroom. i had heard that you call them in last year about the rumors you heard. i think he was messing with ms durham last year before she left. all im saying is i saw it with my own two eyes. they was in his classroom kissing. this happen the week everybody came back to work after the summer was over. i could not believe it, they both married too. you told us a long time ago that you aint gonna put up with mo mess from nobody. you gonna put up with that. i know Romon you boy but what you gonna do bout that. what you gonna do when his wife come to school. what you gonna do when her husband come to the school, that cracker gonna kick Romon ass but his wife, Romon wife gonna beat that bitch ass casue she been known to go after women who mess with Romon. aint that some shit. he fucking a bitch and his wife want to beat the bitch but keep his sorry ass. she been in his office more than she be in her office. i thought you said we all need to do our job or your was gonna run us off from here. she aint doing her job if she always in his office. when i saw him kiss her all the shit that been happening came back to me. they was even riding in the car together last week, thats a stupid nigga. when his wife find out she gonna beat that white bitch down. if her husband find out he gonna kill that nigga for fucking his wife. i just want to let you know that i saw it with me on two eyes. they was kissing in his classroom. i dont know what you gonna do but you better do something before the shit hit the fan and his wife or her husband come up there and start some shit. you gonna be the one who gotta deal with the shhit when it happen cause everybody gonna know bout it. do something!!!!!!

signed
i saw it

Certified to be a true and correct
copy of the original document on file with
the Office of the
[Signature]
County Registrar

2430826 451

State of South Carolina
OFFICE OF THE ATTORNEY GENERAL
SCHOOL CRIME INCIDENT REPORT

Incident Date	Case Number
08-21-13	13-2358

Incident Type / Criminal Charges
1. Suspicious Activity
2.
3.

Incident Information	
Weapon Type:	None <input type="checkbox"/> Gang Related <input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
School Name:	Academy for Career Excellence (ACE)
School District:	Jasper County
Reporting Agency:	Jasper County Sheriff's Office / Beaufort County Sheriff's Office
Reporting Officer:	Cpl. Bilcze, A.
County:	Jasper
Action Taken	(Check the best one choice)
<input type="checkbox"/> Diverted	<input type="checkbox"/> Detained / Family Court
<input type="checkbox"/> Family Court	<input checked="" type="checkbox"/> Under Investigation
<input type="checkbox"/> Referred to DJJ	<input type="checkbox"/> No arrest
<input type="checkbox"/> Other	

Offender Information	
Last Name: Unknown	First Name: Unknown MI:
Address:	City / State: ZIP:
Race: Sex:	Age: DOB: Alias:

Offender Two Information	
Last Name:	First Name: MI:
Address:	City / State: ZIP:
Race: Sex:	Age: DOB: Alias:

Offender Three Information	
Last Name:	First Name: MI:
Address:	City / State: ZIP:
Race: Sex:	Age: DOB: Alias:

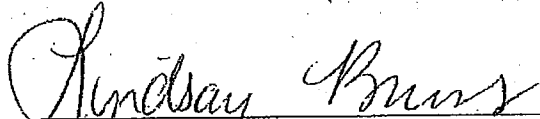
S.C Attorney General's Office School Crime Incident Report
P.O. Box 11549, Columbia, S.C. 29211-1549 Fax (803) 734-6679

AFFIDAVIT OF SERVICE

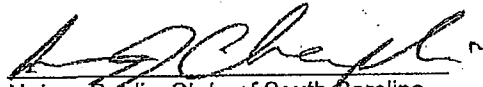
I, Lindsay Burns, of the Beaufort County Sheriff's Office hereby certify that I have this 22nd day of October 2013 caused to be served a complete Copy of the Report in pursuant to your FOIA (Freedom of Information Request).

The attached information is forwarded to your office via first class mail with proper postage affixed and addressed as follows:

R. Alexander Murdaugh, Esquire
Law Offices of Peters, Murdaugh, Parker, Eitzroth & Detrick
Post Office Box 457
Hampton, South Carolina 29927-0457


Lindsay Burns, Sheriff's Technician III

Beaufort, South Carolina
Sworn to before me this
22nd day of October 2013



Notary Public, State of South Carolina
My Commission expires: September 25, 2018

Case#: 2013-0826-0451



Beaufort County... "Dedicated, Professional Service."

ROA-0146

FILED FORM 4

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

JUDGMENT IN A CIVIL CASE
CASE NUMBER 2015CP2700364

John Doe
Richard Alexander Murdaugh

2016 SEP 20 PM 12:46

Beaufort Jasper Academy
For Career Excellence
Jasper County School
District

Beaufort County School
District

CLERK OF COURT
JASPER COUNTY

PLAINTIFF(S)

DEFENDANT(S)

Submitted by:

Attorney for: Plaintiff Defendant
 Self-Represented Litigant

DISPOSITION TYPE (CHECK ONE)

- JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered. See Page 2 for additional information.
- ACTION DISMISSED (CHECK REASON):** Rule 12(b), SCRPC; Rule 41(a), SCRPC (Vol. Nonsuit);
 Rule 43(k), SCRPC (Settled); Other: _____
- ACTION STRICKEN (CHECK REASON):** Rule 40(j) SCRPC; Bankruptcy;
 Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; Other: _____
- DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
 Affirmed; Reversed; Remanded; Other: _____

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

IT IS ORDERED AND ADJUDGED: See attached order; (formal order to follow) Statement of Judgment by the Court:

ORDER INFORMATION

This order ends does not end the case.

Additional Information for the Clerk: counsel is to provide requested documents
by 9/23/16 by consent of parties

INFORMATION FOR THE JUDGMENT INDEX

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

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

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

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

Circuit Court Judge

Judge Code

Date

For Clerk of Court Office Use Only

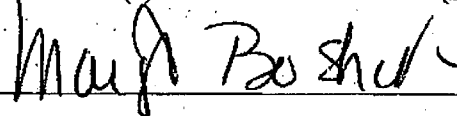
This judgment was entered on , and a copy mailed first class or placed in the appropriate attorney's box on , to attorneys of record or to parties (when appearing pro se) as follows:

Matthew Vernon Creech PO Box 2500 Ridgeland, SC 29936
Daniel E. Henderson PO Drawer 2500 Ridgeland, SC 29936
Richard Alexander Murdaugh PO Box 457 Hampton, SC 29924-0457

Andrew F. Lindemann PO Box 8568 Columbia, SC 29202-8568
Mary Allison Caudell P.O. 11367 Columbia, SC 29211
Charles J. Boykin 111 Executive Center Drive Columbia, SC 29210
Kenneth Allen Davis PO Box 11844 Columbia, SC 29211
Ralph J. Smiley PO Box 7763 Columbia, SC 29202-7763
Imani Nicole Newborn PO Box 11844 Columbia, SC 29211

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)



Court Reporter

Margaret Bostick - Clerk of Court

ADDITIONAL INFORMATION REGARDING DECISION BY THE COURT AS REFERENCED ON PAGE 1.

This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
