

THE STATE OF SOUTH CAROLINA

In the Court of Appeals

Appeal from the Court of Common Pleas for
Richland County, South Carolina

RECEIVED

MAR 10 2020

Alison Renee Lee, Chief Administrative Judge

SC Court of Appeals

Appellate Case No. 2019-000566

Richland County Sheriff Department..... Respondent,

v.

Sammie L. Goodwin..... Appellant,

RECORD ON APPEAL

Davidson & Lindemann, PA,
1611 Devonshire Dr. #200,
Columbia, SC 29204

Sammie L. Goodwin, Pro Se
321 Isaac Street
Columbia, South Carolina 29203
(803) 376-7626

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STATE OF SOUTH CAROLINA
 COUNTY OF RICHLAND

) IN THE COURT OF COMMON PLEAS
) FIFTH JUDICIAL CIRCUIT
)

Sammie L. Goodwin,

) Civil Action No.: 2016-CP-40-00387
)

Plaintiff,

v.

) **ORDER**
)

Richland County Sheriff
 Leon Lott in his official capacity,

Defendant.

This matter comes before this Court by way of a Renewed Motion to Dismiss on behalf of the Defendant Richland County Sheriff Leon Lott, in his official capacity. A hearing on this motion was held on March 28, 2018 in Columbia, South Carolina. Present at the time and presenting oral arguments were counsel for the Defendant, Robert D. Garfield, Esq. and the *pro se* Plaintiff, on his behalf. For the reasons discussed herein, the Court grants the Defendant's motion and dismisses Plaintiff's Complaint.

PROCEDURAL BACKGROUND

In his Complaint, Plaintiff alleges that on January 14, 2014, the Richland County Sheriff's deputies responded to his residence after his live-in girlfriend called dispatch regarding a domestic dispute. *See* Compl. Following some interactions between Plaintiff, his girlfriend, and two deputies, Plaintiff was placed under arrest for Criminal Domestic Violence and was escorted to the patrol vehicle whereupon he was unjustifiably tased multiple times. *Id.* Protesting his arrest and the force instituted by one or more of the deputies, Plaintiff kicked the inside door of the patrol vehicle. *Id.* He was additionally charged by deputies with Resisting Arrest. *Id.* These charges were later dismissed. *Id.* In this lawsuit, Plaintiff alleges state court causes of action against the Defendant for, *inter alia*, battery as a result of unreasonable and excessive force by Defendant's deputies who tased Plaintiff several times in the left arm area. *Id.*

On March 10, 2017, the Defendant filed a motion compelling Plaintiff to respond to his discovery requests. On June 6, 2017, a hearing was held before the Honorable George M. McFaddin, Jr. At the hearing, the Defendant argued that Plaintiff had failed to participate in a discovery plan, *to wit*: Plaintiff's neglect in responding to the Defendant's interrogatories; the failure to produce documents responsive to the Defendant's request to produce, and specifically,

full and complete copies of his medical and orthopedist records; and his unwillingness to fully participate during his deposition. Because Plaintiff declined to sign medical consent authorizations, Judge McFaddin ordered that Plaintiff was to “[a]nswer interrogatories and provide medical records within thirty (30) days.”

On June 29, 2017, Plaintiff provided the Defendant with eight (8) pages of orthopedic records which the Defendant claimed were duplicates of records previously produced. Subsequently, on August 14, 2017, Defendant moved to dismiss based upon Plaintiff’s failure to prosecute. On August 30, 2017, this Court presided over the motion to dismiss hearing. Following arguments, this Court did not grant the Defendant’s motion, but required Plaintiff to “provide written answers to the Defendant’s interrogatories by September 15, 2017. Plaintiff must (also) respond to questions concerning criminal convictions and medical records in the deposition to be rescheduled.” On January 26, 2018, the Defendant filed his renewed motion to dismiss arguing that the Plaintiff engaged in fraud during the course of discovery by introducing and/or stipulating to a fraudulent document during his deposition. Consequently, the Defendant alleges that Plaintiff has perpetrated a fraud upon this Court, and pursuant to Rules 37 and 41(b), SCRCP, his Complaint should be dismissed with prejudice.

March 28, 2018 Hearing

The Defendant first asserts that, as part of the medical records Plaintiff personally produced to the Defendant, Plaintiff supplied an “MRI Patient Medical History Screening Form” (hereinafter, “Plaintiff-produced screening form.”)¹ dated September 12, 2014. On this Plaintiff-produced screening form, Plaintiff indicated to the imaging technicians that the body part to be examined was his “left shoulder.” Plaintiff further notes on this form that the reason for the MRI was “*Bad pain (in) left shoulder.*”²

Subsequent to this Court’s August 30, 2017 order, the Defendant received the balance of Plaintiff’s medical records obtained pursuant to the consent authorizations. One of these documents was the original screening form (hereinafter, “original screening form”) in which

¹ This screening form was admitted as an exhibit to Plaintiff’s deposition.

² This was the essence of Plaintiff’s claim. In Plaintiff’s Complaint, he alleges that the Defendant deputy employed the Taser at least three times on his “left arm.” *See generally*, Compl. At Plaintiff’s deposition on June 2, 2017, he testified that the Defendant deputies had tased him in his left shoulder region and as a result, he sought and received orthopedic care and treatment. *See generally*, Pl.’s depo.

Plaintiff indicated that the reason for the MRI was “*Bad pain (in) left shoulder. Hurt at work lifting a motor.*” See also, Plymale depo. pp. 12-13. At the March 28, 2018 hearing, defense counsel asserted that the Plaintiff-produced screening form conspicuously omitted this critical information because the second sentence relating to the initial cause of his injury had likely been obliterated or erased. In response, Plaintiff offered no explanation for the omitted information, but argued that counsel for the Defendant deliberately failed to discuss key testimony offered by Plaintiff at his deposition. Plaintiff explained that a simple reading of his deposition would accurately reveal his complaints and course of treatment.

Deposition Testimony

Subsequent to the hearing and by request of this Court, the Defendant furnished a copy of Plaintiff’s entire deposition transcript dated June 2, 2017 as well as exhibits.³ This Court also had the opportunity to review the deposition of Mickey Plymale, M.D. dated January 22, 2018.

In his deposition, Plaintiff testified that through the entire course of treatment for his injury by the emergency department, his primary care physician, treating orthopedist (Mickey Plymale, M.D.), a radiologist, and MRI technicians, Plaintiff verbalized to every medical and health care personnel that the pain in left shoulder and/or upper arm area was the express result of having been tased by the police. See Pl.’s depo. pp. 70-71, 79-80. However, the medical records do not support Plaintiff’s claims and no other medical records have been produced by Plaintiff. Medical records reveal Plaintiff was first seen by Dr. Plymale on September 5, 2014, several months after the incident with the deputies. During that visit Plaintiff complained of shoulder pain that was of slow onset, no trauma was mentioned. An MRI was ordered by Dr. Plymale and the MRI screening form has previously been discussed.

Dr. Plymale testified in his deposition that during an office visit on October 2, 2014, Plaintiff told him that “he was moving a motor at work when he suddenly felt pain.” See Plymale depo. p. 17. Plaintiff continued to be seen by Dr. Plymale in October and November 2014 for treatment of his shoulder and ultimately surgery was recommended. No surgery was performed on Plaintiff’s shoulder.

³ Additionally, on April 10, 2018, Plaintiff hand delivered to chambers approximately twenty-five (25) pages of miscellaneous documents, including three deposition pages, an MRI report, and medical expenses.

Plaintiff did not return to Dr. Plymale until nine months later on July 9, 2015. During this visit, Plaintiff changed his previously stated mechanism of injury when he claimed, “that all of this started when he was tased” during an altercation with the police. *See Id.*, p. 22. Moreover, in his deposition, Dr. Plymale testified that Plaintiff had sustained a SLAP and/or labrum tear which is not an acute traumatic type of injury. *See Id.*, pp. 21, 23. Instead, the mechanics of such an injury are caused by recurrently reaching overhead and pulling (“a wear and tear type pattern”) and were also substantiated by the MRI findings. *See Id.*, pp. 7, 18, 19, 23. In fact, at his visit July 9, 2015, Dr. Plymale specifically advised Plaintiff that his getting tased did not cause the pain in which he was complaining. *See Id.*, pp. 22-23. Dr. Plymale testified at his deposition that he was unable to establish a causal connection between any event with a taser to the injury for which he was treating Plaintiff. *See Id.*, p. 23.

DISCUSSION

Defendant argues that the appropriate remedy for Plaintiff altering his medical record is dismissal of the action. The seminal case addressing the court’s power to dismiss the action or enter default against a party is *Hazel-Atlas Glass Co. v. Hartford-Empire Co.*, 322 U.S. 238 (1944). In *Hazel-Atlas*, attorneys fabricated a trade journal to bolster a patent application. Years later, when this fabrication came to light, the United States Supreme Court stated: “Furthermore, tampering with the administration of justice in the manner indisputably shown here involves far more than an injury to a single litigant. It is a wrong against the institutions set up to protect and safeguard the public, institutions in which fraud cannot complacently be tolerated consistently with the good order of society.” *Id.* at 245-46.

South Carolina courts have also handled matters of fraud on the court. The South Carolina Court of Appeals affirmed the striking of appellant’s pleadings after appellant destroyed relevant evidence in violation of a court-ordered temporary restraining order (“TRO”). *See QZO, Inc. v. Moyer*, 358 S.C. 246, 258, 594 S.E.2d 541, 548 (Ct. App. 2004). The circuit court had granted a TRO, ordering the appellant to immediately surrender his computer. An investigation of the computer revealed that the hard drive had been reformatted the day before the appellant turned over the computer, effectively erasing any information the computer may have contained. The circuit court granted the plaintiff’s motion for sanctions, pursuant to Rule 37, struck the pleadings, and entered a judgment of liability in favor of the plaintiff. Affirming the circuit court, the Court of Appeals stated: “[W]hen a sanction would be tantamount to granting a judgment by default,

the moving party must show bad faith, willful disobedience or gross indifference to its rights to justify the sanction.” See *Id.* at 257, 594 S.E.2d at 547 (citations omitted); see also, *Griffin Grading and Clearing, Inc. v. Tire Service Equipment Mfg. Co., Inc.*, 334 S.C. 193, 199, 511 S.E.2d 716, 719 (Ct. App. 1999) (striking the defendant’s answer for discovery abuse, the court stated: “If there was ever a case where striking a party’s pleading was an appropriate sanction, it is this case where the record is full of multiple, egregious discovery abuses that blocked the opposing party’s attempts to conduct meaningful discovery.”).

Another South Carolina case discussing discovery abuse is *Samples v. Mitchell*, 329 S.C. 105, 112, 495 S.E.2d 213, 216 (Ct. App. 1997). The Court of Appeals granted a new trial where the trial judge incorrectly weighed the required “discovery abuse” factors (which the court does not enumerate). The defendant failed to disclose, during discovery, the existence of a videotape his investigator filmed of the plaintiff.

A trial court may also punish Plaintiff’s perjury through a criminal contempt proceeding. In *Brandt v. Gooding*, 368 S.C. 618, 630 S.E.2d 259 (2006), the trial court issued both civil and criminal sanctions. The plaintiff had presented a fraudulent document to the court via his deposition. The South Carolina Supreme Court held: “the introduction of the document into the deposition constituted an introduction of the document into the presence of the court, warranting a citation for direct contempt.” The court, noting that South Carolina courts liberally construe “presence” and “court” requirements, found depositions are within the presence of the court. As a result of committing fraud on the court, the trial court also found the plaintiff in civil contempt and dismissed the complaint and granted summary judgment in favor of the defendant.

In its motion, the Defendant also seeks the recovery of monetary sanctions, and specifically, an award of attorney fees and expenses incurred as a result of the fraudulent document. As the United States Supreme Court recognized in *Chambers v. NASCO, Inc.*, 501 U.S. 32, 44 (1991), once a party sets out on a course of bad faith litigation, it taints the entire litigation, and the court may vindicate itself by requiring the bad faith litigator to pay all of its opponent’s attorney fees and expenses. The court affirmed a sanction of the entire amount of the opposing party’s attorney fees. Moreover, in *Griffin Grading and Clearing, Inc. v. Tire Service Equipment Mfg. Co., Inc.*, 334 S.C. at 198, 511 S.E.2d at 718, the Court struck the defendant’s answer and affirmed a sanction of \$1,375 in attorney fees for discovery abuse.

For these reasons and based upon the criteria set forth in *QZO, Inc. v. Moyer, supra*, the Defendant must establish bad faith, willful disobedience, or gross indifference to its rights in order to justify the severe sanction of dismissal of a Complaint. This Court notes that on January 14, 2016, Plaintiff filed the instant action for injuries as to his “left arm” as a result of being tased. *See generally*, Compl. Plaintiff filed his suit despite being told by his treating orthopedist six months earlier that there had been no causal connection between the tasing event with the Defendant’s deputies and his ultimate diagnosis of a SLAP and/or labrum tear. In the twenty-eight months that this lawsuit has been litigated and appeared on multiple trial rosters, Plaintiff has failed to identify any physician who would opine that his injury was proximately caused by the tasing event. In fact, the record in this case reveals just the opposite, even when the facts are taken in a light most favorable to Plaintiff. Based on his orthopedist’s opinion to a reasonable degree of medical certainty, Plaintiff’s injury actually was not caused by the event with the Defendant’s deputies. According to Plaintiff’s orthopedist, the injury was not caused by trauma, such as a taser, but a chronic “wear and tear,” which clearly is associated with work-related injuries, such as lifting engines or motors. Thus, based upon the record, Plaintiff’s discernable attempts to alter his medical record clearly amounts to a discovery abuse.⁴

Therefore, this Court finds that Plaintiff tampering with or falsifying his medical records and then adopting the compromised version at his deposition, constitutes knowing and fraudulent conduct. This conduct by Plaintiff is, therefore, bad faith or gross indifference to the rights of Defendant. Consequently, this Court believes that the proper sanction is a dismissal of the Complaint pursuant to Rule 41(b), SCRCP. Regarding Defendant’s request for the additional remedy to the award costs and fees, this Court declines to issue monetary sanctions.

ORDER

Based upon the foregoing reasons, **IT IS THEREFORE ORDERED** that the Defendant’s renewed motion to dismiss is **GRANTED** and that the causes of action against the Defendant are hereby dismissed with prejudice.

⁴ This Court further recognizes that Plaintiff has engaged in a pattern of discovery abuses, dating back to his unwillingness to comply with simple discovery requirements, necessitating three motions including the instant dispositive motion before this Court.



Richland Common Pleas

Case Caption: Sammie L Goodwin vs Richland County Sheriff Department ,
defendant, et al
Case Number: 2016CP4000387
Type: Order/Dismissal

IT IS SO ORDERED!

s/ Alison Renee Lee

Electronically signed on 2018-05-16 16:24:07 page 7 of 7

ELECTRONICALLY FILED - 2018 May 16 4:42 PM - RICHLAND - COMMON PLEAS - CASE#2016CP4000387

Certificate of Electronic Notification

Recipients

Robert Garfield - Notification transmitted on 05-16-2018 04:43:09 PM.

***** IMPORTANT NOTICE - READ THIS INFORMATION *****
NOTICE OF ELECTRONIC FILING [NEF]

A filing has been submitted to the court RE: 2016CP4000387

Official File Stamp: 05-16-2018 04:42:59 PM
Court: CIRCUIT COURT
Common Pleas
Richland
Case Caption: Sammie L Goodwin vs Richland County Sheriff
Department , defendant, et al
Document(s) Submitted: Order/Dismissal Order/Dismissal
Filed by or on behalf of: Alison Lee

This notice was automatically generated by the Court's auto-notification system.

The following people were served electronically:

Robert David Garfield for Richland County Sheriff
Department et al

The following people have not been served electronically by the Court. Therefore, they must be served by traditional means:

Sammie L Goodwin for Sammie L Goodwin
Sammie L Goodwin for Sammie L Goodwin

ELECTRONICALLY FILED - 2018 May 16 4:43 PM - RICHLAND - COMMON PLEAS - CASE#2016CP4000387

STATE OF SOUTH CAROLINA

COUNTY OF Richland

IN THE COURT OF COMMON PLEAS
5th JUDICIAL CIRCUIT

CASE NO.: 2016-CP-40-00387

Sammie L. Goodwin

Plaintiff,

**MOTION AND ORDER INFORMATION
FORM AND COVERSHEET**

vs.
Richland County Sheriff
Leon Lott in his Official Capacity

Defendant.

Plaintiff's Attorney: _____, Bar No. _____ Address: _____ Phone: _____ Fax _____ E-mail: _____ Other: _____	Defendant's Attorney: _____, Bar No. _____ Address: _____ Phone: _____ Fax _____ E-mail: _____ Other: _____												
<input checked="" type="checkbox"/> MOTION HEARING REQUESTED (attach written motion and complete SECTIONS I and II) <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>Reconsideration</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. <u>Sammie L. Goodwin, Pro Se</u> <u>4/16/19</u> Signature of Attorney for <input checked="" type="checkbox"/> Plaintiff / <input type="checkbox"/> Defendant Date submitted													
SECTION III: Motion Fee <input type="checkbox"/> PAID - AMOUNT: \$ <u>25.00</u> <input type="checkbox"/> EXEMPT: (check reason) <table border="0"> <tr> <td><input type="checkbox"/> Rule to Show Cause in Child or Spousal Support</td> <td><input type="checkbox"/> State Agency v. Indigent Party</td> </tr> <tr> <td><input type="checkbox"/> Domestic Abuse or Abuse and Neglect</td> <td><input type="checkbox"/> Post-Conviction Relief</td> </tr> <tr> <td><input type="checkbox"/> Indigent Status</td> <td><input type="checkbox"/> Motion for Stay in Bankruptcy</td> </tr> <tr> <td><input type="checkbox"/> Sexually Violent Predator Act</td> <td><input type="checkbox"/> Motion for Execution (Rule 69, SCRPC)</td> </tr> <tr> <td><input type="checkbox"/> Motion for Publication</td> <td><input type="checkbox"/> Proposed order submitted at request of the court; or,</td> </tr> <tr> <td><input type="checkbox"/> Motion for Execution (Rule 69, SCRPC)</td> <td>reduced to writing from motion made in open court per judge's instructions</td> </tr> </table> Name of Court Reporter: _____ <input type="checkbox"/> Other: _____		<input type="checkbox"/> Rule to Show Cause in Child or Spousal Support	<input type="checkbox"/> State Agency v. Indigent Party	<input type="checkbox"/> Domestic Abuse or Abuse and Neglect	<input type="checkbox"/> Post-Conviction Relief	<input type="checkbox"/> Indigent Status	<input type="checkbox"/> Motion for Stay in Bankruptcy	<input type="checkbox"/> Sexually Violent Predator Act	<input type="checkbox"/> Motion for Execution (Rule 69, SCRPC)	<input type="checkbox"/> Motion for Publication	<input type="checkbox"/> Proposed order submitted at request of the court; or,	<input type="checkbox"/> Motion for Execution (Rule 69, SCRPC)	reduced to writing from motion made in open court per judge's instructions
<input type="checkbox"/> Rule to Show Cause in Child or Spousal Support	<input type="checkbox"/> State Agency v. Indigent Party												
<input type="checkbox"/> Domestic Abuse or Abuse and Neglect	<input type="checkbox"/> Post-Conviction Relief												
<input type="checkbox"/> Indigent Status	<input type="checkbox"/> Motion for Stay in Bankruptcy												
<input type="checkbox"/> Sexually Violent Predator Act	<input type="checkbox"/> Motion for Execution (Rule 69, SCRPC)												
<input type="checkbox"/> Motion for Publication	<input type="checkbox"/> Proposed order submitted at request of the court; or,												
<input type="checkbox"/> Motion for Execution (Rule 69, SCRPC)	reduced to writing from motion made in open court per judge's instructions												
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: <u>met/c</u> Date Filed: <u>3/18/19</u> <input type="checkbox"/> MOTION FEE COLLECTED: \$ _____ <input type="checkbox"/> CONTESTED - AMOUNT DUE: \$ _____													

2019 MAR 18 AM 10:45
 RICHLAND COUNTY
 FILED
 CLERK OF COURT
 BRIDGE

STATE OF SOUTH CAROLINA)
 COUNTY OF RICHLAND)
)
 Sammie L. Goodwin,)
)
 Plaintiff,)
)
 v.)
)
 Richland County Sheriff)
 Leon Lott in his official capacity,)
 Defendant.)

IN THE COURT OF COMMON PLEAS
 FIFTH JUDICIAL CIRCUIT

Civil Action No.: 2016-CP-40-00387

MOTION TO RECONSIDER

2019 MAR 18 AM 10:45
 DEANELL E. WOODRIF
 C.C.P. & G.
 RICHLAND COUNTY
 FILED

This matter comes before this Court by way of a Motion to Reconsider a judgment of the Plaintiff received notice of on March 9, 2019 (Exhibit "A") granting the Defendant's motion to dismiss upon South Carolina Rules of Civil Procedure 37. Plaintiff is seeking reconsideration of the Judgment Order by this Honorable Court.

FACTUAL BACKGROUND

On about January 14, 2014 I Sammie L Goodwin was unlawful arrested and also my left arm was injured by officer LA Diaz when he use access force on me while I was already detain. Plaintiff, Sammie L Goodwin had an argument with my live in girlfriend, Lelsia but I didn't touch her in anyway. I left out the bedroom and went into the Living room and sat down. Within Minutes, Plaintiff heard the front door bell ring and got up and look out the window and Plaintiff saw two Richland county deputy police officer's at the door, one was white and one was black. The officers said they looking for and the black officer said Lelsia Branham. Lelsia Branham came out of the bedroom into the hallway. The black officer went into the hallway to talk to her that's when the white officer Diaz told Plaintiff me to put his hands behind my back and arrested the Plaintiff. Ms. Branham try to explain to the two officer that he didn't do this to her and that she pour it on herself. Plaintiff was taken outside and put me in the back seat of the Sheriff car. So I asked him why are you arresting me and he told me to shut my mouth. Plaintiff asked the white sheriff was he racialist and if he didn't like black men because a black man dated his wife. Defendant took out his stun gun and started to stun the Plaintiff at least three time's. Plaintiff was taken to the Richland county detention center and charged with criminal domestic violence and resisting arrest. A Few months later went by and both charges was dismissed and the arrest

records expunged because the state of South Carolina found out that the Plaintiff didn't comment these charges. The Richland county sheriff issued a letter that the officer LA Daiz is guilty of excessive force. (Exhibit "B")

DISCUSSION

Defendant argues that the appropriate remedy for Plaintiff altering his medical record is dismissal of the action. Plaintiff denies any altering of medical records. Plaintiff could not have altered his medical records when they were not in his possession. The seminal case addressing the court's power to dismiss the action or enter default against a party is *Hazel-Atlas Glass Co. v. Hartford-Empire Co.*, 322 U.S. 238 (1944). In *Hazel-Atlas*, attorneys fabricated a trade journal to bolster a patent application. Years later, when this fabrication came to light, the United States Supreme Court stated: "Furthermore, tampering with the administration of justice in the manner indisputably shown here involves far more than an injury to a single litigant. It is a wrong against the institutions set up to protect and safeguard the public, institutions in which fraud cannot complacently be tolerated consistently with the good order of society." *Id.* at 245-46.

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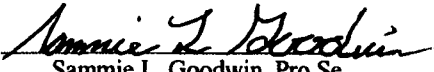
Another South Carolina case discussing discovery abuse is *Samples v. Mitchell*, 329 S.C. 105, 112,495 S.E.2d 213,216 Ct. App. 1997). The Court of Appeals granted a new trial where the trial judge

incorrectly weighed the required "discovery abuse" factors (which the court does not enumerate). The defendant failed to disclose, during discovery, the existence of a videotape his investigator filmed of the plaintiff.

A trial court may also punish Plaintiffs perjury through a criminal contempt proceeding. In *Brandt v. Gooding*, 368 S.C. 618, 630 S.E.2d 259 (2006), the trial court issued both civil and criminal sanctions. The plaintiff had presented fraudulent document to the court via his deposition. The South Carolina Supreme Court held: "the introduction of the document into the deposition constituted an introduction of the document into the presence of the court, warranting a citation for direct contempt." The court, noting that South Carolina courts liberally construe "presence" and "court" requirements, found depositions are within the presence of the court. As a result of committing fraud on the court, the trial court also found the plaintiff in civil contempt and dismissed the complaint and granted summary judgment in favor of the defendant.

In its motion, the Defendant also seeks the recovery of monetary sanctions, and for these reasons and based upon the criteria set forth in *QZO, Inc. v. Moyer, supra*, the Defendant must establish bad faith, willful disobedience, or gross indifference to its rights in order to justify the severe sanction of dismissal of a Complaint. This Court notes that on January 14, 2016, Plaintiff filed the instant action for injuries as to his "left arm" as a result of being tased. *See generally*, Comp. Plaintiff filed his suit despite being told by his treating orthopedist six months earlier that there had been no causal connection between the tasing event with the Defendant's deputies and his ultimate diagnosis of a SLAP and/or labrum tear. Plaintiff has not been given adequate opportunity to identify any physician who would opine that his injury was proximately caused by the tasing event. Based on his orthopedist's opinion to a reasonable degree of medical certainty, Plaintiff's injury actually was not caused by the event with the Defendant's deputies. The court concluded the Plaintiff's made discernable attempts to alter his medical record clearly amounted to a discovery abuse. The Court never explained how the Plaintiff was able to alter his records when they were not in his possession. The Court found the Plaintiff's conduct was bad faith or gross indifference to the rights of Defendant. Consequently, this Court believes that the proper sanction is a dismissal of the Complaint pursuant to Rule 41(b), SCRCP. The Court declined Defendant's request for the additional remedy to the award costs and fees. The only bad faith and fraud was committed by the Defendant and the proper sanction of dismissal of the Complaint pursuant to Rule 41(b), SCRCP was improper and unjust and a clear denial of the Plaintiff's due process.

WHEREFORE, Plaintiff respectfully request this Honorable Court Reconsider the judgement against the Plaintiff and deny the Defendant's Motion to Dismiss.

By: 
Sammie L. Goodwin, Pro Se
317 Saddlefield Road
Columbia, SC 29203
(803)-376-7626

March 8, 2019
Columbia, South Carolina

Jeanette W. McBride
CLERK OF COURT
RICHLAND COUNTY
P.O. Box 2766
Columbia, SC 29202-2766

Return to sender if not
Delivered in five (5) days

15

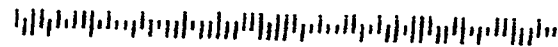
COLUMBIA, SC 290
01 MAR 2019 PM 1 L



Mr. Sammie Goodwin
312 Isaac Street
Columbia, SC 29203

Exhibit "A"

29203-508712



Certificate of Electronic Notification

Recipients

Robert Garfield - Notification transmitted on 03-21-2019 11:34:20 AM.

***** IMPORTANT NOTICE - READ THIS INFORMATION *****

NOTICE OF ELECTRONIC FILING [NEF]

-

A filing has been submitted to the court RE: 2016CP4000387

Official File Stamp: 03-21-2019 11:34:02 AM

Court: CIRCUIT COURT

Common Pleas

Richland

Case Caption: Sammie L Goodwin vs Richland County Sheriff
Department , defendant, et al

Document(s) Submitted: Electronic Form 4 Order Plaintiff's Motion to
Reconsider is Electronic Form 4 Order Plaintiff's
Motion to Reconsider is DENIED.

Filed by or on behalf of: Alison Lee

This notice was automatically generated by the Court's auto-notification system.

-

The following people were served electronically:

Robert David Garfield for Richland County Sheriff
Department et al

The following people have not been served electronically by the Court. Therefore, they must
be served by traditional means:

Sammie L Goodwin for Sammie L Goodwin

Sammie L Goodwin for Sammie L Goodwin

ELECTRONICALLY FILED - 2019 Mar 21 11:34 AM - RICHLAND - COMMON PLEAS - CASE#2016CP4000387

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

JUDGMENT IN A CIVIL CASE
CASE NO. 2016CP4000387

Sammie L Goodwin
PLAINTIFF(S)

Richland County Sheriff Department et al
DEFENDANT(S)

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.
- 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
- STAYED DUE TO BANKRUPTCY**
- 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:

After careful consideration of the record in this case and the arguments raised by Plaintiff, this Court is unable to discover any new material fact or any principle of law that was either overlooked or disregarded in the previous Order. It is therefore ORDERED that Plaintiff's Motion to Reconsider is DENIED.

Pursuant to Rule 59(f), SCRPC, oral argument is not necessary.

ORDER INFORMATION

This order ends does not end the case. See Page 2 for additional information.

For Clerk of Court Office Use Only

This judgment was electronically entered by the Clerk of Court as reflected on the Electronic Time Stamp, and a copy mailed first class to any party not proceeding in the Electronic Filing System on 03/21/2019 .

Sammie L Goodwin for Sammie L Goodwin
Sammie L Goodwin for Sammie L Goodwin

NAMES OF TRADITIONAL FILERS SERVED BY MAIL

Court Reporter:

E-Filing Note: 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 judgment to parties who are not E-Filers or who are appearing pro se. See Rule 77(d), SCRCP.



Richland Common Pleas

Case Caption: Sammie L Goodwin vs Richland County Sheriff Department ,
defendant, et al

Case Number: 2016CP4000387

Type: Order/Electronic Form 4

IT IS SO ORDERED!

s/ Alison Renee Lee, Chief Administrative Judge

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

Appeal from the Court of Common Pleas for Richland County, South Carolina
Alison Renee Lee, Chief Administrative Judge

Case No. 2016-CP-40-00387

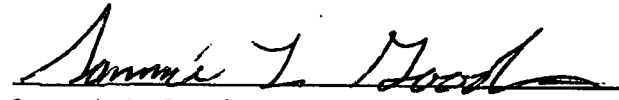
Richland County Sheriff Department,.....Respondent,

v.

Sammie L. Goodwin,.....Appellant.

NOTICE OF APPEAL

Sammie L. Goodwin, Appellant will appeal the Order denying the Appellant's Motion for Reconsideration of the Honorable Alison Renee Lee dated March 21, 2019. Appellant received notice of Order and/or Judgment on March 28, 2019 See exhibit "A" attached.

 LS
Sammie L. Goodwin, Pro Se, Appellant
317 Saddlefield Road
Columbia, South Carolina 29203
(803) 376-7626

April 1, 2019

2019 APR -3 PM 4: 07
JEANETTE W. MCBRIDE
C.C.P. & G.S.
RICHLAND COUNTY
FILED

RECEIVED
APR 03 2019
SC Court of Appeals

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

JUDGMENT IN A CIVIL CASE

CASE NO. 2016CP4000387

Sammie L Goodwin
PLAINTIFF(S)

Richland County Sheriff Department et al
DEFENDANT(S)

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.
- 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
- STAYED DUE TO BANKRUPTCY
- DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):
 Affirmed; Reversed; Remanded;
 Other

2019 APR -3 PM 4:05
 JEANNETTE W. MCBRIDE
 C.C. & G.S.
 RICHLAND COUNTY
 FILED

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:

After careful consideration of the record in this case and the arguments raised by Plaintiff, this Court is unable to discover any new material fact or any principle of law that was either overlooked or disregarded in the previous Order. It is therefore ORDERED that Plaintiff's Motion to Reconsider is DENIED.

Pursuant to Rule 59(f), SCRPC, oral argument is not necessary.

ORDER INFORMATION

This order ends does not end the case. See Page 2 for additional information.

For Clerk of Court Office Use Only

This judgment was electronically entered by the Clerk of Court as reflected on the Electronic Time Stamp, and a copy mailed first class to any party not proceeding in the Electronic Filing System on 03/21/2019 .

Sammie L Goodwin for Sammie L Goodwin
Sammie L Goodwin for Sammie L Goodwin

RECEIVED
APR 03 2019
SC Court of Appeals

NAMES OF TRADITIONAL FILERS SERVED BY MAIL

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

Appeal from the Court of Common Pleas for Richland County, South Carolina

Alison Renee Lee, Chief Administrative Judge

Case No. 2016-CP-40-00387

Richland County Sheriff Department,.....Respondent,

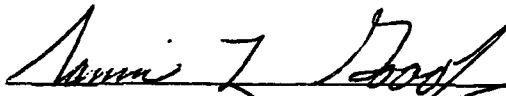
v.

Sammie L. Goodwin,.....Appellant.

CERTIFICATE OF SERVICE

Sammie L. Goodwin, Appellant, hereby certifies that the Appellant has served a copy of his Notice of Intent to Appeal by depositing the same in the United States Mail with the proper First Class Postage affixed on the 2nd day of April, 2019, to:

Richland County Judicial Center
Richland County Court House
1701 Main St,
Columbia, SC 29201



LS
Sammie L. Goodwin, Pro Se, Appellant
317 Saddlefield Road
Columbia, South Carolina 29203
(803) 376-7626

April 1, 2019

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APR 03 2019

SC Court of Appeals

2019 APR -3 PM 4:08
JEANETTE W. MCBRIDE
C.C.P. & G.S.
RICHLAND COUNTY
FILED

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

Appeal from the Court of Common Pleas for Richland County, South Carolina

Alison Renee Lee, Chief Administrative Judge

Case No. 2016-CP-40-00387

Richland County Sheriff Department,.....Respondent,

v.

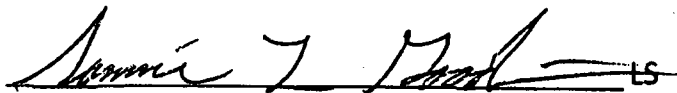
Sammie L. Goodwin,.....Appellant.

RICHLAND COUNTY
FILED
2019 APR -3 PM 4:08
JEANNETTE W. MCBRIDE
C.C.P. & G.S.

CERTIFICATE OF SERVICE

Sammie L. Goodwin, Appellant, hereby certifies that the Appellant has served a copy of his Notice of Intent to Appeal by depositing the same in the United States Mail with the proper First Class Postage affixed on the 2nd day of April, 2019, to:

Davidson & Lindemann PA
1611 Devonshire Dr # 200,
Post Office Box 8568
Columbia, SC 29204
Phone: (803)-806-8222
Fax: (803)-806-8855



Sammie L. Goodwin, Pro Se, Appellant
317 Saddlefield Road
Columbia, South Carolina 29203
(803) 376-7626

April 1, 2019

RECEIVED
APR 03 2019
SC Court of Appeals

State of South Carolina) In the Court of General Sessions
County of Richland) Fifth Judicial Circuit
2016-CP-40-00387

Sammie L. Goodwin,)
Plaintiff,)
vs.)
Richland County Sheriff's)
Office,)
Defendants.)

March 28, 2018

Columbia, South Carolina

B e f o r e:

The Honorable Alison Lee, Judge

A p p e a r a n c e s:

Sammie L. Goodwin,
Pro se, Plaintiff

Robbie Garfield, Esquire
Attorney for the Defendants

Bonnie H. Kelly, CVR
Circuit Court Reporter

I N D E X

<u>WITNESS/DESCRIPTION</u>	<u>PAGE NO.</u>
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Response/Mr. Goodwin	15
Reply/Mr. Garfield	21
Response/Mr. Goodwin	24
Decision by the Court	26
Certificate Page	27

EXHIBITS

NO.	DESCRIPTION	I.D.	EV.
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-- NO EXHIBITS ENTERED --

1 THE COURT: Number 2016-CP-40-00387, *Sammie Goodwin v.*
2 *Richland County.* Mr. Goodwin, you're representing
3 yourself; is that correct?

4 MR. GOODWIN: Yes, Ma'am.

5 THE COURT: And the County is represented by Robbie
6 Garfield.

7 We're here on two motions. One is Mr. Garfield's
8 renewed motion to dismiss, and Mr. Goodwin is -- is
9 objecting to that and so we'll take up those.

10 Mr. Goodwin --

11 MR. GOODWIN: Yes, ma'am?

12 THE COURT: -- you -- you know how this works?

13 MR. GOODWIN: Yes, ma'am.

14 THE COURT: I've seen you several times before. I'll
15 give Mr. Garfield a chance to -- to make his motion and --
16 and give you a chance to respond to it and add anything
17 that you wish to add related to your motion.

18 MR. GOODWIN: Yes, ma'am.

19 THE COURT: Yes, sir, Mr. Garfield?

20 MR. GARFIELD: Thank you, Your Honor. And again, I
21 appreciate the Court willing to take this -- hear our
22 motion. This is our -- Defendant's motion to dismiss, a
23 renewed motion to dismiss, and I know Your Honor indicated
24 that you're familiar with the basic facts, but just --

25 THE COURT: I am. And I -- and I actually had a

1 chance to look at the record yesterday and refresh my
2 recollection about it and so --

3 MR. GARFIELD: Yes, ma'am.

4 THE COURT: -- I'm -- and I -- and I've heard other
5 motions previously --

6 MR. GARFIELD: Yes, ma'am.

7 THE COURT: -- relating to discovery as I recall. So
8 I'm -- I'm familiar with it.

9 MR. GARFIELD: But I would like to address a couple
10 of issues previously with discovery, at least to establish
11 a time line for Your Honor.

12 THE COURT: Yes, sir.

13 MR. GARFIELD: The initial discovery requests that we
14 had sent Mr. Goodwin were served in September of 2016. He
15 did not respond. We sent a Rule 11 letter and then we
16 filed a motion to compel.

17 The hearing on the motion to compel was heard before
18 Judge McFaddin on June 6, 2017. And again, Your Honor, I
19 know realizes this is all in the record, but a couple of
20 pertinent points here. At the hearing before Judge
21 McFaddin, we placed several things on the record, concerns
22 from our standpoint.

23 From the little bit we had gleaned up into that time
24 as far as the Plaintiff's medical course, and EMS had been
25 summoned to the scene, the Plaintiff had refused any further

1 of attention, any kind of treatment by the -- by the
2 paramedics. Didn't really want the paramedics to get near
3 him.

4 He was later seen at Providence emergency room and he
5 was told by the emergency department officials that he
6 needed a follow up, of course, with his primary care
7 physician and he did that.

8 And he went to his family doctor, and his family
9 doctor examined him and then referred him out to an
10 orthopaedic specialist for his complaints.

11 He went to an orthopaedist. It's a local
12 orthopaedist that's now with the Providence Group, saw him
13 three times during the interim of September, 2014 to July,
14 2015.

15 We had explained to Judge McFaddin, and again to Your
16 Honor it -- at -- at the subsequent hearing, that we
17 basically had a glaring blind spot because what -- what
18 had happened up until that point is that Mr. Goodwin had
19 provided us pieces and parts -- if I may approach -- of
20 his overall medical record.

21 (Mr. Garfield hands documents to the Court.)

22 And what I'm providing -- what I'm providing for the
23 Court are deposition -- exhibits to the -- my deposition
24 of the Plaintiff in June of last year. And what you see
25 here, as Exhibit No. 4, is an MRI patient medical history

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screening in which, before he actually goes in to have his MRI conducted as Your Honor would be familiar with, he needs to go ahead and provide a history.

And as the Court can note, it says -- unless my eyes are playing tricks on me (as read): "Body part to be examined, left shoulder." And (as read): "Reason for the visit ..." or the exam, it said (as read): "Bad pain in left shoulder."

At his deposition, you can see in the second page, with his permission, we took a picture of him, and under oath he pointed to the body part, which is his left shoulder area, and that is where he testified that the officers tased him and that's -- relates his injuries back to the initial tasing in January of 2014.

So Judge McFaddin, at that time, had given him 30 days to comply and get his medical records. He was unwilling nor was he under an obligation, but he was unwilling to sign any authorizations. He assured the Court that he would personally go to all these entities and -- and round them up.

And that brings me to the history to Your Honor's hearing on this. Last summer this came up on the trial roster. We were still basically empty handed. We didn't have the medical records. In August of 2017, we moved to dismiss for failure to prosecute, and this was the hearing.

1 before Your Honor on August 30 of last year where we moved
2 to dismiss for failure to prosecute.

3 Your Honor did not grant my -- grant my motion, but
4 you graciously provided him the opportunity to assist and
5 facilitate getting those records and he did. And he got
6 his medical authorizations and we promptly went -- sent
7 those out and we pursued these medical records.

8 And when we started collecting them, we finally
9 started to have some ideas about what this case about --
10 what this case was about and his allegations. So we
11 noticed Dr. Plymale -- his treating orthopaedist, we
12 noticed his deposition and we took his deposition on
13 January 22 of this year, and he provided sworn testimony
14 as far as Plaintiff's medical reports and now we were able
15 to piece together what really happened.

16 And what really happened, according to Dr. Plymale,
17 was that on September 5 of 2014, that this would be
18 roughly seven-and-a-half/eight months post event, the
19 Plaintiff presents to Dr. Plymale's office with Providence
20 Orthopaedic Group and his only complaint at the time was a
21 left shoulder pain. Dr. Plymale treated this soft tissue
22 related complaint, performed a full physical exam. He
23 ordered x-rays at that time, revealed no acute
24 abnormalities. So he ordered, as the normal course, an
25 MRI of the shoulder.

1 Mr. Goodwin reports to the MRI appointment three days
2 later on September 5 -- excuse me -- September 8, 2014,
3 and the same screen form that I handed up to Your Honor,
4 this is the form we received.

5 (Mr. Garfield hands a document to the Court.)

6 MR. GARFIELD: I just have two copies. This is the
7 form we received pursuant to our medical authorizations
8 and the HIPPA request.

9 And as Your Honor can note, that the actual document
10 states that Mr. Goodwin indicated that he had bad pain
11 left in his shoulder, that he was hurt at work lifting a
12 motor.

13 So I asked Dr. Plymale about this, and Dr. Plymale
14 testified, looking through the records, looking a little
15 deeper, well, when he went in, obviously to the MRI as
16 they do, the tech asks him once again, "What's the basis
17 for your complaints?" And he had indicated, and you can
18 see here, Your Honor (as read): "Clinical data, left
19 shoulder pain after a lifting injury."

20 According to Dr. Plymale, he orally provides this
21 history to the MRI -- MRI technician, and Dr. Plymale .
22 testifies that he diagnosed him with a small labrum tear
23 in his shoulder -- a rotator cuff -- excuse me, rotator
24 cuff related injury.

25 So he goes on a -- does not want to -- excuse me.

1 Mr. Goodwin does not elect surgery at that time. He
2 agrees with the doctor's recommendation. He undergoes
3 conservative management of the left shoulder complaints,
4 and he goes in two or three or four times for some
5 cortisone shots.

6 And during these office visits, you will note that
7 there is one office visit on October 2 of 2014, and there
8 is a note here by Dr. Plymale, and he testified that Mr.
9 Goodwin had told him personally -- and you can see here
10 that the method of injury he had told Dr. Plymale, he
11 states that (as read): "He was moving a motor at work,
12 when he suddenly felt pain. He had difficulty moving his
13 arm in reaching."

14 Now, nine months later, he doesn't go back to the
15 doctor. Nine months later he returns to Dr. Plymale for a
16 follow up and according to Dr. Plymale, we're hearing a
17 completely different story from Mr. Goodwin. And in these
18 notes of July 9, 2015 -- thank you -- where it says -- and
19 I've highlighted this portion, and Dr. Plymale testified
20 consistent with this, that -- that Mr. Goodwin was there
21 for a follow up on his left shoulder and he would like to
22 discuss surgical intervention.

23 Dr. Plymale puts down that Mr. Goodwin notes that
24 this all started when he was tased during an altercation
25 with the police, and at the end of that office visit, Mr.
26 with the police, and at the end of that office visit, Mr.
27

1 Goodwin and Dr. Plymale had a conversation and
2 specifically Dr. Plymale -- thank you. I'm giving you two
3 at a time, Your Honor.

4 And Dr. Plymale told him -- told Mr. Goodwin (as
5 read): "I did not think that him getting tased caused the
6 pain he's currently experiencing." That's in July of
7 2015. Six months later Mr. Goodwin files this lawsuit
8 against my client.

9 We now, with the benefit of hindsight, can go back
10 and ascertain several things. First of all, that the
11 specialist specifically told Mr. Goodwin that he would not
12 relate his injury to the taser. Mr. Goodwin had wrote --
13 orally provided history to the MRI office that the cause
14 of his shoulder injury was lifting a motor at work.

15 Your Honor, not unlike the testimony we heard from
16 the witness in the previous damage -- damage hearing, that
17 it referenced soft tissue injuries or having problems
18 because he worked on cars. Well, Mr. Goodwin works on
19 cars. It's -- it can be a problem.

20 He also verbalized, Mr. Goodwin, to the MRI
21 technician the same thing, and then personally told his
22 doctor the same thing.

23 Now, if -- if I'd be so bold to submit, comparing the
24 records he obviously pulled out of a stack and produced
25 versus what we waited for and what we paid for, that he

1 tampered with these records. He's got deposition
2 testimony that states otherwise.

3 January, 2016, he brings this lawsuit and he knows
4 full well that the officers did not cause his shoulder
5 injury. He knows full well that he would not have any
6 physician. He has not identified one, he would have no
7 medical testimony to relate the injury back. In fact, in
8 Dr. Plymale's deposition, stated very succinctly -- and I
9 have this one, I can make it a Court Exhibit or I can --
10 I'm just gonna read it into the record.

11 It's January 22, 2018, testimony from Dr. Mickey
12 Plymale, M.D. Page 23, line 7, Dr. Plymale stated (as
13 read): "I told him I did not think that him getting tased
14 caused the pain he is currently experiencing."

15 Question: "Why not?"

16 Answer: "Because he had dealt with these issues for a
17 while, and based on is previous MRI, a lot of this looked
18 like a kind of wear-and-tear type pattern as opposed to an
19 acute, traumatic type of injury."

20 Question: "So if he did not think that him getting
21 tased caused that pain that he was experiencing, would it
22 be fair to say that you could not say to a reasonable
23 degree of medical certainty most probably that any type of
24 tasing encounter would have resulted in any kind of left
25 shoulder issue?"

1 Answer "No."

2 Last Question: "Could you really say with any
3 reasonable degree of certainty that tasing by the police
4 or that kind of activity could approximately cause a
5 shoulder injury such as the one he was complaining?"

6 Answer: "No."

7 Your Honor, what Mr. Goodwin has done, with all due
8 respect, is caused Richland County to spend more than two
9 years defending this claim. We've had several motions, we
10 had many court appearances, we've had roster meetings,
11 we've ordered records, we've taken depositions, we are now
12 in full trial prep. We're on the trial roster for
13 probably the third or fourth time. In fact, this Monday,
14 we are No. 1 for trial, as -- as Your Honor may be aware,
15 in Richland County. We are now planning -- Ms. All's here
16 in attendance and she's assisting me getting the officers
17 involved to spend the rest of the remaining part of the
18 week, preparing for trial.

19 We would ask this Court to -- and I can tell you in
20 24 years of practicing law, I have never made this request
21 in this way, but I believe I'm compelled to do so. We're
22 asking this Court, as a sanction, to dismiss this case
23 with prejudice under Rule 41(b) and put -- put a halt to
24 the amount of time and expenses and resources my client
25 has had to incur.

1 We also ask this Court to additionally award costs
2 and fees for perpetrating a fraud upon this Court. It is
3 fairly obvious, as your Court -- as Your Honor can note,
4 that these records were tampered with. Evidence has been
5 falsified, and he has also lied under oath in his
6 deposition. We would ask that the County be reimbursed
7 for fees and expenses.

8 At a minimum, Your Honor could plainly see, going
9 forth to trial, that a dismissal of the case on the merits
10 would be warranted because this case, frankly, lacks truth
11 and does lack merit and the Plaintiff can allege no facts
12 that a fact finder could reasonably return a verdict in
13 his favor.

14 And I have whatever records that I need to to make a
15 full record of this case and be able to answer questions.

16 THE COURT: And Mr. Garfield, the -- the underlying
17 incident occurred in, what, March of 2014?

18 MR. GARFIELD: January --

19 THE COURT: January.

20 MR. GARFIELD: -- 2014. Yes, ma'am.

21 THE COURT: Okay.

22 MR. GARFIELD: Now, I will say this one thing for the
23 record. I'd like to put this as an exhibit. I understand
24 that Mr. Goodwin is going to contend that he didn't have
25 proper notice or raise an objection to the actual video

1 deposition. This was exhibit No. 1 to Dr. Plymale's
2 deposition in which, on January 11, 2018 -- I know I'm
3 loading -- loading y'all up with paper. On January 11,
4 2018, knowing we were coming back up on the trial roster,
5 we served him with proper notice. We didn't just put it
6 in the mail, but we also sent it to his email address. So
7 he would've had 11 days notice.

8 And as Your Honor can tell, that we did notice the
9 deposition, pursuant to Rule 30, also informing Mr.
10 Goodwin that we were gonna do so by way of a video
11 deposition. And this was also referenced in this
12 narrative of what I just stated for the Court, on the
13 record, during his deposition.

14 And he did not -- he failed to attend. He was aware
15 that the deposition was gonna go forward. Mr. Goodwin,
16 and I'll allow him to address this, did leave a message on
17 my voice mail stating that he did receive this, but he did
18 object to it, and I noted that objection on his behalf and
19 in his absence at the deposition.

20 But I just think, for housekeeping matters, that's
21 what I'd just like to include. And thank you, Your Honor.

22 THE COURT: Mr. Goodwin?

23 MR. GOODWIN: Yes, ma'am. The facts, what he talking
24 about -- okay. Number one, the fact is this here: I did
25 not have a job. I was getting a SSI check. That's the

1 fact. I went out to get a day's work, and when I went
2 down to reach down there to the lawnmower, clean up around
3 it a little, that's when I got the pain that's in my arm.

4 I came back home, complained to my wife right here
5 that the pains is getting to feel bad. So she made me go
6 to the emergency room.

7 That's the same arm that the officer tased me about
8 four times on the same -- I never had the problem. And I
9 told the doctor that he gave -- like, he just gave me a
10 paper right here where I said -- oh, I also told the
11 doctor -- when he got a statement where I told the doctor
12 I got tased on my arm. He wouldn't -- he wouldn't give
13 you that part.

14 THE COURT: I think I -- I think I have one of them
15 that says that.

16 MR. GOODWIN: That's what I told him. I got tased on
17 my arm. That's when the problems start.

18 THE COURT: But that's not -- but -- but it doesn't
19 relate to the injury relating to the rotator cuff and the
20 -- and the need for surgery.

21 MR. GOODWIN: That's what -- that's where I got tased
22 at. That's where the injury come from 'cause I -- I went
23 down to lift a little small engine, that's when I felt the
24 pain at. So I didn't even much lift the engine, little
25 lawnmower engine. And I didn't have a job.

1 THE COURT: Anything else you wanna tell me?

2 MR. GOODWIN: And -- and every time this case get
3 ready to go forward to trial, he'll find some kinda way to
4 delay the case.

5 I went before you the last time. You ordered me to
6 give him all the medical records --

7 THE COURT: Yes, sir.

8 MR. GOODWIN: -- and I signed everything over to him
9 right then that he wanted and needed. Okay?

10 Now, he come back with the same motion, talking
11 dismissal up under the same rule which I done comply --
12 you can make me comply 'cause that's double jeopardy. You
13 can't -- I already comply one time with you. You gonna
14 come back with the same rule again and try to get me to
15 comply again with the same rule.

16 The law says in civil -- civil in-state proceeded
17 (sic) double jeopardy work both ways and you cannot try
18 for the same thing twice.

19 THE COURT: And so Mr. -- Mr. Goodwin, what are --
20 what are you claiming your -- I understand about the
21 incident and that the incident was -- at the time that the
22 police officers came, they -- they were responding to an
23 alleged domestic situation and they were placing you in
24 the police car --

25 MR. GOODWIN: Yes, ma'am.

1 THE COURT: -- and during the course of whatever the
2 interaction was with the police officers, they ended up
3 tasing you.

4 And I -- and I understand that -- that -- that --
5 that you had a dispute with one of the officers, and --
6 and your -- your position is that because of that dispute
7 was when he tased you.

8 MR. GOODWIN: That was when he tased me. I was
9 already in handcuffs in the back seat of the car --

10 THE COURT: Okay.

11 MR. GOODWIN: -- like this here (indicates.) And I
12 mean -- and I asked him why he was locking me up for. He
13 tell me to shut my mouth. I said, "I got a right to ask
14 you why I was -- would you locking me up for."

15 THE COURT: Right. And -- and -- and you said he
16 then tased you.

17 MR. GOODWIN: Yeah. He tased me twice --

18 THE COURT: Okay.

19 MR. GOODWIN: -- shut the door, then he tased me when
20 I hollered, start huffling (sic) and then he finally took
21 the little stinger or whatever off and let it go.

22 Then I asked him again, he snatch the door open
23 again. Then the tased me again on the same arm. It
24 grabbed right here (indicates.)

25 So that's when my arm start bothering me and stuff.

1 So my wife, she the one that made me go to the doctor.
2 And I told the doctor that I got tased on the arm. That's
3 when my pain started.

4 THE COURT: And all of the medical records relating
5 to that incident have been provided to -- to Mr. --

6 MR. GOODWIN: Right.

7 THE COURT: -- Garfield?

8 MR. GOODWIN: To the doctor.

9 THE COURT: Right? You -- you've gotten --

10 MR. GOODWIN: Yes.

11 THE COURT: -- you've gotten all the medical records,
12 Mr. Garfield, about any treatment that he received related
13 to his arm?

14 MR. GARFIELD: At this time, yes, ma'am.

15 THE COURT: Yeah. And the -- and -- and Mr. Gar --
16 I'm sorry -- Mr. Goodwin is relating the -- the issues
17 related to the rotator cuff to the tasing. Is that -- is
18 that --

19 MR. GARFIELD: Yes.

20 THE COURT: -- your understanding?

21 MR. GARFIELD: That's -- that's what's in the
22 complaint and that's what he's testified to in his
23 deposition. Yes, ma'am.

24 THE COURT: Okay.

25 MR. GARFIELD: And -- and if I may, Your Honor,

1 'cause --

2 THE COURT: Wait a minute. Well --

3 MR. GARFIELD: Yes, ma'am.

4 THE COURT: Let me --

5 MR. GARFIELD: I'll wait --

6 THE COURT: -- make sure --

7 MR. GARFIELD: -- my turn.

8 THE COURT: -- he finished. Okay. Yes, sir.

9 MR. GOODWIN: Okay. And all of that it says is here
10 in my report 'cause I told my doctor, and he said your
11 bones and -- is scoured (sic.) He said they're little
12 chipped bone and you need surgery in your arm.

13 I coulda been had the surgery done 'cause I was on
14 that Social Security. My wife said I make Social Security
15 pay for it, and when -- they didn't do it. Why should I
16 make the State pay for something they didn't do?

17 So every time they come up with trial, he'll try to
18 delay. He'll come with something, he -- he want -- he
19 wouldn't even try to make a -- okay. When he went -- but
20 anyway. Every time we just think this case be on the
21 docket for trial, he'll come -- he -- he always throw
22 something else. He don't -- he don't want the people to
23 hear the case, he don't want nobody to know the truth what
24 happened, he just trying -- trying to get the Court decide
25 the case for him. That what he trying to do instead of

1 letting the people decide the case.

2 THE COURT: Okay. Any -- anything else, Mr.
3 Garfield?

4 MR. GARFIELD: Briefly, Your Honor. There was just
5 two points I wanted to make. Number one, I -- I -- I
6 spared the Court the -- the factual rendition that we
7 believe that the officers will testify to. But with the
8 officers or -- have not been deposed, but they anticipate
9 testifying that they did tase him, that they drive --
10 drive-stunned him twice because Mr. Goodwin was in the
11 back of the patrol car kicking at the doors. And despite
12 asking him to stop, he -- he kept continuing to kick at
13 the doors.

14 By their own policy, by authority, that if he
15 refuses, that the force they could use is intermediate
16 level of force, and they tased him twice on the thigh area
17 'cause that's where he was kicking. There would be no
18 reason for officers -- it'd be contraindicated for them to
19 tase him in the upper extremities. There's just all sorts
20 of problems that can cause injuries to not only them, but
21 for officers's safety. So they did it twice to the meaty
22 pop -- part of the thighs.

23 Two other points I just want to make for the record,
24 Your Honor. Just wanted to just cite two cases and I'll
25 hand these up. One is *Qzo Incorporated v Moyer*, M-o-y-e-

1 r. This is 594 SE 2nd 541. It's a Court of Appeals case
2 that was decided in 2004 that the Court of Appeals
3 examined this -- it's almost the same issue, and they held
4 that when a party fails to obey an order relating to
5 discovery, the trial court may strike that party's
6 pleadings and enter a default judgement. There's a lot of
7 pertinent language here, but -- but one point that I
8 thought was applicable, the Court of Appeals held that (as
9 read): "When a sanction would be tantamount to granting
10 it's a judgement by default, the moving party must show
11 bad faith, willful disobedience or gross indifference --
12 or gross indifference to its rights to justify the
13 sanction."

14 Your Honor, we believe that we have established all
15 three of those, and that's not been disputed by the
16 Plaintiff in this case from the issue that I brought up.

17 The second case is *Griffin Grating v Tire Service*
18 *Equipment Manufacturing*. It's another Court of Appeals
19 case and it's from 1999. Very interesting case in which
20 Judge Pyle had struck a manufacturer's answer as a
21 discovery sanction. And the Court took a look at this
22 thing, and I learned some things from reading this case,
23 and the -- the one portion here that I thought would be
24 pertinent to -- to our argument, the Court of Appeals held
25 that (as read): "If there was ever a case where striking

1 a party's pleading was an appropriate sanction, it is this
2 case where the record is full of multiple egregious
3 discovery abuses that block the opposing party's attempts
4 to conduct meaningful discovery." And I'm just gonna hand
5 these up for Your Honor.

6 (Mr. Garfield hands a document to the Court.)

7 MR. GARFIELD: And we believe that it would be the
8 appropriate remedy under these circumstances that the only
9 other case that I've referenced is actually directly on
10 the notice of motion and now -- renewed motion to dismiss.
11 And that's *Brandt v Gooding*, 360 (sic) SE 2nd 259, 2006.
12 I had this up on my laptop. I was unable to pull it up as
13 a -- as a print job. But just basically that, in this
14 case, just like this one, the Plaintiff in -- introduced a
15 falsified document in his deposition, and the Supreme
16 Court took a look at this and found the Plaintiff in that
17 case -- that he had violated the -- that he -- he had
18 committed discovery abuses and that he should be held in
19 civil contempt. And the complaint was dismissed and the
20 Supreme Court upheld this and there's some language that
21 obviously -- a deposition is also a court proceeding, and
22 that also acts as defrauding the Court. And that's our
23 argument.

24 THE COURT: And what was that case?

25 MR. GARFIELD: Yes, ma'am. It is *Brandt v Gooding*

1 and it's on our notice of motion. And -- and I'm happy to
2 provide Your Honor with a copy of this.

3 THE COURT: What's the cite number?

4 MR. GARFIELD: It's 630 -- I'm sorry. It's 630 SE
5 2nd 259, a 2006 case. Thank you, Your Honor.

6 THE COURT: Yes, sir?

7 MR. GOODWIN: Your Honor, another thing I say. I
8 read the deposition that he start with. In that
9 deposition -- what I told him in deposition, he left out
10 everything what I tell him where the police tased me, and
11 how they tased me, is -- he left all of that out the
12 deposition. What I, you know, testify in the deposition,
13 he left everything out of it what I said -- told him.

14 THE COURT: You gotta -- you gotta copy of the entire
15 deposition?

16 MR. GOODWIN: Yeah. I got a copy of it. He never --
17 I ain't brought it with me. I shoul'da brought it with me.
18 But he left everything out there that I told him what
19 happened to me in the deposition. And he don't want
20 nobody to know the truth. See, he trying to hide the
21 truth from everybody.

22 THE COURT: And -- and when was your deposition, Mr.
23 Goodwin? Do you --

24 MR. GOODWIN: It was on -- what day you just told
25 her?

1 MR. GARFIELD: Yes, ma'am. It was June 2 of 2017.

2 UNKNOWN FEMALE: June 2nd.

3 MR. GARFIELD: I'm sorry. June 2nd, I thought I
4 said.

5 UNKNOWN FEMALE: Yes, sir.

6 MR. GARFIELD: Yes, ma'am. If I -- June 2 of 2017.
7 I'm happy to provide one for the Court. And --

8 THE COURT: Please.

9 MR. GARFIELD: -- with all due respect, he -- his
10 testimony was that he was tased on his shoulder. What
11 Your Honor will read is basically perjured testimony.

12 THE COURT: All right. If you'll provide me a copy
13 of the ---

14 MR. GARFIELD: Yes, ma'am. I --

15 THE COURT: --- deposition.

16 MR. GARFIELD: -- can provide that as soon as I get
17 back to the office today.

18 THE COURT: Yes, sir. Okay.

19 MR. GOODWIN: And I -- like I -- like -- okay.

20 Another thing, Your Honor, the reasons why he tased me
21 'cause I asked him a question. I asked him was he racist.
22 I asked him was he racist. Why he don't like black men.
23 One officer.

24 There was three of them. The -- the black ones
25 didn't do nothing. They just stood there and watch him

1 snatch the doors open with me handcuffed and tasing me.
2 Then all the charges that they put against me, they
3 dropped them from resisting arrest to domestic violent.
4 They dropped every charge 'cause they know I didn't do any
5 of them things that the officer claimed that I done. The
6 Court drop all that, clear my records of all them counts.

7 THE COURT: All right. Thank you, Mr. Goodwin.

8 MR. GOODWIN: Yes, ma'am.

9 THE COURT: Mr. Garfield, I will -- I'm gonna wait
10 'til I get the deposition. I'll read it and I'll make a
11 decision.

12 And I understand that you're on the trial roster for
13 Monday. I am one of the judges holding court next week,
14 so I may very well be the one that's involved in it.
15 We'll go from there.

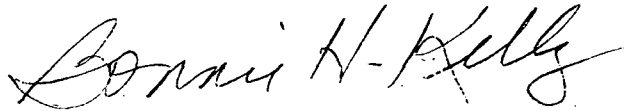
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CERTIFICATE

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I, the undersigned Bonnie H. Kelly, Official Court Reporter for the Fifth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete transcript of record of all the proceedings had and evidence introduced in the hearing of the captioned cause, relative to appeal, in the Fifth Circuit Court for Richland County, South Carolina, on the 28th day of March, 2018.

I do further certify that I am neither of kin, counsel, nor interest in any party hereto.



E/BONNIE H. KELLY

Bonnie H. Kelly, CVR
Official Court Reporter

Columbia, South Carolina

August 1, 2019

Certificate of Counsel

The undersigned hereby certifies that the Supplemental Record on Appeal complies with SCACR.

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March 2, 2020

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