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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM GREENVILLE COUNTY
Court of Common Pleas

Perry H. Gravely, Thirteenth Circuit Judge

Appellate Case No. 2020-001182

Sean Eric Roach, ...Respondent,

v.

Lee Yarborough, ...Appellant.

RECORD ON APPEAL
VOLUME II

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INDEX

Orders

Summary Court Order Granting Temporary Restraining Order, filed December 10, 2019	1
Circuit Court Order Remanding to Summary Court, filed Feb. 27, 2020	4
Summary Order Granting Restraining Order, filed March 9, 2020	7
Circuit Court Order Vacating Restraining Order, filed July 24, 2020	10
Circuit Court Order Awarding Costs, filed August 17, 2020	15

Pleadings

Yarbrough's Verified Complaint and Motion for Restraining Order, filed in Summary Court on December 5, 2019	18
Magistrate's Return, filed in Circuit Court on May 19, 2020	91
Magistrate Court Record, 228 pages, filed in Circuit Court on June 9, 2020	93

Motions

Plaintiff Yarborough's Motion to Dismiss Appeal, filed in Circuit Court on January 30, 2020	321
Motion to Dismiss to Dismiss Under Rule 12(b)(8), SCRCF, with a Copy of Federal Complaint and Exhibits in <u>Propel PEO, Inc. v. Roach et al.</u> , C/A No. 6:19-cv-03546-HMH-KFM, filed in Magistrates Court February 28, 2020	324
Defendant Roach's Motion for Costs, filed July 27, 2020	447

Transcripts

Transcript of Hearing Part A, dated December 2, 2019 (Transcribed March 16, 2020, Exhibit A filed March 26, 2020 in Circuit Court)	449
Transcript of Hearing Part B, dated March 9, 2020 (Transcribed March 20, 2020, Exhibit B filed March 26, 2020 in Circuit Court)	488
Transcript of Hearing, July 22, 2020, mailed Oct. 6, 2020	608

Other Documents

Roach’s Notice of Appeal, filed in Circuit Court on March 17, 2020	644
Affidavit of Sean Eric Roach with Exhibits A & B, filed March 9, 2020 and also filed as Exhibit 1 to Brief of Appellant, filed in Circuit Court on July 17, 2020	646
Matter Overview and One-page Document from Lee Yarborough filed as Exhibit 2 to Brief of Appellant filed in Circuit Court on July 17, 2020 - REDACTED	659
Certificate of Counsel	665

Exhibit A

Civil Case Number: 2019OR2310100014, Restraining Order

Lee Yarborough,

Plaintiff,

vs.

Sean Eric Roach,

Defendant.

H E A R I N G

DATE TAKEN: December 2, 2019

LOCATION: West Greenville Summary Court
301 University Ridge, Suite 5100
Greenville, South Carolina 29601

B E F O R E: Honorable Darrell Fisher

APPEARANCES:

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.....On behalf of the Plaintiff

SEAN ERIC ROACH

.....Appearing pro se

1 THE COURT:

2 Just a fancy way of saying we're going to record
3 this, because that's what we do. I'm Judge Fisher. This
4 is December 2, 2019. It is approximately 10:57 a.m.
5 This is a rule to show cause hearing for a restraining
6 order. Case number 2019OR2310100014. And where the
7 plaintiff is a Lee Yarborough.

8 MS. YARBOROUGH:

9 Yes.

10 THE COURT:

11 That you, ma'am? Represented by Attorney Wes Few.
12 Is that right?

13 MR. FEW:

14 Yes, Your Honor.

15 THE COURT:

16 And the defendant in the case is Mr. Sean Eric
17 Roach. Is that right?

18 MR. ROACH:

19 That's correct.

20 THE COURT:

21 Is that right? Representing yourself, right?

22 MR. ROACH:

23 I just got this on Saturday, so, yes.

24 THE COURT:

25 Okay.

1 MR. ROACH:

2 Friday, actually, when we got back from
3 Thanksgiving.

4 THE COURT:

5 How did you receive that? Was it through the mail?

6 MR. ROACH:

7 Our housekeeper found it shoved in our door.

8 THE COURT:

9 In the door?

10 MR. ROACH:

11 In the front door, shoved in the front door.

12 THE COURT:

13 Okay. All right. Now, since that time have you had
14 a chance to speak with counsel or anything on this?

15 MR. ROACH:

16 Well, my neighbor is an attorney. I've actually
17 asked for a motion of dismissal. The last time I saw Ms.
18 Yarborough was May 7 or 8.

19 THE COURT:

20 Hang on. Hang on. Before we get into that right
21 there, I just want to make sure you had ample time or if
22 you wish to consult with an attorney or have an attorney
23 present with you when you present your case, I'll be glad
24 to hear from you on that. I just want to make sure if
25 we're ready to move forward here, that you've had ample

1 time to prepare, is what it boils down to.

2 MR. ROACH:

3 Well, that's why I'd like it, the case, to be
4 dismissed. I haven't had contact with Ms. Yarborough.
5 Her name is spelled wrong on the thing, too, by the way.

6 THE COURT:

7 Okay. Well, I can't -- I can't grant you a
8 dismissal based on just what you told me. Okay? I just
9 want to make sure --

10 MR. ROACH:

11 I just want to file a counter claim, Your Honor.

12 THE COURT:

13 I'm going to hear everything you want to tell me
14 about this whole situation if we get to that point.
15 Okay? We've got to prepare. We've got to -- I've got to
16 get all this pre-stuff out of the way, and I just want to
17 make sure that you are ready to move forward. If you
18 want to talk with an attorney or have an attorney present
19 with you, I would grant you a continuance on this thing
20 to allow you time to do that.

21 MR. ROACH:

22 Right.

23 THE COURT:

24 If you were just served on Friday, and here it is
25 Monday, you know.

1 MR. ROACH:

2 I have not --

3 THE COURT:

4 I can't speak for you, but --

5 MR. ROACH:

6 -- Your Honor, I have not spoken to an attorney.

7 I've got numerous calls from people that work for them,

8 that used to work for them. I've had private

9 investigators. I've had people sitting outside of my

10 house. My dog mysteriously died.

11 THE COURT:

12 Okay, okay, okay.

13 MR. ROACH:

14 So I've had lots of things happen, so I knew about

15 all of this, but I don't have the information -- I don't

16 really even know what this is about.

17 THE COURT:

18 Okay.

19 MR. ROACH:

20 Besides the cards that I've heard a lot about and

21 gotten some in the mail.

22 THE COURT:

23 I can't get into the gist or the facts of this

24 things until I know where we are --

25 MR. ROACH:

1 Okay.

2 THE COURT:

3 -- pre-trial. Okay? You understand what I'm
4 saying? Now, Ms. Yarborough's here with her
5 representation.

6 MR. ROACH:

7 Yes.

8 THE COURT:

9 I've got to make sure if you need representation or
10 want representation that I give you that opportunity to
11 be prepared like they are.

12 MR. ROACH:

13 Do I need to decide that now or can I decide that
14 later?

15 THE COURT:

16 Well, it would be nice if you could tell me where
17 you wanted to go with this thing. I know you've made a
18 motion to dismiss.

19 MR. ROACH:

20 Right.

21 THE COURT:

22 And based on everything up until the point, I can't
23 grant you that dismissal.

24 MR. ROACH:

25 Okay.

1 THE COURT:

2 I just need to make sure are you going to represent
3 yourself in here or are you going to have counsel with
4 you? If you want to go talk with somebody I will gladly
5 give you time to do that. Okay?

6 MR. ROACH:

7 Okay.

8 THE COURT:

9 I just got to make sure you're ready to go when it's
10 time to go whether you have an attorney representation,
11 whatever it may be, witnesses, anything that you need to
12 present your case, I'm willing to help you with that.
13 Not necessarily help you --

14 MR. ROACH:

15 Right, right.

16 THE COURT:

17 -- but grant you that opportunity.

18 MR. ROACH:

19 Your Honor, the problem is I don't know what this
20 case is about besides what I've heard from phone calls
21 I've gotten from people.

22 THE COURT:

23 Okay.

24 MR. ROACH:

25 I know as a single-widowed dad that my livelihood

1 would be in jeopardy. I'd have problems if there was a
2 restraining order, so.

3 THE COURT:

4 Okay, okay. Wait a minute. We can't go there.

5 MR. ROACH:

6 Okay.

7 THE COURT:

8 This guy's going to jump up in a minute, and he's
9 going to say, Judge --

10 MR. ROACH:

11 So, Your Honor, I ask for a 60-day continuance so I
12 can find an attorney.

13 THE COURT:

14 Oh, man. Mr. Few?

15 MR. FEW:

16 Your Honor, we would consent to a reasonable amount
17 of time, but, you know, this is a matter that's urgent.
18 So we would certainly not agree to or consent to 60 days.
19 Something --

20 THE COURT:

21 Right. Where are we at? Is there any type of
22 paperwork, anything in place? What my concern is right
23 now, I'm not saying anyone is guilty of anything. Okay?
24 I can't -- I can't up until this point. My concern is
25 for the safety of everybody, and for there to be no

1 contact with anybody until we get this thing in here, and
2 we're going to tee it up, and we're going to go. You
3 know what I'm saying?

4 MR. FEW:

5 And, too, Your Honor, we would like to ask for a
6 temporary order because we did elect to go forward with
7 this matter by giving notice to Mr. Roach, which is not
8 required under this statute. We could have come in here
9 on a ex parte basis, and we're prepared to go forward on
10 that now. So what we really want to do is have some sort
11 of order in place, even if it's temporary.

12 THE COURT:

13 We need a temporary -- temporary.

14 MR. ROACH:

15 Your Honor, can I ask that there be a mutual
16 temporary, then?

17 THE COURT:

18 Well, we can grant that.

19 MR. ROACH:

20 I've had my bank accounts accessed. I've had my
21 credit run.

22 THE COURT:

23 Okay. You don't need to --

24 MR. ROACH:

25 I've had my (inaudible) son's called.

1 THE COURT:

2 -- you don't need to go into all these details.

3 MR. FEW:

4 And, Your Honor, to the extent that this defendant
5 is pro se and he's making his factual representations to
6 the Court, I guess at some point in time he might need to
7 be sworn.

8 THE COURT:

9 Yeah. Let's -- all I want to know at this point in
10 time, Mr. Roach, now you've asked me for a 60-day
11 continuance --

12 MR. ROACH:

13 Well, we have the holidays coming up and --

14 THE COURT:

15 I understand that. I understand that. My concern
16 is right now why you're requesting any kind of
17 continuance at this point. I need to hear that from you.

18 MR. ROACH:

19 Well, Your Honor, I'm going to have to try to find
20 an attorney, and I don't -- I'm not from here. I don't
21 know anybody out here. My funds are really low right
22 now. So it's going to take me a while to find somebody,
23 and we're in the middle of all the holidays.

24 THE COURT:

25 All right. Today is December 2. We're going to

1 draw up a mutual temporary, which is just to get us to
2 the court date. Okay?

3 UNKNOWN:

4 Yes, sir.

5 THE COURT:

6 You understand what I'm saying?

7 MR. FEW:

8 Yes, sir. We came in here for an order, and that's
9 what we want.

10 THE COURT:

11 I gotcha. I've got to give this gentleman ample
12 time to do what he needs to do. I had no idea this thing
13 was just served Friday. I mean it could have been out
14 there for -- had you been out of town or something?

15 MR. ROACH:

16 We don't use our front door, and we went out of town
17 for Thanksgiving. So, like I said, we came back and it
18 was --

19 THE COURT:

20 So it could have been there for a week or two?

21 MR. ROACH:

22 I don't think it was that long, but it --

23 THE COURT:

24 Or a few days?

25 MR. ROACH:

1 Yeah. She comes every Wednesday.

2 THE COURT:

3 All right. December -- I was looking at maybe
4 granting him a 30-day through these holidays (inaudible).

5 MR. FEW:

6 Your Honor, if that works with Your Honor's
7 schedule. Like I said, the main thing we want is I want
8 to have the ability to go back to my office and take the
9 magistrate court forms and submit our version of what we
10 want in a temporary restraining order --

11 THE COURT:

12 Right.

13 MR. FEW:

14 -- which would be pretty much identical to what we
15 would be asking for once --

16 THE COURT:

17 In a regular, normal.

18 MR. FEW:

19 Yes, sir. And I think it's worth me saying just so
20 Mr. Roach will know that in terms of him not having
21 notice of anything, that under the statute that was
22 revised in 2005 when it became known as Mary Lynn's Law,
23 the ability for someone in the position of Ms. Yarborough
24 to get the relief that we're asking for was expanded, and
25 that specifically -- and you can write this down, in code

1 section 16-3-1700, Mr. Roach, if you want to take a look
2 at that. And so I think that once maybe he gets counsel
3 and takes a look at that, he'll realize that consent to a
4 restraining order is probably in everyone's best interest
5 (inaudible) save him some money.

6 THE COURT:

7 We'll leave that up to him and his counsel.

8 MR. FEW:

9 Yes, sir.

10 MR. ROACH:

11 Your Honor, I don't mind consenting to a mutual
12 restraining order.

13 THE COURT:

14 Well, that is something that will have to be
15 determined.

16 MR. ROACH:

17 Okay. I've had three bank (inaudible) --

18 THE COURT:

19 Through evidence and testimony. Okay? I just can't
20 -- I just can't grant that based on your request. You
21 understand?

22 MR. ROACH:

23 I understand.

24 THE COURT:

25 And you making the request to continue and to seek

1 counsel, I'm going to have to grant that before I can do
2 anything else. Okay? Now, we're looking -- you've made
3 a request of 60 days. I can't grant that. But December
4 31 is on a Tuesday. January 1 will be on a Wednesday,
5 which is a holiday. Christmas is on a Wednesday, prior
6 Wednesday, which is a holiday, and the day after.

7 MR. FEW:

8 Your Honor, would it not be -- and certainly I beg
9 the Court's indulgence for what's standard and customary
10 in this Court, but it seems to me like maybe, you know,
11 14 days pushes us up to December 16, and that should be
12 plenty of time for Mr. Roach to look into what I've just
13 given him notice of that we're seeking to do, and talk to
14 a lawyer and find out if this is something he wants to
15 fight or pursue on his own. We're not going to consent
16 to a permanent mutual, but in view of what's been
17 represented here today and what Your Honor's said, we're
18 fine to do -- we would like to submit our proposal to
19 Your Honor to get it signed, and we also need to have a
20 mechanism for serving that on him since he doesn't have
21 counsel at his point, and making sure it's in his hands
22 as soon as reasonably possible. I have his e-mail, what
23 I think is his e-mail, so we can use that. We know the
24 address, I believe, so we can mail there. But just don't
25 want to get caught up in some claim that he hasn't been

1 served with what we have.

2 THE COURT:

3 Right.

4 MR. FEW:

5 But with that in mind, whatever date is convenient
6 to the Court is fine with us, but we would like to get a
7 resolution --

8 THE COURT:

9 I know, as soon as possible. I'm going to give you
10 two weeks, Mr. Roach, to go and consult or obtain an
11 attorney in this matter, which will be the 16th. Can
12 everyone be back here on the 16th, far as you know?

13 MR. FEW:

14 I'm sorry, Your Honor. I just got advised that I'm
15 real bad with my calendar.

16 THE COURT:

17 That's okay.

18 MR. FEW:

19 So I think you were saying he has two weeks to let
20 us know if he's going to obtain counsel and then we'll
21 reschedule --

22 THE COURT:

23 We can do that. We can do that.

24 MR. FEW:

25 That works better, because apparently I've got three

1 straight days of depositions in my office the 16th, 17th,
2 and 18th. So that gives -- because if he -- if the
3 matter can be handled with consent, then we can just let
4 the Court know.

5 THE COURT:

6 Yeah. I do know that the 25th and 26th will be
7 holidays for us.

8 MR. FEW:

9 Yes, sir.

10 THE COURT:

11 I don't know how things look the week of Christmas.

12 I hate to set anything --

13 MR. FEW:

14 I would say let's just go on into 2019 to schedule -
15 -

16 THE COURT:

17 Okay. 2020.

18 MR. FEW:

19 Yes, sir. He gets two weeks to --

20 THE COURT:

21 We're going to give you a couple of weeks to get you
22 an attorney, okay? Or to let us know where you're at.
23 If you want to, you know, you want to hire you one or
24 obtain or whatever, that's -- that's great, and if you
25 don't, just let us know. Okay? And then we're going to

1 reschedule this thing for maybe the first or second week
2 in January. Would that work for you guys?

3 MR. FEW:

4 Yes, sir.

5 THE COURT:

6 I know y'all are busy folks. I know you are, too,
7 Mr. Roach.

8 MR. FEW:

9 Right now there's nothing. And, Your Honor, I think
10 the Court served him. If we could just get the address
11 where we can serve him in the future (inaudible) --

12 THE COURT:

13 Is that Douglas Avenue?

14 MR. ROACH:

15 That's where we live right now, yes.

16 THE COURT:

17 Number 34 Douglas Avenue --

18 MR. ROACH:

19 Yes.

20 THE COURT:

21 -- Greenville, 29605?

22 MR. ROACH:

23 Yep.

24 THE COURT:

25 Are you looking at possibly moving or relocating or

1 anything?

2 MR. ROACH:

3 Not at this point, no. We don't really get mail
4 there, Your Honor. We haven't gotten mail since the
5 second week of November. Mysteriously, everything with
6 my name on it doesn't show up in my mailbox anymore.

7 THE COURT:

8 Wow.

9 MR. ROACH:

10 Yeah.

11 THE COURT:

12 Do you have a PO box or anything that you're using
13 or...?

14 MR. ROACH:

15 I think they know where the mail's going, from my
16 understanding (inaudible) myself, so.

17 THE COURT:

18 We aren't going to go there.

19 MR. ROACH:

20 I get that.

21 THE COURT:

22 Okay.

23 MR. FEW:

24 Judge, thank you for everything. I would just ask
25 that if those representations, I mean he's basically

1 putting up -- trying to put up a case.

2 THE COURT:

3 Okay.

4 MR. FEW:

5 I just want to stipulate that everything he's
6 represented here today is under oath.

7 THE COURT:

8 Yeah, we're striking everything really basically off
9 the record here today as far as I'm concerned, because
10 this will not come into play as it has today when we meet
11 back here for trial. You understand?

12 MR. ROACH:

13 Yes, sir.

14 THE COURT:

15 Okay. Now, are you going to draw up?

16 MR. FEW:

17 Yes, sir. I'll draw up an order. There's a form
18 order that's on the magistrate's court --

19 THE COURT:

20 Right.

21 MR. FEW:

22 -- and I'll take that and add in the part about what
23 you've stated from the bench, that he has until 12/16 to
24 notify the Court and us, and I'll set forth obviously my
25 service address, which is a PO box. If he's amenable to

1 it, we can do this by e-mail.

2 MR. ROACH:

3 I'm fine with that.

4 MR. FEW:

5 What would it be, the e-mail you would ask us to
6 use?

7 MR. ROACH:

8 What e-mail address do you have? You said you had
9 one. If you could disclose that, that would be
10 (inaudible) one we could continue to use.

11 MR. FEW:

12 I'm going from my memory. There's like a --
13 itsseanroach@me.com?

14 MR. ROACH:

15 That works, yeah.

16 MR. FEW:

17 Can you read that out to me?

18 MR. ROACH:

19 I as in iceberg, T as in Tom, S as in Sam, its, and
20 then my name, Sean.

21 MR. FEW:

22 So it's two S's in a row, then?

23 MR. ROACH:

24 Uh-huh.

25 MR. FEW:

1 S-E-A-N --

2 MR. ROACH:

3 R-O-A-C-H.

4 MR. FEW:

5 R-O-A-C-H.

6 MR. ROACH:

7 At me.com.

8 MR. FEW:

9 And I'll put that in the order.

10 MR. ROACH:

11 Can we also correct Ms. Yarborough's last name?

12 It's Y-A-R-A.

13 THE COURT:

14 How do you spell your name, Ms. Yarborough?

15 MS. YARBOROUGH:

16 Y-A-R-B-O-R-O-U-G-H.

17 MR. FEW:

18 We'll just remove that second A, Judge.

19 THE COURT:

20 Y-A-R --

21 MS. YARBOROUGH:

22 B-O-R --

23 THE COURT:

24 -- B-O-R-O-U-G-H?

25 MS. YARBOROUGH:

1 O-U-G-H.

2 THE COURT:

3 Okay.

4 MR. ROACH:

5 And, Your Honor, will this be a mutual?

6 THE COURT:

7 It will. We need to -- we need to word it as such.

8 MR. FEW:

9 Yes, sir. We have a few things that specifically
10 relate to our situation that we want to get in there. So
11 what I would propose to do is just I'll e-mail him a
12 version and he can add in his portion of what he wants
13 afterwards, because we have a -- I also represent the
14 company that Ms. Yarborough owns, and we want --

15 THE COURT:

16 Can we -- I know you want to do this as quickly as
17 possible, and I am all about that. Can we expect this
18 within the next couple of days?

19 MR. FEW:

20 I would say the next four to six hours, Judge --

21 THE COURT:

22 Okay.

23 MR. FEW:

24 -- assuming we can get -- you'll get our part. If
25 Mr. Roach needs -- it's a form order, so he can kind of

1 add in --

2 THE COURT:

3 You understand what we're doing here?

4 MR. ROACH:

5 Yes, I do.

6 THE COURT:

7 He's going to draw up, and it's going to be worded
8 as such, and you add, delete, or whatever. You guys have
9 to come to some type of agreement. You may not be in
10 favor of everything --

11 MR. ROACH:

12 I understand.

13 THE COURT:

14 -- but we got to do this --

15 MR. ROACH:

16 Okay.

17 THE COURT:

18 -- right now.

19 MR. ROACH:

20 Yeah.

21 THE COURT:

22 And it's just temporary.

23 MR. ROACH:

24 Yes, sir.

25 THE COURT:

1 You understand?

2 MS. YARBOROUGH:

3 I do have a question.

4 MR. FEW:

5 (Inaudible). Judge, we're going to have some --
6 what we're prepared to do today is go forward with -- and
7 this was the eighth mailing that we received over the
8 weekend that uses my client's trademark that's being
9 mailed into her neighborhood. That's a violation of the
10 trademark laws. It's certainly a violation of this
11 statute. That's what we're prepared to go forward on
12 today, sir. We're going to ask that there be no more
13 mailings, Your Honor, and in our order, particularly in
14 the manner that they've been sent out, and I'll be very
15 specific about how that's going to go forward.

16 THE COURT:

17 Well, I'm going to be tough during this temporary
18 process. Stop everything. The trademark, everything.
19 No line of communication directly or indirectly with the
20 company, with the family, any family members, any
21 executives, any folks with this company, anything. And
22 that goes for you, too, ma'am, you know. You understand.

23 MR. ROACH:

24 Your Honor, does that go for her and her
25 subordinates and her other people within her company?

1 THE COURT:

2 I want -- I want everybody just to cut it right now.

3 MR. ROACH:

4 I just -- I would like that, also.

5 THE COURT:

6 I understand. And you understand what he's saying?

7 MR. FEW:

8 Sure.

9 THE COURT:

10 And you can word this as you see fit, as long as you
11 guys can come to some type of agreement. Give me a copy
12 to put in this file.

13 MR. FEW:

14 Your Honor, my plan is I'm going to have you
15 something -- I'll have an e-mail or walk over here with
16 our version today.

17 THE COURT:

18 Okay.

19 MR. FEW:

20 It's not real complicated. Whatever he wants to add
21 into his --

22 THE COURT:

23 If it's possible --

24 MR. FEW:

25 -- if he gets it to me today, I'll have it to you

1 today.

2 THE COURT:

3 -- you give me a hard copy --

4 MR. FEW:

5 Yes, sir.

6 THE COURT:

7 -- which y'all have both agreed upon, and have it
8 delivered to me, and we'll go from there. Okay? I hope
9 everyone understands what we're doing here and why. We
10 can't do anything until we're set up properly, legally,
11 and you're ready to go. Okay? This is just a temporary
12 thing.

13 MR. ROACH:

14 I understand that.

15 THE COURT:

16 Depending on how y'all work things out, if you do,
17 or depending on how the actual hearing goes when it's
18 time, this temporary thing will go away. I mean this is
19 just to hold us until we can come to some kind of
20 agreement or actually have a court hearing. You with me?

21 MR. ROACH:

22 Yes, sir.

23 THE COURT:

24 Okay. Any questions over here? Any comments?
25

1 MR. FEW:

2 Let me check, Judge.

3 THE COURT:

4 How about you, sir?

5 MR. ROACH:

6 No, sir.

7 THE COURT:

8 You understand what we're doing?

9 MR. ROACH:

10 Yes, sir, waiting for an e-mail from him and all
11 that stuff, and I'll add stuff, and get it done right
12 away.

13 THE COURT:

14 Mr. Few, thank you for doing this.

15 MR. FEW:

16 Yes, sir.

17 THE COURT:

18 And you get that over here as quick as you can, and
19 then we'll move forward.

20 MR. FEW:

21 Okay.

22 THE COURT:

23 And hopefully a resolution can be -- you know, we
24 can come together on this thing. If not, we'll set a
25 date and we'll go from there.

1 MR. FEW:

2 Absolutely, Judge. And as far as this temporary
3 order, I'm certainly going to have our proposed over
4 today --

5 THE COURT:

6 Okay.

7 MR. FEW:

8 -- and expect that we're going to -- so we'd be
9 asking if that be issued, and if we can't come to an
10 agreement, I will have given him notice of what we're
11 asking for.

12 THE COURT:

13 Okay.

14 MR. FEW:

15 I'm going to ask the Court to sign something so that
16 I have something I can serve out --

17 THE COURT:

18 Whatever you guys agree upon, my name will be on it.

19 Okay?

20 MR. FEW:

21 Yes, sir.

22 THE COURT:

23 And this will be filed through the sheriff's office,
24 this temporary thing. So they'll have record of it.

25 They'll know what's going on. Even though it's a

1 temporary thing, they've got to know this.

2 UNKNOWN:

3 Right.

4 THE COURT:

5 You know, they pull up on a scene, and something's
6 going on, they got to be able to verify, you know. So,
7 just be aware that anything as of right now has got to
8 stop until we can come to some type of resolution or get
9 in here for a hearing. Okay?

10 MS. YARBOROUGH:

11 I understand.

12 MR. FEW:

13 Your Honor, you know one other thing is that we are
14 here, and I know we're holding off, but there have been
15 some factual representations made by the defendant, and
16 we anticipate that he's going to attempt to deny having
17 any involvement with these mailings. And so we really --
18 I think it's worth that we get an answer to that on the
19 record here today.

20 THE COURT:

21 Well, just let me say this, and I said it earlier.
22 Any contact -- any contact directly or indirectly, and
23 you understand what that means --

24 MR. ROACH:

25 Yes, I do, sir.

1 THE COURT:

2 -- has got to stop. If you're in violation of a
3 temporary restraining order, you can go to jail.

4 MR. ROACH:

5 I understand that, sir.

6 THE COURT:

7 And it's not -- I'm not here to lock anybody up, you
8 know. I just want us to come to some type of agreement,
9 and let's move forward. But based on the way he words
10 this, and you agree to it, if you violate it or if you
11 violate it, you could go to jail, possibly.

12 MR. ROACH:

13 I would ask, Your Honor, that a lot seems to be
14 directed at me right now. After all that I've been
15 through in the last six months, I would ask that some be
16 directed at them.

17 THE COURT:

18 Well, I'm talking to her just like I'm talking to
19 you.

20 MR. ROACH:

21 Okay, okay. The other two people that are in the
22 room, her father's in the room and her husband's in the
23 room --

24 THE COURT:

25 I kind of have to go through this gentleman right

1 here.

2 MR. ROACH:

3 I understand that.

4 THE COURT:

5 But basically this is involving the two of you guys,
6 and this company.

7 MR. ROACH:

8 I understand that.

9 THE COURT:

10 And whatever's happened up to this point has got to
11 stop right now because if we violate any of the
12 conditions of this restraining order, somebody's going to
13 be in trouble.

14 MR. ROACH:

15 I understand that.

16 THE COURT:

17 And I don't want to see that. You know? We're
18 grown people. Let's move on. Okay? But, Mr. Few, your
19 point is taken. You word this thing up, get it ready,
20 let him look at it, and then get me a copy over here once
21 y'all have agreed on this. If there's an issue, I'm
22 here. Contact me. Give me a call, whatever needs to be
23 done.

24 MR. FEW:

25 And, Judge, just the last thing I'm going to say

1 just so Your Honor is aware, that these folks live in
2 close proximity. And so Ms. Yarborough has been living
3 in her house for quite a while.

4 THE COURT:

5 Okay.

6 MR. FEW:

7 And so they're in constant -- you may expect, you
8 know, I think something's going to have to be addressed
9 in the order because part of what we're prepared to
10 present here today is that she's afraid to walk in her
11 own neighborhood because of the proximity.

12 THE COURT:

13 No reason for you to be afraid for you to walk in
14 your own neighborhood. You don't have to live your life
15 that way, and there's no reason for you to have to live
16 your life that way, and I have to address the same for
17 you, sir. I can't do a whole lot about the roadways, you
18 know, and things of that nature. But we can't be on each
19 other's property. We can't be contacting each other
20 directly or indirectly. I don't care if it's a, Hey, how
21 you doing? It ain't happening right now. Don't.

22 MR. ROACH:

23 Your Honor, I have not seen or spoken to Ms.
24 Yarborough since May 7 or 8.

25 THE COURT:

1 Okay.

2 MR. ROACH:

3 I have seen her father at a gas station that I was
4 pulling into. I pulled someplace else.

5 THE COURT:

6 Okay.

7 MR. ROACH:

8 I've seen one of her other executives at the gym;
9 I've walked the other direction. I have not had contact
10 with these people.

11 THE COURT:

12 Okay.

13 MS. YARBOROUGH:

14 And I would say that's a lie because I have text
15 messages (inaudible) --

16 THE COURT:

17 Okay, okay.

18 MR. ROACH:

19 I have text messages from June 19. That's the last
20 time there has been a written, but actually seeing and
21 speaking, which is what I said, I have not seen her or
22 spoken to her since the 7th or 8th of May (inaudible) --

23 THE COURT:

24 There should be no -- listen to me. There should be
25 no reason in the world for anybody to walk out of this

1 room right here right now today and question what my
2 point is and what is going to be -- what we're looking at
3 here. It's not.

4 MR. ROACH:

5 I'm crystal clear, Your Honor.

6 THE COURT:

7 You've got to be crystal clear --

8 MR. ROACH:

9 I am crystal clear.

10 THE COURT:

11 -- both of you. If you see somebody associated with
12 this whatsoever, don't even throw up your hand. Turn and
13 go the other way --

14 MR. ROACH:

15 That's exactly what I've done, Your Honor.

16 THE COURT:

17 -- until we can get this settled, that's the way it
18 better be.

19 MR. ROACH:

20 That's what I've done.

21 THE COURT:

22 Because if -- if anybody thinks somebody's in
23 violation of this thing and it's brought to me,
24 something's going to happen.

25 MR. ROACH:

1 I understand that.

2 THE COURT:

3 And I'm not going to be -- and it's not going to be
4 pleasant. I'm not trying to make a threat. That's just
5 the way it is and the way it should be. Okay? We've got
6 to abide by the conditions of this temporary order right
7 now, and I don't think there's any question as to what
8 you should do and what you should not do, either one of
9 you. With me?

10 MR. ROACH:

11 I'm with you.

12 THE COURT:

13 You do your thing, Mr. Few. We'll get this in
14 place, and then we'll move forward.

15 MR. FEW:

16 Yes, sir. Thank you, Your Honor.

17 THE COURT:

18 Anything else? I wish everyone here the very best
19 in this whole situation. Enjoy the rest of your day, and
20 let's do what's been told to. Okay? We don't want any
21 questions coming up. Okay? Mr. Few, you get back with
22 me on this, and we'll move forward.

23 MR. ROACH:

24 Thank you, Your Honor.

25 THE COURT:

1 All right. Have a great day.

2 MR. FEW:

3 Thank you, Judge.

4 THE COURT:

5 All right.

6 (END OF AUDIO)

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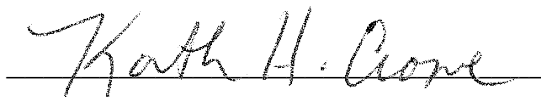
C E R T I F I C A T E

I, the undersigned, Katherine Crowe, CVR-M, Notary Public in and for the State of South Carolina, do hereby certify that the foregoing transcript was prepared by me at my hand;

That I was not present at said proceeding; That the within statements are an accurate transcription of the audio file transcribed, to the best of my ability;

I further certify that I am neither counsel nor solicitor to any of the parties in said suit, nor interested in the event of the cause.

In witness whereof, I have hereunto set my hand and seal this 16th day of March, 2020.



Katherine Crowe, CVR-M

Notary Public for South Carolina

My Commission Expires: 9/29/25

Exhibit B

Civil Case Number: 2019OR2310100014, Restraining Order

Lee Yarborough,

Plaintiff,

vs.

Sean Eric Roach,

Defendant.

H E A R I N G

DATE TAKEN: March 9, 2020

LOCATION: West Greenville Summary Court
301 University Ridge, Suite 5100
Greenville, South Carolina 29601

B E F O R E: Honorable Darrell Fisher

APPEARANCES:

WESLEY D. FEW, ESQUIRE

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.....On behalf of the Plaintiff

DAVID E. ROTHSTEIN, ESQUIRE

Rothstein Law Firm, PA

1312 Augusta Street

Greenville, South Carolina 29605

864-232-5870

.....On behalf of the Defendant

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INDEX

LEE YARBOROUGH	PAGE
Examination by Mr. Few.....	4
Examination by Mr. Rothstein.....	80
Reexamination by Mr. Few.....	102
Reexamination by Mr. Rothstein.....	106

1 THE COURT:

2 I'm Judge Fisher. This is March 9. It is
3 approximately 10:05 a.m., and where this is a restraining
4 order hearing and where the plaintiff in the case is Mr.
5 (ph) Lee Yarborough; is that right?

6 MR. FEW:

7 Yes, Your Honor.

8 THE COURT:

9 Represented by Wesley Few, and the defendant in the
10 case is Mr. Sean Eric Roach; is that right?

11 MR. ROACH:

12 Yes, sir.

13 THE COURT:

14 Represented -- is it John?

15 MR. ROTHSTEIN:

16 David Rothstein.

17 THE COURT:

18 David Rothstein.

19 MR. ROTHSTEIN:

20 Yes. Yes. It's okay.

21 THE COURT:

22 Mr. Rothstein, my apology, sir. And I don't know --
23 I know this has been continued and with the intent of Mr.
24 Roach obtaining counsel; is that right? Is that why we
25 were here before?

1 MR. ROTHSTEIN:

2 Well, Your Honor, I think at the December -- I don't
3 know if I need to stand or sit.

4 THE COURT:

5 You can sit if you want to.

6 MR. ROTHSTEIN:

7 Okay. I listened to the recording of the December 2
8 meeting.

9 THE COURT:

10 Right.

11 MR. ROTHSTEIN:

12 And Mr. Roach is somewhat confused as to how a TRO
13 was actually entered. I think the instructions you gave
14 during that hearing were that the parties were to get
15 together on some sort of mutual no-contact order. Mr.
16 Roach -- I think that was early in the week Mr. Roach
17 tried to reach out to Mr. Few by email, by voicemail and
18 never heard back from Mr. Few. You know, the last Mr.
19 Roach heard was everybody was supposed to try and get
20 together and with this mutual no-contact order that
21 neither party would attempt to, you know, contact the
22 other side. Next thing Mr. Roach knows, he's served with
23 an ex parte TRO which was supposed to last until March
24 31. I'm Mr. Roach's across-the-street neighbor. I'm
25 handling this case entirely on a pro bono matter, and I

1 told Mr. Roach, you know, I'll -- I'll look into it, but
2 my understanding is that a TRO cannot last more than ten
3 days, and I looked into the statute. The stalking
4 statute actually allows a TRO to be in a place for 15
5 days. And so I took an appeal to the circuit court
6 asking the court to vacate the TRO. And, you know, had a
7 couple of grounds in there, but the court decided to
8 remand this to you for a hearing within ten days. That's
9 why we're back here today, Your Honor.

10 THE COURT:

11 That's right, in addition to what I said earlier.

12 MR. ROTHSTEIN:

13 That's right.

14 THE COURT:

15 But as far as I'm concerned, and I -- and I don't
16 know where we are in the trying to talk and work things
17 out as it was discussed in the previous hearing. I mean
18 we can get into that, obviously. But and if we need to
19 move forward, as far as I'm concerned and the way I'm
20 looking at it as of right now, we're at day one with
21 this, and -- and unless you guys can tell me different,
22 that's the way I feel we need to go here.

23 MR. ROTHSTEIN:

24 Well, Your Honor, I did file a 12 (b)(8) motion.

25 The basis for that is that on December 20, Ms. Yarborough

1 along with her two companies sued Mr. Roach and two
2 former -- other former employees of LHR in federal court.

3 THE COURT:

4 Right.

5 MR. ROTHSTEIN:

6 It's basically the same allegation. I mean they're
7 attacking these seven or eight mailings that were sent
8 out. They've asked the court for injunction. I think
9 this case and -- and, you know, this really is a civil
10 dispute arising out of Mr. Roach's former employment
11 contract or independent contractor relationship with the
12 company. You know, I think a TRO in this case really is
13 -- just seems like piling on. You know, I think all this
14 could be handled in one lawsuit, and I think that was the
15 basis for my 12(b)(8) motion. There was a -- another
16 action is pending involving the same issues, the same
17 parties, and so I think the matter should (inaudible)
18 should be dismissed.

19 THE COURT:

20 I don't think it's entirely the same issues. But,
21 you know, I know where you're going with that, and I
22 understand that totally. Believe me. Mr. Few?

23 MR. FEW:

24 Your Honor, delighted to respond to that. Here's a
25 copy of our amended complaint that was filed on February

1 18 of 2020. This was in response to a motion to dismiss
2 that Mr. Roach filed in the federal court case pro se,
3 allegedly pro se. Mr. Rothstein is representing Mr.
4 Roach's LLC in the federal case. From my perspective,
5 and I've raised this with Mr. Rothstein, it looks like
6 Mr. Roach was assisted in filing his motion to dismiss
7 because it's got things in there that really only a
8 lawyer would know about, but the plain and simple matter
9 is -- and Mr. Rothstein knows this, and that's why he
10 hasn't cited any cases in his motion, is it's not the
11 same claim. We're -- we're going forward under 16-3-
12 1700, which is nowhere pled in this complaint, amended
13 complaint, and they know that, and that's really the only
14 thing the court needs to know to resolve the 12(b)(8)
15 motion, because it's just not the same claim, and I'm --
16 I'm happy to go into anything further and hand up a copy
17 of this complaint. This was the docket number 25, Judge,
18 and the earlier complaint did not have a claim under this
19 particular code section either.

20 THE COURT:

21 I understand. Well, based on everything that I have
22 here, and believe me, I have a lot dealing with this, I
23 truly believe we need to handle this as two separate
24 issues here, you know, and as far as the magistrate level
25 goes, I think we're where we need to be. I think we're

1 in the proper setting and the proper court, and I think
2 we need to move forward in determining whether this
3 restraining order should be or should not be, and of
4 course we won't -- anything other than that we're not
5 going to get into today or -- or discuss. And as far as
6 I'm concerned, I'm ready to move forward with this, and -
7 -

8 MR. ROTHSTEIN:

9 Thank you, Your Honor.

10 THE COURT:

11 Mr. Rothstein, you're going to -- you're going to
12 help represent Mr. Roach here today in this situation?

13 MR. ROTHSTEIN:

14 Yes, sir.

15 THE COURT:

16 You're ready to forward?

17 MR. ROTHSTEIN:

18 I'm ready to move forward.

19 THE COURT:

20 Okay. Mr. Few, you ready to move forward, sir?

21 MR. FEW:

22 Your Honor, absolutely ready to move forward, just
23 like we were on December 2. I do have one question,
24 though, before we get started.

25 THE COURT:

1 Yes, sir.

2 MR. FEW:

3 We were provided with this affidavit from Mr. Roach
4 just this morning, six pages long. I'm assuming the
5 court has a copy. That's all.

6 THE COURT:

7 I don't think I have. If you could just step
8 through there.

9 MR. ROTHSTEIN:

10 I'll handle that. It did not have a case number on
11 the -- on the affidavit. I asked Paul if we could file
12 the case, and he stamped it and said he would (ph) submit
13 it to you, Your Honor.

14 THE COURT:

15 Okay.

16 MR. FEW:

17 Your Honor, I just want to go ahead and get the
18 issue out there that if we're going forward, you know,
19 we're expecting live testimony from the defendant, not
20 just having them rely on an affidavit. I don't think you
21 can offer up selected portions of this testimony and not
22 stand up to cross-examination. And in my brief review of
23 the affidavit, I'll just go ahead and point out for the
24 court's attention that these mailings that we refer to
25 that are exhibits 5 through 12, there's eight of them

1 that amazingly stopped after we had the December 2
2 hearing. Nowhere in this affidavit does Mr. Roach say
3 anything about those that I read, and I've only skimmed
4 it, but I don't see any paragraph where he says I had
5 nothing to do with that.

6 THE COURT:

7 Uh-huh.

8 MR. FEW:

9 And so what I just want to be clear on with the
10 court before we get started and opposing counsel, in all
11 fairness, and the party is that if we go forward, I'm --
12 I guess I'm asking the court that in fairness, we get a
13 chance to cross-examine Mr. Roach on this affidavit and
14 on anything else that he intends to offer in response to
15 this action.

16 THE COURT:

17 Mr. Rothstein?

18 MR. ROTHSTEIN:

19 Yes, sir. Your Honor, the affidavit addresses,
20 directly addresses, the -- some of the things that were
21 in Ms. Yarborough's verified complaint. I will tell you,
22 Your Honor, Mr. Roach was contacted in late February by
23 two federal agents that came to his door. They
24 represented themselves to be postal inspectors and said
25 that there may have been some federal crimes committed.

1 I'm not a criminal defense lawyer. Mr. Roach has
2 consulted with a criminal defense lawyer, but my advice
3 to Mr. Roach would be to take the Fifth Amendment on any
4 questions that involve any criminal matters. So, you
5 know, he's not going to be taking the stand today in the
6 interest of not waiving any type of Fifth Amendment
7 rights that he might have (inaudible) you know, I think
8 if this were -- if the federal authorities were contacted
9 -- I mean Mr. Roach has also been contacted in the past
10 by two Greenville -- City of Greenville police officers.
11 He cooperated with them fully. They both indicated to
12 him that there was nothing more to the matter and that it
13 would be dropped. But now that the federal criminal
14 authorities have been contacted, I think, as an abundance
15 of caution, I would take the Fifth Amendment and not have
16 Mr. Roach testify today.

17 THE COURT:

18 Well, I feel Mr. Roach has that right to plea that
19 way. We're going to hear from whoever you may want to
20 present here today. If he chooses not to testify in a
21 way of cross-examination or any of that, I'm going to
22 have to grant that for him, okay, and we'll move forward
23 based on what evidence has been presented, okay?

24 MR. ROTHSTEIN:

25 Thank you, Your Honor.

1 THE COURT:

2 Okay.

3 MR. FEW:

4 I guess I would just -- having only received the
5 affidavit, and I would --

6 THE COURT:

7 Five minutes ago?

8 MR. FEW:

9 Yes, Your Honor. I would say that, you know, just
10 want to register, I guess, certainly we acknowledge the
11 Fifth Amendment right. The scope of it is really the
12 issue, Judge.

13 THE COURT:

14 I understand.

15 MR. FEW:

16 And so we would -- I would make a motion to strike
17 this affidavit to the extent that it is an attempt to
18 respond to things that they want to respond to and then
19 not take the stand. So at a minimum, we ought to be able
20 to examine. You know, I'm expecting the witness to take
21 the stand on this affidavit, or we would just ask that
22 the affidavit in its entirety be stricken from the record
23 just because it's unfair, Judge, for them to wait three
24 months and seven days and then give us this affidavit of
25 selected testimony, while also maintaining their right to

1 plead the Fifth Amendment, while also filing motions to
2 dismiss to run from the same allegations as the federal
3 case on the very different claim. But in any event,
4 Judge, we are ready to move forward. The only other
5 housekeeping thing I have is due to the nature of this
6 case, if my client is going to be taking the stand right
7 there, I'd like to respectfully request that we maybe
8 shuffle the courtroom a little bit so that she doesn't
9 have to be three feet away from the defendant, if that
10 could be done.

11 THE COURT:

12 I understand that, and I apologize. This is what we
13 have.

14 MR. FEW:

15 Yes, sir.

16 THE COURT:

17 We're kind of at the mercy of the county in where we
18 -- where we hold court and how we hold court as far as
19 the facility goes, and I don't have an issue with that
20 whatsoever. Mr. Rothstein, would you be opposed to any
21 of these folks testifying here today to be able to sit at
22 that table right there?

23 MR. ROTHSTEIN:

24 That's fine with me.

25 THE COURT:

1 Would you -- would you be -- would you be okay with
2 that?

3 MR. FEW:

4 Sure. Yes, sir.

5 THE COURT:

6 You okay with that? Okay. Any witness that you
7 call, if you want to just have a seat right here, and
8 we're going to do what we have to do, folks, in order to
9 make this work. We'll leave this here. Mr. Rothstein,
10 you've heard Mr. Few on his response to your affidavit
11 here. Anything you want to say or --

12 MR. ROTHSTEIN:

13 Your Honor, I mean they have the burden of proof.

14 THE COURT:

15 Exactly.

16 MR. ROTHSTEIN:

17 And, you know, I don't -- the affidavit was almost
18 in the nature of a defense or an answer to the complaint,
19 and obviously since you denied the motion of dismissal,
20 we'll be filing our answer, if necessary.

21 THE COURT:

22 Okay.

23 MR. ROTHSTEIN:

24 But I don't think there's anything improper in the
25 affidavit. Well, there's two documents that are

1 supported that, you know, independent of his testimony in
2 the affidavit that directly contradict what is in the
3 complaint. Number one is the issue about this gag gift
4 of plastic poop that was sent through the mail. That
5 actually occurred in November of 2018, not in January of
6 2019, and the one of the exhibits we attached is Ms.
7 Yarborough's text messages immediately to -- or text
8 messages to Mr. Roach immediately after she received it
9 where she's laughing. And, you know, I mean it was -- it
10 was intended as a joke, it was originally taken as a
11 joke, and there was no kind of threatening or -- it may
12 have been an inappropriate joke, but she certainly didn't
13 perceive it that way initially and Mr. Roach didn't
14 intend it to be any kind of -- anything more than a joke,
15 and you can see the text thread that's in there.

16 THE COURT:

17 Okay. Well, I'm going to rule in favor of the
18 plaintiff in this, and I'm going to -- I'm going to
19 scratch this affidavit, and we're going to go with what
20 it testified to by the witnesses, and if Mr. Roach
21 chooses not to testify, I understand that he has the
22 right to do that, okay?

23 MR. ROACH:

24 Thank you.

25 THE COURT:

1 And at this time, Mr. Few, I'm going to open the
2 floor to you, sir.

3 MR. FEW:

4 Thank you, Your Honor. The plaintiff calls --
5 counsel for the plaintiff calls the plaintiff, Lee
6 Yarborough.

7 THE COURT:

8 Mr. Yarborough.

9 MR. FEW:

10 Missus.

11 THE COURT:

12 Or Ms. Yarborough.

13 MR. FEW:

14 Yes, sir.

15 THE COURT:

16 I'm sorry. Your first name, again?

17 MS. YARBOROUGH:

18 Lee.

19 THE COURT:

20 Lee? Okay. Ms. Yarborough, if you would, please
21 your left hand on the Bible. Raise your right hand for
22 me, ma'am. Do you solemnly swear or affirm the testimony
23 you're about to present is the truth, so help you God?

24 MS. YARBOROUGH:

25 Yes.

1 THE COURT:

2 If you would, ma'am, just have a seat right there.

3 I know this is a little awkward in here, but we're going

4 to go with it. And if you would, just answer any

5 questions, okay?

6 MS. YARBOROUGH:

7 Okay.

8 MR. FEW:

9 Your Honor, we would go ahead and propose to -- I'm

10 going to use the -- the complaint in this action to try

11 to --

12 THE COURT:

13 Okay.

14 MR. FEW:

15 -- hopefully expedite things.

16 THE COURT:

17 Okay.

18 MR. FEW:

19 And I guess we might want to move to mark that as

20 Exhibit 1. I have three copies. I know you got one last

21 week. Do you have one? Your Honor, do you need another

22 copy of --

23 THE COURT:

24 I have -- I have a copy.

25 MR. FEW:

1 Okay. Thank you, Your Honor. Whoops. Excuse me.

2 Okay.

3 EXAMINATION BY MR. FEW:

4 Q. Ms. Yarborough, I have to say this is the first time

5 I've ever examined a witness from this close up, and

6 I would ask you to give the court -- what's your

7 full name?

8 A. It's Lee Cutchin Yarborough.

9 Q. Cutchin, C-U-T-C-H-I-N?

10 A. Yes.

11 Q. And this is your -- is your father here in the

12 courtroom today?

13 A. Yes. Yes (inaudible).

14 Q. And then your husband's here with you today?

15 A. (Inaudible) Yarborough.

16 Q. And then an employee of my firm, Dennis Quattlebaum.

17 A. Yes.

18 Q. Okay. I've handed you what we're going to propose

19 as Exhibit 1 to the case, which is actually already

20 on record, and does this appear to be the verified

21 complaint that you signed, I believe, on December 5

22 of 2019.

23 A. Yeah.

24 Q. See that on page 29?

25 A. Yes.

1 Q. Okay. And do you recall being in this courtroom on
2 December 2 of 2019 for a hearing?

3 A. Yes.

4 Q. And at that time, you and I had prepared an
5 affidavit that was substantially similar to what's
6 in this verified complaint; is that right? You
7 remember that?

8 A. Yes. Yes.

9 Q. And all right. So where do you live?

10 A. 16 Heather Way.

11 Q. And that's 29605, Greenville? And where does Mr.
12 Roach live?

13 A. He lives on Douglas.

14 Q. About how far is that from your house? I think if
15 you'll look at paragraph two, we alleged it was --

16 A. I think, I mean, it's like a block.

17 Q. -- it was 0.3 miles. It was very close.

18 A. Yes.

19 Q. If you were to walk your dog, would you have
20 previously walked by his house?

21 A. That's not my normal route that I go, but I mean
22 it's -- it's easily walkable.

23 Q. It could be, right? So you could get to -- you
24 could walk from your house to his house in just a
25 matter of minutes?

1 A. Yeah. My back-door neighbors, the street directly
2 goes to Douglas.

3 Q. And I'm going to go through some of these
4 preliminary things. Then we'll cover the
5 background, how you got to know Mr. Roach. I'm just
6 going to make reference to the complaint as we move
7 through. If you look at paragraph three, we alleged
8 that he -- that the defendant knew you were a member
9 of the Greenville Country Club and that you went to
10 the YMCA.

11 A. Uh-huh.

12 Q. And having had an opportunity to know you were going
13 to be back here today, have you reviewed this
14 verified complaint?

15 A. Uh-huh.

16 Q. And in reviewing it, did you find anything in there
17 that you feel like you need to change or modify?

18 A. No, nothing I can think of.

19 Q. Do you recall --

20 A. David Rothstein said that the -- you know, the
21 dates. I was not sure of the dates on the -- the --
22 the -- the gift I got from Mr. Roach.

23 Q. Okay. In any event, that was early on in his
24 consultant relationship with your company?

25 A. Yeah.

1 Q. Okay. And your husband, Hubert Yarborough, is here.
2 He works at FAVOR in Greenville on Woodruff Road --
3 A. Uh-huh.
4 Q. -- as alleged in paragraph four? When all this was
5 going on and we get into these exhibits that are
6 Exhibits 5 through 12, it was eight mailings that
7 went out; is that what you recall? How did you feel
8 when -- when all that was going down?
9 A. When the mailings arrived, you mean?
10 Q. Yes.
11 A. Well, if I -- if I may, I'd like to step it back,
12 and -- and that -- that whole summer after we did
13 the contract with -- with Sean, we had received some
14 threats from him that we perceived as threats from
15 the text, and I was really scared walking around my
16 neighborhood. And I remember that the weekend
17 before the first postcard came, we were camping, and
18 I'd sat on a -- sat up on top of Linville Gorge and
19 said a prayer about that and also just really kind
20 of said I'm taking myself back and I'm going to feel
21 safe in my neighborhood again and not feel the way I
22 was feeling. And so I came back kind of revived
23 that I was -- I was strong enough to handle the fear
24 that I had been living. And -- and two days later,
25 or three days later, I guess, I got a call at 10:00

1 in the morning from one of our clients saying that I
2 -- that they have received this postcard. And then
3 that day, it was clients calling nonstop. Neighbors
4 all the sudden started calling me. A board that I
5 am part of, the -- president of that board called
6 and said what is going on. Every board member has
7 gotten this, and it just was like a deluge, and I
8 wanted -- you asked how I feel. I wanted to crawl
9 down underneath my desk and cry. I mean it was -- I
10 had never experienced anything like that, and it was
11 Halloween, and I was -- ironically, I was in a
12 costume. We were having a -- a party at the office,
13 and it was just -- you know, it was just -- it was
14 like a -- a movie (inaudible) something I'd never
15 thought that would (inaudible).

16 Q. And so the -- the mailings went to your neighbors?
17 Would those be neighbors that are clients, or just
18 neighbors?

19 A. Neighbors, and we estimate that it was several
20 miles. I -- I know it went up to Oakcrest, and it
21 went through Marshall Forest, the -- the
22 neighborhood with the -- with the bridge. So it
23 went all around. I think it was just on this side
24 of Augusta Road. So not only that, and I think this
25 was his intention, but I mean I -- it was very hard

1 to walk around my neighborhood. I had little old
2 ladies come and bring me the postcards. And I had,
3 you know, people calling me, and -- and I had people
4 from -- that lived all over Greenville calling me
5 because things -- people talk. Had a -- I would say
6 an acquaintance, friend who's in the PR business had
7 called me, and she lives way over in Gower and said,
8 you know, do you need help? And I had this fear
9 like, oh, my gosh, did you get them? She said no,
10 but somebody had called, you know, and had shown
11 her, so, you know, on her phone. You know, it was -
12 - it was -- it was awful seeing like my face on the
13 picture. I had been superimposed onto someone
14 else's body, and it said horrific things that --
15 that I do not believe in, and -- and it was just --
16 Q. Flip over, if you would, to what's -- we've marked
17 as Exhibit 5, and let's just take a look at five and
18 six with reference to your testimony a moment ago.
19 Sorry I don't have that tabbed for you. Just take a
20 minute and flip through the pages that are Exhibit
21 5. Then let your -- let that refresh your memory
22 about what that is. And then, if you would, tell us
23 what it is.
24 A. Well, this was the letter. The letter that we know
25 of did not to go to neighbors. It just went to

1 clients and to this national board that I'm a member
2 of and to another -- another organization that we
3 work with that it went to all of their board
4 members, and so the letter -- you know, I think the
5 thing that kind of freaked me out is that it says
6 like sunshine, and I wrote a -- I wrote an email in
7 like May saying, you know, it was -- the subject
8 title was sunny days. And when Sean was sending all
9 these threatening things in June, he would put like
10 have a sunny day. He'd put this little emoji with
11 glasses. And then Greenville's 25 Most Beautiful.
12 I had been -- you know, I'm in -- to be in that
13 magazine, in Talk Magazine, and I remember when it
14 happened. I said to my dad that I was scared
15 because I didn't know if I wanted to take the
16 nomination and because I -- I didn't want Sean to
17 see and -- and then it would feel like I feel now,
18 and -- and my dad said, you know, you need to be
19 strong in (inaudible). You were nominated for this
20 for your own account and, you know, and I -- I just
21 think he put these things in there that he knew
22 would upset me. And then those two letters are from
23 salespeople that had terminated. They worked
24 directly under Sean. Some of the things in there
25 are things that Sean -- that like Erin would have

1 had no way of knowing about his -- how much money he
2 made compared to other people. So Sean would have
3 been the only one to have known and been (inaudible)
4 to tell him.

5 Q. And just to -- to interrupt you real briefly, Arron
6 Drye is the mail you're referring to that's June 12,
7 and he's a former employee of --

8 A. Yes, of Propel. He was a salesperson.

9 Q. -- Propel that left right about the same time that
10 this was going on in June of 2019, and the other
11 letter is from Angela Tyler?

12 A. Uh-huh. She worked under Sean.

13 Q. She worked under Sean, and you had mentioned that
14 the a mailing list is covered in here. Is it your
15 belief that -- that these mailings that are Exhibits
16 5 through 8 were sent to your client list that
17 belonged to Propel HR?

18 A. Uh-huh.

19 Q. And what else was included on the address card, like
20 the last four numbers of something?

21 A. I think it's (inaudible) numbers.

22 Q. The EIN or the TIN or whatever they would call it,
23 and you believed that was intended to suggest that -
24 - that --

25 A. Well, it did suggest that I -- and it -- it was

1 something intended to -- to make the clients nervous
2 about their data.

3 Q. And in fact, well, the eighth mailing went into that
4 specifically, didn't it?

5 A. Uh-huh.

6 Q. And we can cover that. Okay. So take a look now
7 also at Exhibit 6 and tell them -- and tell the
8 court what that is.

9 A. That was the postcard that went to all clients. So
10 they got the -- the postcard and the letter, and all
11 my neighbors got this, and boards did, too.

12 Q. And that's your face superimposed as Two-Slice
13 Hilly?

14 A. Yes.

15 Q. And to be clear, Exhibit 6 is a front-and-back copy
16 of the postcard, right, all put on one page?

17 A. Yes.

18 Q. Okay. And it looks like that you've removed the --
19 or we removed, I removed, somebody removed the
20 actual name of the person that's on there.

21 A. Yes.

22 Q. Yeah, but I guess what I'm saying is: Were you
23 afraid or -- or were your clients afraid of letting
24 it be known that they were telling you about this?

25 You didn't want to -- you didn't want to involve

1 your clients, the -- the company's clients, in -- in
2 this matter if you could help it; is that a fair
3 statement?

4 MR. ROTHSTEIN:

5 And Your Honor, I'm going to object to him leading
6 the witness. I mean he's basically testifying and asking
7 her --

8 THE COURT:

9 Okay.

10 MR. ROTHSTEIN:

11 -- to agree -- to agree with him.

12 THE COURT:

13 I'll sustain on that. Just let her answer that for
14 you.

15 WITNESS CONTINUES:

16 A. I -- I mean I -- I don't know if -- you know, I
17 think the clients all called and offered to help me.
18 Not all. It was -- but many did, and many didn't.
19 We had to call every single client, and we went
20 through, and the postcards came so fast that we
21 hadn't gotten through all the list, but a good
22 number of clients sent us their -- their cards,
23 thinking it might help us figure out who was doing
24 it.

25 Q. Okay. And then, for example, on Exhibit 5, the --

- 1 the -- the address line, it -- and you may not know
2 the answer to this, but was the EIN or the TIN of
3 the recipient -- would it -- is that part of what's
4 been marked out there?
- 5 A. Yeah.
- 6 Q. And what about on Exhibit 5?
- 7 A. Yeah, the same with it. It was the -- they all had
8 -- if -- for our clients, they all had the last four
9 digits of federal ID number except for (inaudible).
- 10 Q. Okay. All right.
- 11 A. Except for one. Like one client didn't, which was
12 odd.
- 13 Q. All right. And let's go back to the complaint and
14 pick up, if you want to flip over to page two of the
15 complaint, and I want to just give the court a brief
16 history of -- of your --
- 17 A. Can I say something on -- on this?
- 18 Q. On Exhibit 5?
- 19 A. Six.
- 20 Q. Six? Yes.
- 21 A. And -- and I don't know. So in the -- I don't know
22 if you're familiar with the book The Help, but --
23 that -- that it's referring to here.
- 24 Q. Uh-huh.
- 25 A. But what Two-Slice Hilly means it that Hilly was the

1 bad woman who had the maid make pies that were
2 chocolate and had something else in it.

3 Q. Uh-huh.

4 A. And she gave her -- she ate two slices. And so when
5 this came, I even talked to my girls, and I had to
6 show them pictures of Sean, and I said if there's
7 ever pie on our -- I was worried a pie was going to
8 show up on my -- on my -- that's how scared I was.

9 Q. How old are your girls?

10 A. Seventeen and -- and twelve. Well, twelve at the
11 time. Thirteen -- just turned thirteen.

12 Q. Senior in high school?

13 A. And seventh.

14 Q. And seventh grade?

15 A. So I mean I just thought that he was going to take
16 this pie reference and this poop reference and --
17 and go far and, like I said, you know --

18 Q. Did you feel like that Exhibits 5 and 6 referring to
19 you as Two-Slice Hilly portrayed you in a favorable
20 light?

21 A. No. She was the bad person.

22 Q. She was? What about these allegations on the
23 postcard that talk about a hostile work environment
24 and sexual harassment and racism?

25 A. I mean I'm -- it's -- I -- I refuse all those, and I

1 don't even know what some of it means about you have
2 to get into your (inaudible) hitting you and like
3 Trump. I mean, you know, I don't even know. It --
4 it -- it seemed very strange.

5 Q. Speaking of President Trump, have you looked at Mr.
6 Roach's Twitter account? Do you know if he's a fan
7 of Mr. Trump or not?

8 A. I think he is.

9 Q. He is a fan of Mr. Trump? All right. Let's go back
10 to the complaint and exhibit on page two, if you'll
11 flip back. Are you there? You graduated Vanderbilt
12 in 1993, and tell us how the company Propel HR came
13 into being.

14 A. My dad and I founded it in '96. He had had a
15 similar business that he sold, and then we started
16 this together. We do full HR outsourcing,
17 everything from payroll to benefits to compliance.

18 Q. Explain for the court what's meant in paragraph nine
19 about being a PEO. It was something I didn't really
20 understand, and it basically involves some
21 certifications, but just give a brief explanation of
22 how that's actually different than just doing
23 payroll for people.

24 A. As a PEO, we're a co-employer with the client, so we
25 have additional liability as an employer with our

1 clients in regards to their employees, and so you
2 have to be licensed in -- in not all states, but in
3 many states. And in South Carolina, you have to be
4 licensed. The IRS has a certification program which
5 is an intensive program. It's not required, but
6 it's -- it's something that we chose which requires
7 us to go through additional financial audits and
8 have a bond, and it requires us to submit -- submit
9 things to the IRS quarterly and about our clients,
10 as well.

11 Q. How many people work at Propel HR?

12 A. Right around 40.

13 Q. And then since Propel HR is in the payroll and in
14 the PEO business, somewhere in its computers, y'all
15 have very private confidential information of all of
16 the employees; is that right?

17 A. We do.

18 Q. That would include Social Security numbers?

19 A. Yes. Bank accounts.

20 Q. And did Mr. Roach ever have access to any of that?

21 A. He did not have access to our payroll systems.

22 Q. How do you know that he never had access to that?

23 A. He had access to demos, but he (inaudible).

24 Q. But what's the -- what do y'all do to protect that
25 information from -- to limit the access to it?

- 1 A. We assign -- users are assigned according to the
2 need of their -- of what they need to do for their
3 job. So different people in our office have
4 different security levels. Salespeople don't have
5 access to the -- to the payroll system. There's no
6 need for them to have that access. You know, when -
7 - when an employee goes on there, so it's a multi-
8 factor, so you get additional code to put in with
9 your password.
- 10 Q. So it's more than just a username and a password?
11 You got to --
- 12 A. You got to --
- 13 Q. -- use that multi-factor code? Okay. All right.
14 Has the company been successful?
- 15 A. I -- I would think so. I mean, you know, it could
16 be more successful, but we -- you know, we -- we've
17 done well, and we've been in business a long time.
- 18 Q. And what's your title there?
- 19 A. President.
- 20 Q. And you are an owner?
- 21 A. Uh-huh.
- 22 Q. Anybody else have any ownership stake in the
23 company?
- 24 A. Paul Garrigan owns 15 percent.
- 25 Q. Okay. Flip over to the next page, please. We're

1 looking -- it would be paragraph ten. Oh, no, it'd
2 be paragraph ten at the top of page three of the
3 complaint, your verified complaint. Is it important
4 -- been important to you to privately have a good
5 reputation?

6 A. Yeah.

7 Q. And you believe you have that?

8 A. I do. I think I -- I do have a good reputation, and
9 I think that's what helped me through this time.

10 Q. Paragraph 11, you got an A-plus rating from the
11 Better Business Bureau.

12 A. Uh-huh.

13 Q. And go through paragraph 12 and just explain to the
14 court. It looks like you're on a national board of
15 professional PEO, Professional Employer
16 Organizations, which is -- that's when you're the
17 co-employer; is that right?

18 A. Yeah. So it's an industry association. This year,
19 I'm -- I'm vice chair this year, and I'll be a chair
20 starting in September. I was chair of the
21 Carolinas. I'm not this year right now, but I was -
22 - I was the chair for 14 years there. I was -- I'm
23 a member of Liberty Fellowship, which is part of the
24 Aspen Global Leadership Network, which is --

25 Q. That's the program that was started up by the Hipp

- 1 family --
- 2 A. With Aspen, yeah.
- 3 Q. -- to provide leadership training?
- 4 A. Uh-huh. I -- I had just rolled off when this was
- 5 written. I was on the board of Public Education
- 6 Partners. I had just rolled off at the end of the
- 7 year. I served there for seven years, including
- 8 (inaudible) the chair. As part of my Liberty
- 9 Fellowship, I had to do a project to -- to make
- 10 South Carolina better, and I -- I started a young
- 11 adult book festival called Read Up Greenville.
- 12 Q. And was that -- when did you start that?
- 13 A. Four years ago.
- 14 Q. Still going on?
- 15 A. Uh-huh.
- 16 Q. All right. Let's talk. Let's tell the court --
- 17 tell the court how -- how you and/or Propel HR just
- 18 came in contact with Mr. Roach. And if you need to
- 19 make reference to any of the exhibits, you know, I
- 20 think we -- they're chronological, if you want to
- 21 start with Exhibit 1.
- 22 A. Well, we had a -- we had a -- for the past few
- 23 years, we'd just been kind of plateaued on our
- 24 sales, where we weren't really having exciting sales
- 25 years, just kind of average, and it just felt like

1 we were plateaued as a business, and what can we do?
2 We wanted to just figure out what we needed to do to
3 kind of take us to the next step, and who had been
4 our sales manager at the time, in '18, was one of
5 our best salespeople, but he probably wasn't the
6 best manager. And so he was -- I think he was
7 wanting to be more just sales and not manage. So we
8 were going through that, and so we were trying to
9 figure out what we needed. We needed another sales
10 manager, and then my dad saw this ad from Sean, and
11 my dad's a soft heart, and he's --

12 Q. Okay. When you say this ad, are you referring to
13 Exhibit 1?

14 A. Yeah.

15 Q. Why don't you flip over to that and tell us if you -
16 - what that is and just read into the record what it
17 says at the top?

18 A. It wasn't a shark that killed her. It was much
19 worse. So it was an ad where Sean says that -- you
20 know, talks about that his -- his wife had passed
21 away and that he's a single father, and my dad read
22 it and -- and called him that morning before I even
23 got to work, and Dad showed me the ad and said I
24 think he's going to come in and we're going to talk
25 to him. I don't -- I don't think I was there the

1 first time Sean came. I don't think I met with him,
2 but maybe I met with him after that day. I don't
3 remember exactly, but I did meet Sean. I'm pretty
4 sure I met him the second time he came in, and I was
5 confused because online, he's more of a -- like
6 somebody who has experience speaking in sales, and
7 our sales is more business-to-business. So I was a
8 little bit confused. And I asked him, and -- and
9 his website talks about all of his experience with
10 huge companies, and -- and so to me, it didn't seem
11 like a fit. And -- and I remember asking why would
12 you want to come work for a mom-and-pop shop kind of
13 business, and he said that -- that he was looking
14 for something that would be -- you know, with that -
15 - with the things that he had gone through in his
16 life, he needed just to -- to, you know, be kind of
17 a business where he could be home and he could -- he
18 really liked the idea of a family business and that
19 that was appealing to him, that he traveled a lot
20 and he wanted to just be here. And he was, you know
21 -- his interview was -- I mean he -- he seemed very
22 authentic and -- and, you know, we -- we believed
23 him, and but tried to figure out what was the right
24 fit for him. He didn't -- we kept wanting
25 (inaudible) him in front of the sales manager. He

1 didn't want to be a manager, he didn't want to be a
2 salesperson, but he kept talking -- he kept using
3 the word sales strategist. I used the word sales
4 innovator. I actually put together some stuff that
5 I thought would be a good thing as a sales innovator
6 he would do -- something to kind of push our sales.
7 We finally agreed on -- on that he would be a 1099.
8 We didn't know how long the arrangement would be.
9 He -- he agreed to that. We agreed to that. He
10 wanted to be a 1099, and he came up with things that
11 he -- what he wanted. He wanted us (inaudible) to -
12 - to pay for a scholarship for his child's school,
13 which we said no. We didn't do that for anybody.
14 You know, we negotiated what we would pay and how
15 would we would pay.

16 Q. Let me -- let me -- let me stop you there, because
17 we'll introduce --

18 A. I'm sorry.

19 Q. The exhibit's fine. I'd like a bit of background,
20 but in exhibit -- so basically, Exhibit 1, this
21 article, was run in the Greenville News Sunday
22 edition, you think, or do you remember?

23 A. I -- I didn't see it. I don't -- I didn't. He --
24 Dad -- Dad went and bought the paper and cut it out.
25 Dad watches it on -- like it's online.

1 Q. And then he says in here that "This article is my
2 resume." You see that?

3 A. Yeah.

4 Q. I think about right there, and the -- in the third
5 column --

6 A. Yeah.

7 Q. -- after the break, and then --

8 A. At the top.

9 Q. -- in the first column, he says that his best-
10 selling book was endorsed by Steve Jobs of Apple,
11 President Barack Obama, and Sir Richard Branson, to
12 name a few; do you see that?

13 A. I do see that.

14 Q. Okay. All right. So Exhibit 1 is how you and your
15 dad and your company first came into contact with
16 him. Tell us just briefly what Exhibits 2 and 3
17 are.

18 A. The non-disclosure confidentiality agreement.

19 Q. Two is a confidentiality and non-disclosure
20 agreement; is that right?

21 A. Yes.

22 Q. Okay.

23 A. And then -- then the next one was the independent
24 contractor (inaudible).

25 Q. And Mr. Roach signed these on behalf of himself?

1 A. He wanted it to be on behalf of himself and his
2 company, Idea Catapult.

3 Q. Okay. And then, hitting the highlights, tell the
4 court what happened during the term of the contract
5 leading up to the decision that their engagement in
6 the relationship was going to be terminated.

7 A. One of the things that --

8 Q. I guess tell the court what -- without going into
9 quite as much detail as you did before so that we
10 can keep it moving --

11 A. Sorry.

12 Q. That's fine, but just tell the court: What did Mr.
13 Roach do? Who did he interact with at the company?

14 A. He mainly interacted with Paul, who -- Paul kind of
15 is the co-owner. He kind of deals in sales. I deal
16 a lot with operations. So he mainly was in contact
17 with Paul and the salespeople. He was supposed to
18 lead the -- the Monday meetings, but then Paul kind
19 of took over. He really wanted us to use this --
20 Sean really wanted us to use Salesforce. I felt
21 pushed into -- to sign an agreement by him, and --
22 Q. Salesforce? Tell the court what that is.

23 A. That's a CRM (inaudible) and management system for
24 customers, and (inaudible) it would help with sales.

25 Q. So wait. So -- and that's a way of -- to -- to make

1 better use and have easier access of your
2 information?

3 A. A database, yeah, of prospects and clients.

4 Q. And Mr. Roach -- what kind of -- tell us about him,
5 anything he did to -- to encourage or persuade you
6 or to promote that product, Salesforce, and what did
7 the company pay for it?

8 A. He got -- he had had experience with Salesforce.

9 And, you know, we -- we weren't against Salesforce,
10 but he just -- I felt very strong-armed.

11 MR. ROTHSTEIN:

12 Your Honor, I just want to object to this for the
13 record. I mean this has nothing to do with any kind of
14 stalking or harassment or threat. I mean this -- this
15 would have been a business decision.

16 MR. FEW:

17 (Inaudible).

18 MR. ROTHSTEIN:

19 You know, it is part of the civil issue in federal
20 court. It has nothing to do with why we're here this
21 morning.

22 THE COURT:

23 I think Mr. Few is taking his time to get to that
24 point. If we could move it along as --

25 MR. FEW:

1 Yes, sir. Yes, sir.

2 THE COURT:

3 -- quickly as we can, Mr. Few.

4 WITNESS CONTINUES:

5 A. I'm sorry.

6 Q. So Mr. Roach encouraged you to buy Salesforce?

7 A. Yeah.

8 Q. And you said you felt pressure to do it?

9 A. I felt pressured, and he wanted us to use this
10 outside consulting firm, which after I felt so
11 pressured to sign, I did try to see if he was
12 getting a kickback from it and try to see if he had
13 some ownership in the company because it was such a
14 pressure sale, so.

15 Q. And just so the court can know we'll move on, like
16 approximately how much, and -- and maybe it's a
17 licensed program?

18 A. It's a licensed program.

19 Q. What's the general cost of it, of the upgrade?

20 A. You know, and I -- I don't really remember. I want
21 to say, you know, 40,000 dollars, and then we had
22 the additional agreement was probably 30,000
23 dollars. I don't remember exactly.

24 Q. Those were up-front costs, and then there's a
25 monthly?

- 1 A. You -- you pay monthly, and then the Relations Edge
2 is the other consulting business, it was either --
3 it was a large up-front, and then you pay as it
4 goes. I don't remember exactly the --
- 5 Q. Relations Edge is -- was the competitive product?
- 6 A. Was the consulting -- the consulting -- the
7 consulting firm.
- 8 Q. Okay. All right. Now just to move through the
9 exhibits, take a look at Exhibit 4, and tell the
10 court what that is.
- 11 A. When his -- when we terminated the contract because
12 he had -- he had gotten -- he was disruptive among
13 the whole office, we sent this so that he would
14 think we were -- so this was June 19. Prior to
15 sending this, we -- me, Paul, and my father were
16 getting texts from him, and all of our employees
17 were getting contact from him that was threatening,
18 and so this was an attorney saying no further
19 communication to go through, and then they
20 reiterated the confidentiality, which we
21 (inaudible).
- 22 Q. Now, looking at the first paragraph of Exhibit 6.
- 23 A. Uh-huh.
- 24 Q. This letter says that the termination was effective
25 May 13 of 2019.

1 A. Uh-huh.

2 Q. Okay.

3 MR. ROTHSTEIN:

4 Is that six or four?

5 MR. FEW:

6 What did I say?

7 MR. ROTHSTEIN:

8 This is six.

9 MR. FEW:

10 But then are you --

11 (INAUDIBLE CROSS-TALK)

12 MR. FEW:

13 Oh, I'm sorry. I misspoke.

14 THE COURT:

15 So which exhibit?

16 MR. FEW:

17 Exhibit 4, Judge.

18 THE COURT:

19 Four?

20 MR. FEW:

21 My apologies. Yes, the letter from Ogletree Firm.

22 THE COURT:

23 Right.

24 MR. FEW:

25 (Inaudible).

1 EXAMINATION CONTINUED BY MR. FEW:

2 Q. Okay. So tell the court what else happened around
3 the same time with respect to Mr. Drye and
4 Ms. Tyler. Just tell the court when did they
5 terminate their engagements or relationships with
6 Propel?

7 A. (Inaudible). I think Angela Tyler was around then.
8 I think she was maybe June 19 or June 18, and then
9 Drye was like a week and a half before that, maybe
10 10, 12.

11 Q. If you look back at Exhibit 1 -- I mean Exhibit 5
12 that we looked at earlier, that was their
13 resignation emails, right? It included their
14 resignation.

15 A. It's in -- Erin's was June 7, and Angela's was, I
16 think, June 17.

17 Q. Do you think that Mr. Roach had anything to do with
18 these people resigning?

19 A. I -- I wouldn't know. I just know that he contacted
20 a lot of our employees after May 10, May 13, and
21 offered them jobs, and these two employees got jobs
22 with our competitor where he was offering other
23 employees jobs. So I would assume, but I have no
24 (inaudible).

25 Q. And so to your knowledge, is Mr. Roach trying to

- 1 compete with your company or is he just trying to
2 harm it?
- 3 A. He is -- I have no knowledge that he's trying to
4 compete. He just -- I think he -- he said many,
5 many times he will do nothing to stop -- he's going
6 to take Propel down. He told the employees, taking
7 Propel down piece by piece, that he's going to -- he
8 told us you'll have to kill me, because the game is
9 on and I'll -- I will win. I'm going to -- this is
10 my mission (inaudible) is to take your company down.
11 That's -- so we terminated the contract, and then we
12 were getting all these things. He said he was going
13 to go nuclear. He said he's seeing red, he's, you
14 know -- so that was all happening around this time.
- 15 Q. What time period was that? That was May, June?
- 16 A. That was from May -- May.
- 17 Q. 2019?
- 18 A. Yeah, and to -- and after this, we had a -- a cop go
19 visit him, too, and the texts did stop. The
20 communication to me and my father and Paul, that did
21 stop.
- 22 Q. And the policeman visited him. Do you recall the
23 approximate date? Was it in June of 2019?
- 24 A. It was in June. I'm not sure exactly of the date.
- 25 Q. And then -- okay. Let's move -- let's move through

1 and look at -- let's go to page six of the verified
2 complaint. Paragraph 23 refers to Mr. Roach being
3 from Las Vegas, and then was there a trip to Las
4 Vegas?

5 A. Yeah. He -- there was a conference that my brother
6 and Paul were going to go to for Kronos, which is
7 one of our softwares, and he said that he wanted --
8 he would go out there, and I think it -- I don't
9 exactly remember the date. In my memory, it was
10 either right after he came on board or right before.
11 Sean, when he first interviewed, kept saying things
12 like I'm going to do this. I want to like come in.
13 You don't have to pay me for the first few weeks. I
14 want to get to know -- know you, your company, and,
15 you know, I'm going to invest in it, which I went
16 back and made sure he was paid for any time that he
17 was working. But so I don't know exactly the time
18 period for that. I can -- I can look that up.

19 Q. It was a trip to -- where he -- he entertained your
20 brother and Paul Garrigan in Vegas.

21 A. Yeah.

22 Q. Is that right?

23 A. Because there was times -- there was times that we
24 thought -- Sean says a lot of -- a lot of things
25 that we kind of would kind of laugh at, like really?

1 But my brother even said like, you know, he did know
2 these people. He got us into some -- he got us into
3 clubs and, you know, he's some founding member of
4 something, and so -- so, you know, every time I
5 would think Sean's full of it, then -- then
6 something would come out, and it would feel, well, I
7 guess maybe he's not. So, yeah, so.

8 Q. Okay. Paragraph 26 on page six is talking about the
9 Salesforce software that you just spoke about a
10 minute ago; is that right?

11 A. Yeah. Yes.

12 Q. And then paragraph 27 -- tell the court briefly what
13 happened here and these events that are described in
14 paragraph 27.

15 A. And so with the affidavit today, the date was
16 obviously earlier. Well, Sean one day told me that
17 he -- that the salespeople felt like I blank on
18 them, and he said that word over and over and over
19 to me, and I don't say that word, so.

20 Q. And you're talking about the word that's blacked
21 out?

22 A. S-H-I-T.

23 Q. S-H, blank, T on line two of paragraph 27, right?

24 A. Yeah. So I don't say that around the office. I
25 mean I have said it in my life, and I'll say it

1 occasionally, but that's just not a word that I say.
2 So but he kept saying it over and over, and he was
3 referring to me, and it -- it was very painful at
4 the time. At that time, I kind of deflected it a
5 little bit with some humor, but I was very hurt.
6 And then I don't know how much long it was after
7 that, I received a package from Amazon, and Sean was
8 out of town, and it didn't have a note in it.
9 Didn't have anything. It had two plastic poops, and
10 I mean like to see that in the mail with no note or
11 anything, my heart just kind of fell. Then I got a
12 text like immediately, like did you get my package
13 with some emojis. And I said oh, you know, yeah,
14 and not only did I get one, I got two, and then, you
15 know, I -- I definitely just kind of said thanks,
16 hah, hah, hah, you know. I didn't know how to do
17 it. And then it sat, you know. Then you don't know
18 what to do if somebody gave you a gift that they
19 thought was funny. And, you know, I didn't want
20 that gift. It sat down underneath my desk next to
21 my trash can for a long time, but it just -- it --
22 it really was upsetting. Like I didn't tell my
23 husband about it. I didn't tell Hubert about it. I
24 didn't tell my dad about it. I didn't tell Paul
25 about it. I didn't tell anybody in the office about

- 1 it because I was so embarrassed. It was so hurtful
2 and so embarrassing. And later, I mean all this
3 stuff started happening. I told my dad. And, you
4 know, he said if I had told him then, like we would
5 have ended the thing, but he made me feel like I was
6 the bad person, and I -- I was -- it was awful.
- 7 Q. The affidavit that we've moved to strike (inaudible)
8 Exhibit 1, Exhibit A, a text. Does that appear to be
9 the text?
- 10 A. Oh, yeah. Yeah.
- 11 Q. And that says November 19 of 2018. So does that --
- 12 A. Yes, that would be the time.
- 13 Q. You think that's the time you maybe were mistaken
14 when we did the --
- 15 A. Yeah.
- 16 Q. -- affidavit? I mean the verified complaint?
- 17 A. Yeah. He apologized to it in January, so maybe
18 that's what I --
- 19 Q. So it was an ongoing thing, I guess?
- 20 A. I think maybe he realized in January how much it
21 hurt me.
- 22 Q. Yeah. Okay. And that's what you're referring to in
23 paragraph 28, the apology email; is that right?
- 24 A. Yeah.
- 25 Q. And I don't want to go through too much of this, but

1 the apology email appears to be attached as Exhibit
2 B to the affidavit that we've moved to strike. Can
3 you take a look at that? You don't have that. It's
4 on this affidavit that they gave you.

5 A. Yeah. Yeah.

6 Q. And I'm just going to -- and it's cut off, but it
7 looks like that was --

8 A. January 30.

9 Q. Wednesday, January 30, maybe is when his copy says
10 he sent it.

11 A. Yeah.

12 Q. And he says, "Lee, I am so sincerely sorry."

13 A. Yeah.

14 Q. Okay. Okay. Let's take a look at the complaint
15 again at paragraph seven. I mean page seven,
16 paragraph 29. Mr. Roach kept saying that he was
17 performing a colonoscopy of the company.

18 A. Yeah. It was this -- like every time he talked,
19 like he just kept saying I want to do a colonoscopy
20 of this company. And I'm like first of all, we
21 hired you to do sales.

22 Q. Okay.

23 A. Second of all, why -- why would you say the word
24 colonoscopy of the company. It was such a weird way
25 to say it. And if you felt like you wanted to, you

1 know, do a deep dive or something like that to --
2 you know, it just was a weird -- and I -- so I said
3 around the time -- I said you just have some
4 obsession with poop. Like why is this all you talk
5 about?

6 Q. Okay. So then paragraph 30 says on May 13, 2009
7 (ph), for good cause, Propel terminated the Roach
8 agreements.

9 A. Yes.

10 Q. Okay. And was that done by -- I don't know if
11 that's attached here, but was that a letter from
12 Lauren McDonald, maybe?

13 A. It was a letter from me.

14 Q. From you? Okay. All right. And then paragraph 31,
15 Mr. Roach told Propel representatives he would go
16 nuclear on them.

17 A. Yeah.

18 Q. Who heard that?

19 A. He said that to Paul Garrigan on May 9.

20 MR. ROTHSTEIN:

21 Your Honor, I'm going to object to -- to hearsay,
22 and this is actually double hearsay if she didn't hear
23 it. She's relying on something that she heard from
24 Mr. Garrigan that Mr. Roach allegedly said to
25 Mr. Garrigan.

1 THE COURT:

2 I will agree with that objection. Let's just move
3 forward.

4 MR. FEW:

5 Thank you, Judge. Yeah, and we will move forward,
6 but he is an employee. And I think that would come in
7 under, you know, company communication, but in any event,
8 --

9 THE COURT:

10 Yes.

11 EXAMINATION CONTINUED BY MR. FEW:

12 Q. What about this text message to Paul Garrigan that's
13 referred to in the first bullet point on --

14 MR. ROTHSTEIN:

15 Same objection, Your Honor.

16 WITNESS CONTINUES:

17 A. We had copies of that.

18 Q. Have you ever seen that text message?

19 A. Uh-huh.

20 Q. You saw the text message that's referred to that
21 says, "Told you last night I wanted to end this and
22 right, not go to battle, but I'm seeing red"?

23 A. Yes.

24 Q. Is that what you were referring to earlier? And
25 then you refer to a text message in the second

- 1 bullet point. Is that something that you yourself
2 have seen?
- 3 A. I have seen it.
- 4 Q. And that was to who, your father?
- 5 A. Uh-huh.
- 6 Q. And read what he said on that one.
- 7 A. "And I know this will become a game for me, and know
8 this (ph) become a game for me to right this wrong
9 you've caused. I will play this game for years to
10 come. I've not even started to play. I know you
11 know I'm competitive and play to win. And since you
12 are saying you want to hurt me, you will have to
13 kill me to end this game."
- 14 Q. Then what about the next text that's referred to
15 there? Tell us what that's about.
- 16 A. He sent this to me and Dad and Paul. Is it here?
17 Is it in the text one? Saying that -- I was
18 actually out of town with my children, and this text
19 came up, and it was saying things like I will -- I
20 have heard you -- what you're saying about me, and
21 it -- I think it referenced that sunny day comment
22 again. It was -- that he was going to (inaudible).
- 23 Q. Let me (inaudible).
- 24 A. (Inaudible).
- 25 Q. It's fine. Don't worry about it. Did you

1 understand that to be him suggesting that he was
2 watching --

3 A. Yes.

4 Q. -- you in some way? And tell the court, and I think
5 it's laid out in here, about this video surveillance
6 program, I mean device that was installed at the
7 Propel offices and any interaction or communications
8 that you had with Mr. Roach about that.

9 A. We installed cameras during the time that he -- that
10 he was working with us, and -- because we're right
11 across from the Bi-Lo Center, so just we did it for
12 safety of our employees, and there's cameras inside
13 and out. When they were there -- I mean but Sean
14 always just kind of came in to all conversations, so
15 he came in and -- and even showed me. He was like
16 this is exciting. I don't know if he said exciting,
17 but he was saying this, you know -- have you ever
18 had this system? And I said no. And he said let me
19 show you. And he showed me on my phone how to use
20 the app. And, you know, so I mean he definitely
21 knew about the app and knew about the system. I do
22 not remember if I showed my passwords, but he
23 definitely got into it on my app and looked at it.
24 And then he started saying all these things to other
25 employees through text messages, and we got phone

1 calls saying that like when Angela's email came,
2 they watched my expression, and I walked out in the
3 hall. He said things. They can't get the popcorn
4 fast enough to watch all that was going on. He said
5 he heard very specific things. He said to an
6 employee go into other --

7 MR. ROTHSTEIN:

8 Your Honor, again, this is all hearsay. I mean, you
9 know --

10 MS. YARBOROUGH:

11 Well, I have it in writing. It's not hearsay.

12 EXAMINATION CONTINUED BY MR. FEW:

13 Q. It's fine. What did you end up doing with that
14 video surveillance system at that time?

15 A. We had -- we had our office swept for bugs twice
16 because we just thought how -- how is he hearing all
17 this stuff. We kept our meetings outside because we
18 were so scared. We would go drive around our car.
19 I like unplugged my Alexa at home. I was scared. I
20 did all these things. I don't know exactly when,
21 but sometime around June, we took the -- the camera
22 system off of the wireless, so it still just -- it's
23 like a hard system now, so it's -- you can't -- I
24 can't get on my app and look at it. And all of a
25 sudden, all of the talk that he was sending to

1 employees and to us stopped.

2 Q. Okay. And then have you put any extra security
3 systems on your house as a result of Mr. Roach?

4 A. Yeah. Yeah. I added -- I added cameras to my
5 house. And then in the office, we got a different
6 type of lock so that we don't have a key. Everybody
7 has a fob, so we can --

8 Q. Were the employees also scared of Mr. Roach?

9 A. I hadn't -- I hadn't --

10 MR. ROTHSTEIN:

11 Object to the form of the question. Calls for
12 speculation.

13 THE COURT:

14 Move on to the next question.

15 EXAMINATION CONTINUED BY MR. FEW:

16 Q. Did y'all -- did you make the decision -- you said
17 you purchased the key fobs?

18 A. Yeah, a type of lock that -- that has key fobs
19 instead of like an -- an old-fashioned lock.

20 Q. That's expensive, isn't it, the fobs?

21 A. Yeah. Yeah. It was -- it was a -- and we had
22 employees that asked us to have the door locked all
23 the time, so.

24 Q. Okay. Let's go back to the complaint in paragraph -
25 - page eight. You said in the third bullet point --

1 second bullet point says to get my popcorn fast
2 enough. And have you personally seen that -- that
3 text?

4 A. I have.

5 Q. What about the next one that says detriment was
6 coming to Propel? Have you personally seen that
7 text?

8 A. (Inaudible)

9 Q. And then the final one --

10 A. And some of them were LinkedIn messages.

11 Q. Okay. And then, yeah, my apologies. I can see that
12 there. What about the final one that says taking
13 Propel down piece by piece? Have you seen that?

14 A. I have seen similar things but I think that was --

15 Q. That was stated to an employee, you said?

16 A. That one I think he stated.

17 Q. Okay. Moving along, let's go to page nine, and the
18 -- you refer to the letter. You refer to the letter
19 in paragraph 34 that we've already gone over.

20 That's all been covered in the record. And then
21 paragraph 39 of the verified complaint talks about
22 the last four digits of the EIN and the TIN. See
23 that?

24 A. Uh-huh.

25 Q. That's what you were referring to earlier?

1 A. Uh-huh.

2 Q. Let's take a look. Let's kind of jump ahead and see
3 if maybe Mr. Few can't move us along a little bit
4 quicker here. Let's go and look at Exhibit 12, and
5 I believe this was the final mailing. My copy is
6 not -- take a minute to look at Exhibit 12, the
7 black and white copy that will come through part of
8 the exhibit, I guess. Tell us if you remember this
9 and, you know, how -- what you remember about it.

10 A. I remember it very clearly because it was the day
11 that I was coming here. So we had a 10:00 hearing.
12 And at 9 -- probably at 40, Teresa, who's head of
13 our operations, and Lauren, who's our in-house
14 counsel, came and showed me and said that this had
15 gone, so the day that we were coming here, and
16 clients received this. So I -- I came here. And
17 then I had to, you know, go back and start -- our
18 clients -- this was probably the most upsetting to
19 them.

20 Q. Let's just read into the record what -- what's in
21 the -- what's on the text portion of Exhibit 12.

22 A. You want me to read it?

23 Q. Yes.

24 A. Is your EIN, employer identification number, safe?

25 Your company's EIN is just like your personal Social

1 Security number. Did you know that a single EIN
2 with a known business address and legal business
3 name is worth between 1,000 and 10,000-plus-plus on
4 the dark web? Your bank accounts can be accessed
5 and drained. Credit can be taken out in your
6 business name. Fake tax returns can be filed for
7 your business. Is your company -- HR company
8 keeping your -- is your current HR company keeping
9 your EIN safe and protected, or are they sending it
10 via spreadsheets and emails and using unsecured
11 computers and untested software? A winking emoji.
12 If you're wondering the answer, the last four of
13 your EIN might be on this postcard address label
14 because it is not safe. Can you risk losing it all
15 to this dirty -- the sun is shining (inaudible)
16 secret (inaudible).

17 Q. And again, this -- this doesn't appear to be -- did
18 this come from a competitor?

19 A. This did not come from a competitor, and I had
20 clients call me and felt threatened and felt like
21 whoever this was, was going to sell their
22 information and felt like it was a personal threat
23 against -- against them and their company.

24 Q. Let's move forward to Exhibit 13. That's a printout
25 of Mr. Roach's Twitter account, I believe, that

1 refers to the Idea Catapult. Do you see that?

2 A. Yeah, that's his company.

3 Q. And have you seen any Tweets from him regarding
4 surveillance?

5 A. Yes. Yes.

6 Q. And go back to the surveillance issue. There's a
7 story I believe you told me about Mr. Roach's son
8 and him having video footage of a birthday surprise
9 or something like that.

10 A. He showed me a video one time. He was excited to
11 show me something cute he had done with his child
12 where he hired somebody to be a leprechaun, and he
13 had this whole movie, like movie of the -- the whole
14 event, and I -- I did say how did you film that,
15 because the son goes into each room, and he said oh,
16 my -- my cameras in my -- in my house. So I mean I
17 knew he was familiar with cameras.

18 Q. And it was referring to his house in California, do
19 you think?

20 A. I assume. I assume.

21 Q. All right. And Exhibit 14, just tell us briefly
22 what that is.

23 A. This is just one of the letters that I received from
24 a client about this and about, you know, how -- how
25 the clients have -- I mean this was how this client

1 felt about it, and other clients expressed different
2 things through email, and I talked to tons of
3 clients.

4 Q. Ms. Yarborough, ever since the issuance of the
5 restraining order by this court in this case, have -
6 - have you -- has that alleviated some of your
7 concerns with respect to Mr. Roach?

8 A. It -- it has, because the day -- like I said, that
9 last evening that last mailing went out, we
10 specifically that day said no mailings, and they
11 stopped. The mailings have all stopped. You know,
12 he has spoken about me in the neighborhood. And I
13 mean for a while, it's, you know, scary to go out.
14 I feel safer in my -- in my house than I did back in
15 June and -- and during the letters, when the letters
16 were coming out. So since that restraining order, I
17 feel safer. I've actually walked in my neighborhood
18 since then. I know he won't come on my street, and
19 -- and but I do say that every time I leave my
20 house, I feel safe at home at work. In between is
21 when I -- I don't feel safe. So like last night, I
22 went to the grocery store, and I look every parking
23 lot I go to, to see if his car is there. As soon as
24 I leave the office, I'm scanning the roads every day
25 on Augusta Road and leaving my office to see if I

1 see him. So he has a car that kind of stands out,
2 and he has a Nevada license tag, so you -- you see
3 it.

4 Q. What kind of car does he drive?

5 A. I'm not good with cars, but I think it's a Mercedes,
6 a station wagon kind of thing.

7 Q. Let me call your attention to paragraph 16 of the
8 affidavit that they provided to us here today. He
9 says, I've never ranted about Ms. Yarborough or
10 anyone in my neighborhood. Do you recall ever
11 saying who it was that had heard a rant?

12 A. I never said the person's name.

13 Q. Is Lauren Sanders identified anywhere in -- in the
14 pleadings that you've signed, as far as you can
15 recall?

16 A. No, nor in the civil.

17 Q. Mr. Roach apparently, when he prepared this
18 affidavit, must have known who you were talking
19 about when you referred to a rant. Let's go back to
20 the complaint and try to move through that. Do you
21 recall the statements that Mr. Roach was making on
22 December 2 in this courtroom about somebody doing
23 something to his dog?

24 A. Yeah, because I never -- that was like out of left
25 field. I didn't --

1 Q. Have you had anything to do with anything or do you
2 have any knowledge of anything happening to his dog
3 other than what he said?

4 A. No, but I did hear it from my -- Kelly, who's a
5 former employee. She said that -- that his dog had
6 died.

7 Q. So you had heard -- you had heard that the dog died.
8 Did you have anything to do --

9 A. (Inaudible).

10 Q. -- with any kind of harm or anything to do with his
11 dog? Okay. Let's look at exhibit --

12 A. In reference to -- to the dog dying, the reason why
13 she even told me was because one of the postcards is
14 mailed from California, and I told her that one of
15 the postcards was mailed from there, and she said he
16 was in California when his dog died, and so that's
17 how I knew about it.

18 Q. And this is Kelly who?

19 A. Her name is Kelly Harvey.

20 Q. And she -- how do you know her?

21 A. She worked there for 15 years.

22 Q. And when did she leave?

23 A. In -- in June.

24 Q. And you think she was -- had -- had she been in
25 communication with Mr. Roach?

- 1 A. Uh-huh. (Inaudible).
- 2 Q. Let's find the card that's referred to as the jerk.
- 3 Looks like it's Exhibit 7. Okay. Who is the guy
- 4 that's pictured in Exhibit 7?
- 5 A. An employee, Jason Fletcher. He's the salesperson
- 6 who worked under Sean.
- 7 Q. Do you know if Jason Fletcher has a dog?
- 8 A. Jason Fletcher did have a dog.
- 9 Q. What happened to Jason Fletcher's dog?
- 10 A. In mid-December, his dog died from -- got sick and -
- 11 - and was throwing up. And after several weeks,
- 12 they couldn't figure out what was wrong. Then he
- 13 died.
- 14 Q. Let's find the exhibit -- the strip club exhibit,
- 15 Exhibit 10. Do you recall receiving this?
- 16 A. I do, and this is one that went to my neighbors.
- 17 Q. Did these cards come to Propel or just --
- 18 A. They did not. They did not come to my house,
- 19 either, but they went to all my neighbor's houses.
- 20 Q. So of the exhibits, did all of them, 5 through 12,
- 21 and this may be asking you too much -- we can refer
- 22 on the pleadings -- but let me just ask this way:
- 23 Did most all of these go to your neighbors, as well?
- 24 A. My understanding -- what neighbors have told me is
- 25 this one went and the very first one that had my

1 picture on it. I don't think the other ones did.

2 However, some neighbors got the Thanksgiving card,
3 but not all the neighbors did.

4 Q. Okay. And then cards were sent to the Greenville
5 Country Club, where you're a member?

6 A. Uh-huh.

7 Q. And to the -- the National Association of
8 Professional Employment Organizations that you are -
9 -

10 A. All the board members. I think 48 people. They're
11 on the force there, and that's across (inaudible),
12 and then another organization called (inaudible) --
13 all of their board members.

14 Q. Do you believe that discovery procedures in the
15 federal lawsuit will show that Mr. Roach was
16 responsible for Exhibits 5 through 12?

17 A. I do.

18 Q. Do you believe that he used confidential information
19 of your company in order to have the address list to
20 send those -- those mailings out?

21 A. I do.

22 Q. Can you prove that conclusively at this point?

23 MR. ROTHSTEIN:

24 Object. Asking for a legal -- legal conclusion.

25 EXAMINATION CONTINUED BY MR. FEW:

1 Q. Well, you don't have the discovery in the federal
2 case yet to -- to show, for example, who's
3 responsible for Exhibit 5 coming from Jackson,
4 Mississippi; is that right?

5 A. Right.

6 Q. Does Exhibit 5 say it's from Jackson, Mississippi?
7 I think it does.

8 A. Yes.

9 Q. That's what it appears to be, right?

10 A. Right.

11 Q. And that's a letter that had the postcard on the
12 outside of the letter; is that right?

13 A. Yeah. There were different -- there were different
14 postal markings on different (inaudible).

15 Q. So --

16 A. The interesting -- may I speak on this?

17 Q. On exhibit -- oh, this? Yes. Exhibit 10, the --

18 A. I mean in my belief, he was one of very few people
19 that knew there was a broker that came to us and --
20 and asked us if we would do work with high-risk
21 workers' comp, and one of the high-risk companies
22 was in adult entertainment, and I said we don't do
23 that (inaudible) business. So he was one of the few
24 people that was privy to -- to those conversations.

25 Q. And so you think that's a link between Mr. Roach and

1 this Exhibit 10?

2 A. Yeah. Other people in the office did not know that.

3 Q. Does that appear to be your dad's picture?

4 A. My dad's face on somebody else's body.

5 Q. Do you know if Mr. Roach ever went to a strip club
6 with your dad?

7 A. He might have.

8 Q. What about this other picture? Is that somebody
9 that we know?

10 A. No.

11 Q. On the right?

12 A. But I did -- it talks about college, and I felt that
13 it was a threat to my -- my daughter's going to
14 college next year, so I -- I took all these words
15 personally, that it was a threat, because it's not
16 focused on my dad, which I mean it could have been -
17 - could have been. He put it's a Christian woman-
18 owned business. That's what he talks about. So I
19 feel like it's more of a threat towards me.

20 Q. You are a Christian?

21 A. Yes.

22 Q. Where do you attend church?

23 A. I attend Buncombe Street United Methodist Church.

24 Q. Let's go to page 25 on the complaint. Paragraph
25 115, you said that as of that time that Propel had

1 expended in excess of 15,000 dollars investigating
2 these matters; is that accurate?

3 A. That is accurate.

4 Q. What about the personal cost that you've incurred
5 for the security that you -- the camera you said you
6 added to your house?

7 A. Yeah. I want to say it's like 700 or 800 dollars,
8 800 something dollars, and then I mean I mentally
9 suffered and had to go to the doctor, so I -- I'm on
10 medication now. So that, you know, that's an
11 additional cost.

12 Q. Let's take a look at page 24 and paragraph 108.
13 That's referring to the seventh mailing, which I
14 think is Exhibit 11. There's some reference to the
15 Grim Reaper. Explain that. I don't know if I have
16 that.

17 A. Exhibit 11 is a Thanksgiving card, and it was --
18 that went to all of our clients and to (inaudible),
19 and it has the people in the office holding a pie,
20 which goes -- the reference is the Help thing, poop
21 pie, and my face -- Jason's face, who is the jerk.
22 That's Teresa Dick, who's our head of operations.
23 That's my father, Braxton Cutchin, and then the
24 fourth -- the fifth turkey is Paul Garrigan, and
25 there's a sixth turkey, and it's an image of what I

1 perceive as the Grim Reaper, and it was a hooded
2 picture. And so when I saw this, I -- I was
3 terrified.

4 Q. And below the it says We can bring the pie, right?

5 A. Yeah. Uh-huh.

6 Q. And of course it's got a picture of you holding what
7 looks to be a pie?

8 A. (Inaudible) our logo says business (ph) backwards,
9 which is the opposite of our logo.

10 Q. And you never gave permission to Mr. Roach to use
11 your company trademark, did you?

12 A. No, never.

13 Q. Paragraph 108, you testified under oath in the
14 verified complaint that you were fearful that he
15 would -- Mr. Roach would resort to bodily harm to
16 you and your family?

17 A. Yeah, especially when I saw that.

18 Q. When you saw the Grim Reaper on the Thanksgiving
19 card?

20 A. Yeah. I mean to me like a Thanksgiving card -- why
21 would you put the Grim Reaper on it? You know, so
22 there's no -- there's no point in that.

23 Q. No legitimate purpose, you think? Paragraph 23 -- I
24 mean let's go to page 23 of the verified complaint.

25 103 -- page -- paragraph 103 -- my apology -- says

1 that Mr. Roach -- his repeated and continuous
2 actions directed toward plaintiff (inaudible) Propel
3 HR wrote him a letter in June asking him to stop and
4 reported his actions to law enforcement. Is that
5 when you said that a policeman went out to see him
6 in June?

7 A. Uh-huh.

8 Q. And things kind of died down at that point in time?

9 A. Yeah. We stopped getting the threatening text
10 messages, but I was still worried at that time.

11 Q. But what happened, if anything, that you know of in
12 July, August, September, October?

13 A. I don't know anything, but I just had this fear.

14 That was when I -- I wouldn't walk in my
15 neighborhood. I wouldn't --

16 Q. Were you ever told -- did you ever get word from any
17 of the employees or former employees that the
18 mailing might be coming? Did you have any --

19 A. No, but I knew that he would do something because he
20 -- his threats were -- he -- he wasn't going to stop
21 at anything, and I knew that his personality is --
22 is like that, and so --

23 Q. So the conclusion of the latter part of paragraph
24 103 says that you've been in fear of defendant,
25 constantly anxious about what harm he might do to

1 you, your family, Propel HR current and former
2 employees, your neighbors and friends. Do you stand
3 by that?

4 A. I do. And when you asked if we -- if anybody knew
5 about the postcards, I don't know how you phrased
6 it, but before the postcards came out, we didn't
7 know. When the first one came out, someone said
8 there's -- there's more. There's going to be two
9 more. We've heard about it, so.

10 Q. Okay. Paragraph 102 on page 23, you talk about the
11 recently installed confidential video surveillance.
12 Is that what you were referring to earlier? Mr.
13 Roach showed you how to view that?

14 A. Yeah, he showed me how to use the app.

15 Q. On the app?

16 A. Yeah.

17 Q. And let's flip back one page and -- page 22, and
18 let's look back at Exhibit 11. Paragraph 97 quotes
19 Exhibit 11 as saying, We want to thank you for all
20 your concern for us as the current employees, former
21 employees and around these issues. Let's look at
22 the exhibit and make sure that's what is on it. Is
23 that the quote right under where it says thank you
24 on the text portion of Exhibit 11?

25 A. Yes.

1 Q. This purports to suggest that it was sent out by
2 current employees, former employees. Is that what -
3 - is that the way you understand that?

4 A. Yes.

5 Q. And this refers to the jerk also on the back page.

6 A. It does.

7 Q. And at the bottom, it says, That would have shown
8 everyone we are right. The image is bad, and the
9 executives are wrong. Okay. Paragraphs 15 -- I
10 mean pages 15 through 19, or actually, all the way
11 through to 21 appear to just -- or that they're --

12 A. What pages?

13 Q. Paragraph -- page 15 to 22 mainly just cover the
14 exhibits that -- that we've talked about so far.

15 A. Yes.

16 Q. Is that right? So I'm going to skip over that.
17 What about this page 22, paragraphs 98 and 99, under
18 the heading fictitious data breach? That's what's
19 being referred to in an attempt to scare your
20 clients in Exhibit 12 that you talked about earlier,
21 right, saying that the -- that this information
22 could be sold on the dark web for between 1,000 and
23 10,000 dollars?

24 A. Yeah, which I don't believe. Federal ID numbers are
25 public numbers, but it still -- it provoked a lot of

1 fear in clients.

2 Q. Let's go to page 13, if you could, please. This
3 makes reference to a lawsuit called Kens (ph) in
4 paragraph 57, Kens versus Metaweb, LLC, the SPR
5 Living Trust, and Sean Roach.

6 MR. ROTHSTEIN:

7 Your Honor, I'm going to object to all of this from
8 -- from paragraph 56 all the way through paragraph 63.

9 This has nothing to do with this case. This is an effort
10 to -- and it's actually based on complete misinformation
11 about Mr. Roach's past. These have nothing to do with
12 his employment. They're not accurate, first of all.
13 Everything is based on information -- I believe this is
14 all just hearsay and speculation and -- and has nothing
15 to do with this case. Not relevant (inaudible).

16 THE COURT:

17 I'm going to have to sustain on this objection, and
18 let's -- let's try to focus on why we're here, okay?

19 MR. FEW:

20 Yes, sir, Your Honor.

21 EXAMINATION CONTINUED BY MR. FEW:

22 Q. Okay. The top of paragraph of -- I'm sorry, I keep
23 -- paragraph 55, you testified in the verified
24 complaint this situation has caused you to suffer
25 tremendous and emotional distress, including

1 anxiety, weight loss, and constant fear. Do you
2 stand by that testimony?

3 A. I do.

4 Q. As a result, you have had to go see your doctor on
5 November 8 of 2019 and were prescribed medications
6 to assist you with handling the situation; is that
7 accurate?

8 A. That is accurate.

9 Q. Are you still under care of a doctor?

10 A. I am.

11 Q. Let's go one more page over, and I'll try
12 (inaudible). Paragraph 53, you state, These actions
13 and offensive intrusions into the private life of
14 the plaintiff by Mr. Roach violate law and serve no
15 legitimate purpose. Do you still believe that these
16 actions serve no legitimate purpose?

17 A. They serve no purpose. I do not understand why I've
18 been subject to this. You know, in business, we
19 have to end contracts. We have to terminate
20 employees. Employees terminate from us. Contracts
21 end with us, and there could have been so many other
22 ways to have gone about this if he felt that there
23 was a contract issue. He could have -- he could
24 have had an attorney say that there was a contract
25 issue, but to send something like this out to

1 everybody I know is -- there's no legitimate purpose
2 except for to provoke fear, and I feel like I've
3 been live in a 20/20 special and my face is on
4 (inaudible) somewhere. That's how I feel, and
5 that's where I, you know, didn't ever expect
6 something like this to come up in my --

7 Q. Paragraph 50 states these actions by Mr. Roach show
8 a pattern that he's attempting to smear your image
9 and the image of Propel HR, as he had stated his
10 goal. He wanted to destroy Propel, and he wanted to
11 take Propel down.

12 A. Yes.

13 Q. And then if you flip back a page, on 49, paragraph
14 49 of page 11, that's where you said that he ranted
15 to neighbors without saying who it was. But yet in
16 his affidavit, he identifies Laura Sanders; is that
17 right?

18 A. That's right, and -- and I used to walk in the
19 neighborhood a lot, and every time I'd come home
20 from work, I would go walking with my friend, and
21 every time I would be out there, I would run into
22 Sean and his son, to the point where I would be like
23 [sighing]. You know, I'd seen him at work. I just
24 kind of wanted a break from work, and so that even.
25 So he used to come in front of my house all the

1 time. So I had not seen him, but that's why after
2 we ended the relationship in May and he sent those
3 threats, I never went -- I just stopped walking
4 until -- until recently.

5 Q. Let me make sure I understood what you just
6 testified to. Did you say that Mr. Roach and his
7 son would come down your street --

8 A. Yes.

9 Q. -- when he was still -- before he was terminated?

10 A. Before he was terminated, I would see him all the
11 time.

12 Q. And that's 16 Heather Way?

13 A. Uh-huh.

14 Q. And would they be walking a dog or were they just
15 riding?

16 A. Yeah, just riding bikes or, you know, (inaudible).
17 It's a -- it's a neighborhood where people -- you
18 know, families are out walking, so I mean I wasn't
19 surprised that I would see him, but he -- I saw him
20 frequently on walks, and so --

21 Q. He knew where you lived?

22 A. He knew exactly where I lived. His son came and
23 delivered something to us one time, so he knew
24 exactly where. I have not seen him on the streets -
25 -

1 Q. Since December 2?

2 A. Right.

3 Q. Paragraph 43 on page 11, Mr. Roach had bragged that
4 he could still hear and see Propel employees.
5 That's what you referred to earlier?

6 A. Uh-huh. We did hire security in that -- like I
7 said, we had the office swept. My brother also was
8 bringing -- he came in from out of town. He works
9 with a business in (inaudible) Sean had sent texts
10 to people, negative about my brother, and he was
11 playing at a -- at a bar. He plays -- he's a
12 musician, and he invited all the family and friends,
13 and this was June, somewhere at the beginning of
14 June, while we're getting all these texts from Sean,
15 and we were so scared that we almost cancelled, but
16 then we hired -- we hired three undercover security
17 people to be there that night because it was all the
18 people we love and like when somebody is sending you
19 texts saying they're going to go nuclear and they're
20 seeing red and then we're having all of our loved
21 ones in one place, we hired security, and we had the
22 security there. And that was the only way we could
23 feel comfortable going through that, and I don't
24 think he even knew that that -- that that was
25 happening, that he -- that my brother was playing,

1 but we weren't going to take a chance.

2 Q. All right. I think I'm about done. On page ten,
3 paragraph 42, it talks about the unauthorized access
4 of the Propel's information. That's the address,
5 the customer address database and the last four of
6 those EIN; is that what you're referring to there?

7 A. Yes.

8 Q. And that's what was used to -- do you believe that
9 to have been a violation of his agreements?

10 A. It was a violation of his agreement for sure. He
11 would have had -- he would have had knowledge and --
12 - and information on the clients. I don't know how
13 he got the -- got the EINs, but there's definitely a
14 violation. His confidentially agreements said he
15 couldn't do it. We asked for the information back.
16 And I can also see that the list who got the
17 mailings was from a list that was sent out in May of
18 our current clients, because newer clients after
19 that May list didn't receive the postcards, and
20 clients that terminated like in the summer, they did
21 receive the cards. So we can actually -- we figured
22 out what list he had, that is.

23 MR. FEW:

24 Your Honor, that's all the questions I have for --
25 for the plaintiff.

1 THE COURT:

2 Okay. Ms. Yarborough, if you would, just answer any
3 questions from Mr. Rothstein.

4 EXAMINATION BY MR. ROTHSTEIN:

5 Q. Ms. Yarborough, my name is David Rothstein. You and
6 I have never met. I actually live on Douglas Drive,
7 too, so I'm in the neighborhood. Correct me if I'm
8 wrong, but it appears that this entire complaint
9 primarily revolves around these seven or eight
10 mailings that were sent out to customers and -- and
11 neighbors of yours; is that correct?

12 A. And the threats that happened in -- in May and June.

13 Q. I gotcha. None of these mailers was actually sent
14 to you or anyone in your family, were they?

15 A. They were not.

16 Q. Okay. And you have not seen Mr. Roach in person
17 since May, since his employment at Propel ended; is
18 that correct?

19 A. I saw him at the hearing.

20 Q. Other than the hearing on December -- I think it was
21 December 2 of 2019?

22 A. Correct.

23 Q. Okay. I think you -- you testified a little while
24 ago that -- that the only time he's ever been to
25 your house was when he and his son brought a gift

1 over to your daughter; is that right?

2 A. Uh-huh.

3 Q. And that was in -- sometime in the spring of 2019,

4 when he was still --

5 A. Yeah.

6 Q. -- affiliated or doing consulting work for Propel?

7 A. Correct.

8 Q. He didn't make any type of a threat during that,

9 when he was giving your daughter the gift, did he?

10 A. No. The son came to the door.

11 Q. Okay. In fact, your daughter sent Mr. Roach and his

12 son a thank-you note for the gift; isn't that it?

13 A. Of course she did.

14 Q. Okay. And to your knowledge, with all your

15 surveillance equipment and everything, Mr. Roach has

16 not been to your house or approached your door in

17 any way, has he?

18 A. To my knowledge, he's not.

19 Q. Okay. And you testified that you used to see him

20 all the time in neighborhood. But since he's

21 terminated from Propel, you don't see him on walks

22 anymore, do you? Okay. In fact, the last

23 communication you had with Mr. Roach was a group

24 text that was sent to you, your father, and

25 Mr. Garrigan, another co-owner of the business, on

1 June 19; isn't that right?

2 A. Yes.

3 Q. So after your lawyer from Ogletree sent a note to
4 Mr. Roach telling him not to have any further direct
5 communication with anyone at Propel, that everything
6 needed to go through their attorney at Ogletree, Mr.
7 Roach complied with that; isn't that right?

8 A. Yes, until -- until we got these -- all of the
9 postcards started, which is why I didn't do a
10 restraining order at that time. The cops said --
11 you know, they said sometimes a restraining order
12 triggers people in the wrong way. So, you know, I
13 made a decision to just not do it then.

14 Q. And what upset Mr. Roach after he was terminated was
15 that your father and Mr. Garrigan promised to buy
16 out his contract, the remaining six months of the
17 contract; isn't that correct?

18 A. Supposedly.

19 Q. Okay. And they also promised to pay him commissions
20 on jobs that he had sold since March 1 that he had
21 not received commissions on.

22 A. And -- and -- and he received the commissions that -
23 (inaudible) I have that paper. He was supposed to
24 receive the commissions (inaudible).

25 Q. But after the -- after the termination and the

1 promises that were made to Mr. Roach about paying
2 the rest of the contract, you got involved and said
3 we're not going to pay him anything else. You sent
4 Mr. --

5 A. That's not true.

6 Q. Didn't you send Mr. Roach a letter on May 13, 2019.

7 A. To explain, according to the contract, what would be
8 done. He had a 30-day contract. We paid him for 45
9 days, and we paid all the commissions when they were
10 due as they came in and as they were earned.

11 Q. Okay.

12 A. So.

13 Q. And when Mr. Roach was talking about playing the
14 game, he was talking about legal action in
15 connection with his contractual dispute; isn't that
16 right?

17 A. Well, if that was what he was -- he was referring
18 to, you would think he would refer to it exactly
19 like that, because if he had contacted us -- if he
20 had even called and said hey, I really disagree, you
21 know, I mean I probably would have paid him a little
22 bit more. So but he definitely had a legal thing
23 that he could have had -- as you, as the neighbor,
24 he could have said could you write them a letter
25 saying I think that the contract is in dispute.

1 Q. Okay. But after your -- just to make sure, after
2 your lawyer sent the letter -- do not contact anyone
3 at Propel or any employees of Propel, he abided by
4 that; isn't that correct?

5 A. He abided. He may -- I don't -- he abided that with
6 me and -- but he -- he may have still contacted some
7 employees. I'm not -- I can't say that 100 percent.
8 Some of the mailings did go to an employee that
9 lives in the neighborhood.

10 Q. Just to be clear, I think you testified earlier that
11 you -- every time you go out on the town, you kind
12 of are hyper vigilant.

13 A. Absolutely.

14 Q. You keep an eye out for Mr. Roach's car. You've
15 never seen him following from a location to
16 location?

17 A. I did see him one time on Roper Mountain Road. I
18 was in a lane and he was in front of me. I took a
19 picture at that time to make sure that -- because
20 I've never seen him follow me, no, if that was your
21 question, but I saw him, and I was kind of behind
22 him, and I took a picture to make sure that I -- I
23 knew where he, you know, was just in case.

24 Q. Okay. So the fact that you were behind him
25 indicates he wasn't --

1 A. (Inaudible) it appeared --

2 Q. -- he wasn't following you.

3 A. that he was not following (inaudible).

4 Q. Okay. And to your knowledge, he's not engaged in
5 any type of visual or physical contact with you or
6 your family since this termination?

7 A. No.

8 Q. Okay. And you don't have any proof that he's
9 conducted any type of surveillance of you or your
10 family, do you?

11 A. I mean I know that from what he said that he was --
12 he was definitely surveilling us in June.

13 Q. Okay. Well, what he said is that he could -- he
14 could hear what going on in the business; isn't that
15 right?

16 A. He could hear specific things, and he could see us.

17 Q. So if he had co-workers sort of as his ears, eyes
18 and ears on the inside that were telling him what
19 was going on in the business, that would be
20 consistent with that; isn't that right? Well, when
21 you -- when you had the business swept for bugs, you
22 didn't find any kind of listening devices in the
23 business, did you?

24 A. No, not until we pulled the -- the wireless cord.
25 Then it stopped.

1 Q. Okay. And there's no information that Mr. Roach had
2 downloaded the app that he showed you how to use on
3 your phone, is it -- is there?

4 A. I don't know how -- if that -- I mean I don't know
5 who would know that.

6 Q. Okay. But as -- out of an abundance of precaution,
7 you all switched from that wireless system to a
8 completely hardwired system sometime in the summer;
9 is that right?

10 A. We pulled the wire -- the ability to be wireless.

11 Q. Okay. You have no information that Mr. Roach had
12 surveilled the company at all since the wireless was
13 pulled?

14 A. Correct.

15 Q. And it was just your speculation based on what he
16 said about hearing or knowing what was going on
17 inside of the business that he must have been
18 listening in with some type of device; is that --

19 A. And -- and saying that -- that -- yeah, that he --
20 that they watched me (inaudible).

21 Q. So you don't need an order from this court telling
22 Mr. Roach to stop surveilling the business because
23 y'all took care of it yourselves; isn't that right?

24 A. On the business.

25 Q. Right. Okay. You don't have any information that

1 he's ever surveilled you in your home or your
2 family; isn't that correct?

3 A. I -- I -- I'd like an order of the court to feel
4 more secure in my own neighborhood and in my --

5 Q. Mr. Roach has not committed any act of vandalism to
6 your home or property; is that correct?

7 A. Right, not that I know of.

8 Q. Okay. He's not threatened anyone in your family
9 with death or physical harm?

10 A. I would say that the Grim Reaper was a threat.

11 Q. Okay. Other than the postcard that was not sent to
12 anyone in your family, he's not made a direct threat
13 of physical harm or death to anyone in your family,
14 has he?

15 A. He's not. But I would say that even though it was
16 not sent to my house, it was sent with my picture on
17 it.

18 Q. And Mr. Roach has not committed any type of assault
19 on you or any of your family members?

20 A. No.

21 Q. Is that right? He's not threatened to kidnap you or
22 any of your family members?

23 A. No.

24 Q. And he's not threatened to commit any damage to you,
25 your family, or your family's property, has he?

1 A. No.

2 Q. In fact, the only threat Mr. Roach has made is a
3 threat to take legal action against Propel for
4 unpaid severance and commissions; isn't that right?

5 A. (Inaudible). No. I would disagree with that
6 because if he would like to make a legal case
7 against the contract, he has -- has had all sorts of
8 manners to do that.

9 Q. Okay.

10 A. What he has done is decided to do a smear campaign
11 and defame me and my company and has used all sorts
12 of confidential information. He has used people's
13 private information, and he has gone way (inaudible)
14 so that there's -- and threatened me, because
15 they're all insinuated towards me.

16 Q. Okay. And I know these -- these mailings have been
17 embarrassing to your -- I mean I can imagine they've
18 been embarrassing to your company, but the only --
19 only one that even references you is the very first
20 one that had the Two-Slice Hilly.

21 A. No (inaudible).

22 Q. Isn't that right?

23 A. No.

24 Q. Okay. Where else are you referenced by name or --

25 A. I'm referenced in the stripper one that talks a

1 Christian-woman-owned business.

2 Q. Okay.

3 A. I'm referenced in the Thanksgiving card, where my
4 face is holding the pie as a turkey. I am --
5 there's -- I mean everything in there that
6 references my daughter -- the stripper about the
7 college.

8 Q. Your daughter's not necessarily the stripper,
9 though.

10 A. She's going to -- she's never been a stripper.

11 Q. Okay.

12 A. But she's going to college, so when it says that you
13 have to strip to get -- get -- some girls have to do
14 things just -- so I'm referenced in that one. I'm
15 not referenced in the exhibit on (inaudible).

16 Q. Let me talk about the one with the (inaudible) Two-
17 Slice Hilly one for a minute.

18 A. Yes, please do.

19 Q. I wasn't familiar with this book. Haven't seen the
20 book -- or seen -- seen the movie or read the book,
21 but that comes from -- it's a reference to the -- I
22 believed you referenced The -- The Help, right?

23 A. Yes.

24 Q. Okay. And in that movie and in the book, my
25 understanding is that the -- the lead antagonist --

1 Hilly, I guess is her name, treats her hired
2 servants fairly poorly; isn't that right?

3 A. Correct.

4 Q. Okay. And one of the servants sort of gets revenge
5 on her by baking a chocolate pie and putting feces
6 in it; isn't that correct?

7 A. Right.

8 Q. And unbeknownst to Hilly, she ate two slices of the
9 pie before that was revealed; isn't that right?

10 A. That's correct.

11 Q. So there was no -- no type of physical threat or --
12 involved in that Help scene; is that -- is that
13 correct?

14 A. You mean in the movie?

15 Q. Right, in the movie.

16 A. No, but I would say that it's not normal to send --
17 give somebody a pie that has -- like I said, I had
18 my daughters instructed (inaudible) there was a
19 bakery box on our front door to not -- to call the
20 police immediately.

21 Q. All right.

22 A. That's how scared I was.

23 Q. And Mr. Roach never had a pie delivered to your
24 house?

25 A. No, thank goodness.

1 Q. Okay. Is there anything in that first postcard with
2 Two-Slice Hilly on it that conveys a threat to you
3 or your family personally?

4 A. I -- I think it was defaming. I think it's --
5 there's a -- not a -- there's no legitimate business
6 need for this, so. And then when you couple that
7 with the things that he sent to us in June and in
8 May, I felt that this was very threatening. I felt
9 that this was -- he -- he had said he was playing a
10 game, and he said this is level two. I'm going
11 there.

12 Q. Okay. Now you're not certain Mr. Roach is -- is
13 solely behind these cards, are you?

14 A. I -- I am very certain.

15 Q. And you filed two -- you filed a lawsuit against Mr.
16 Roach and two other former employees of Propel HR
17 for the same thing; isn't that correct?

18 A. Correct.

19 Q. Okay.

20 A. Because their letters (inaudible).

21 Q. Okay. And you don't know which role, you know, any
22 of the three played in the dissemination of these
23 cards; is that right?

24 A. That's correct.

25 Q. Okay. The second card that went out, Exhibit 7,

1 this photo of the jerk, there's nothing at all in
2 there in reference to you personally, is there?

3 A. Correct. But as -- as the owner of Propel HR, to
4 that, I'm to be referenced in all of them.

5 Q. Okay. And the third mailer that was Exhibit 8, is
6 there anything in Exhibit 8 not with the (inaudible)
7 or anything, but you're not (inaudible). Is there
8 anything in there that's threatening to you
9 personally or your family?

10 A. Again, it is -- it is my company (inaudible) and
11 that they're saying things that are not true.

12 Q. Okay. Now you said that most of your clients after
13 these -- that received these mailers, most of them
14 called up and were very supportive of your business;
15 isn't that right?

16 A. Many were, yes.

17 Q. Okay. So they didn't -- they didn't believe any of
18 the information that was contained in these
19 postcards, did they?

20 A. They asked a lot of questions, especially with that
21 first letter.

22 Q. Okay. How much business did your company lose as a
23 result of these mailers?

24 A. We've lost some, but some of it's still to be
25 determined.

1 Q. Okay. Have any -- any customers called you up and
2 said I'm not doing business with you anymore because
3 of one or more of these mailers?

4 A. No, not specifically.

5 Q. The next one, I think the fourth one, Exhibit 9,
6 "Let's get this party started, there's nothing in
7 there that conveyed a threat or references you
8 personally in any way, is there?

9 A. Again, as the president of (inaudible).

10 Q. Okay. And there's a difference between you feeling
11 threatened and a threat being conveyed in the card,
12 right?

13 A. Accurate. Right.

14 Q. But there's no threat that's conveyed in this
15 postcard?

16 A. There's no specific threat, no.

17 Q. Exhibit 10, the one with the strip club in it, why
18 did you think that the reference to a stripper who
19 needs money for college had something to do with one
20 of your children?

21 A. Because I would say things like oh, Caroline's
22 getting ready for college, Caroline's getting ready
23 for college.

24 Q. Okay.

25 A. And that was -- you know, so -- so when -- and my

1 husband, when he first saw this, too, that was his
2 immediate thought -- thought, was why would he be
3 saying something about college.

4 Q. Okay.

5 A. So I feel like how he -- and I worked with him -- is
6 -- is the way his brain works, in my opinion, is
7 that all these words are messages.

8 Q. Are you some kind of psychoanalyst?

9 A. No.

10 Q. Okay. So how -- how do you know how Mr. -- Mr.
11 Roach's brain works?

12 A. I don't know how his brain works because I certainly
13 wouldn't have done this (inaudible).

14 Q. I gotcha. You said your daughter is currently a
15 senior in -- a senior in high school; is that right?

16 A. Yes.

17 Q. So at the time Mr. Roach worked for you, she would
18 have been a -- a junior in college?

19 A. Yes.

20 Q. Has she decided where she's going to go to college?

21 A. She has.

22 Q. Okay. Do you have any -- does Mr. Roach have any
23 idea where or if your daughter's going to college?

24 A. I would hope not.

25 Q. Okay. This particular postcard talks about the

1 possibility of your company doing work for a company
2 in the adult entertainment business; isn't that
3 right?

4 A. That's right.

5 Q. There's no threat to you personally or to your
6 family in connection with this card, is there?

7 A. There's no threat, but the clients did not like
8 this, nor did neighbors, and I had neighbors
9 contacting me that I didn't even know and saying
10 from the business like why would your business send
11 out cards like this. So they felt that we were
12 sending out pornographic -- multiple neighbors that
13 I do not know from all over say your company has
14 sent out pornographic material, and they were very
15 upset. And then I had to explain actually, this was
16 not me. Somebody is (inaudible) so.

17 Q. Okay. So some of your neighbors actually thought
18 that you were sending out the mailers?

19 A. Yes.

20 Q. Okay. Exhibit 11, the next mailer, the one with the
21 Thanksgiving card, this is the one you say you think
22 has the Grim Reaper on it. Can you tell me where on
23 here the Grim Reaper is?

24 A. You see the Propel HR business backwards?

25 Q. Right.

1 A. See that turkey above that? You see the hooded
2 figure?

3 Q. It's kind of hard for me to make out. I mean
4 usually in pictures of the Grim Reaper, I see some
5 sort of sickle and -- and, you know, some sort of
6 image of death. There's no sickle or image of death
7 here, is there?

8 A. It's a hooded man to me. When I saw it, my
9 immediate thought was a death threat.

10 Q. Okay.

11 A. What did your client think that it was supposed to
12 be?

13 Q. You know, it's -- unfortunately you don't get to ask
14 me questions in this -- in this session. The way
15 this works is I get to ask you questions.

16 A. Yeah.

17 Q. I'm not trying to be rude, but that's just how the
18 rules are.

19 A. Well, I perceived this, and I still do, as this Grim
20 Reaper.

21 Q. Okay. There's nothing in the text of the -- of the
22 postcard that indicates this is some sort of threat
23 or image of death, is there?

24 A. No.

25 Q. Okay. And if you flip over to the last postcard

1 that was sent, the one that was sent before the -- I
2 guess the -- you found out about it the day of the
3 hearing. That has an image of a hooded figure in it
4 as well, right?

5 A. Yeah, but that was one was different.

6 Q. Okay. And that -- that is kind of hard to make out
7 on this, but isn't it true that that was a -- like a
8 teenage hacker-type person with a hoodie?

9 A. That's (inaudible).

10 Q. Okay.

11 A. The -- the other one did not look like that. The
12 other one was --

13 Q. So why do you think the -- the two are different?
14 Because it looks to me like --

15 A. Oh, they were -- and do you have a copy of the
16 (inaudible).

17 UNKNOWN:

18 Your Honor, I cited the -- the defendant was served
19 with an original copy is my understanding, and so I do
20 apologize if the -- the ones that we brought here today
21 may not be clear, but the witness seems to have good
22 recollection on them.

23 WITNESS CONTINUES

24 A. So even if you're saying that they're the same,
25 which I don't feel like they looked the same -- this

1 one definitely looked like a -- a dark web hacker.

2 Q. Right.

3 A. And this to me looked like the Grim Reaper, and
4 that's how I took it. But even if they were the
5 same, there's still an image of dark -- of darkness.

6 Q. Okay.

7 A. And I felt --

8 Q. You interpreted that to be some sort of a death
9 threat?

10 A. When I -- the Thanksgiving card to me, I perceived
11 it that he -- that it had even (inaudible). And at
12 Thanksgiving, I went to my in-laws, and just being
13 away from town was unbelievable, because I realized
14 I was so anxious and living in such fear.

15 Q. Mr. Roach has never contacted your husband at work,
16 has he?

17 A. No.

18 Q. In fact, to your knowledge, he -- Mr. Roach, other
19 than you putting it in your complaint, wouldn't have
20 any knowledge of where your husband even works;
21 isn't that right?

22 A. Oh, he did, because we -- one of the salespeople,
23 Arron Drye, was trying to get FAVOR's business at
24 the time, so he definitely knew that.

25 Q. So during your -- Mr. Roach's time at Propel, he was

1 not given a company computer, was he?

2 A. No.

3 Q. Okay. He used his own personal laptop for work?

4 And after his termination, you took steps to cut off
5 his access to Propel's computer system; isn't that
6 right?

7 A. To our -- to like the Office 365 email. He did have
8 an email address.

9 Q. Okay. And I think you mentioned that you've now got
10 this dual-factor authentication, that somebody has
11 to have credentials to get in, and then they get a
12 code to put in?

13 A. That's for the payroll systems.

14 Q. Okay.

15 A. So he didn't have access to the payroll systems.

16 Q. Okay. To your knowledge, Mr. Roach has not accessed
17 any company information since his termination, has
18 he?

19 A. Not -- not to my knowledge.

20 Q. Have you run any computer forensics to find out
21 whether your system has been accessed?

22 A. We have not (ph).

23 Q. Okay. And it didn't show that Mr. Roach had
24 accessed anything, did it?

25 A. No. Like I said, the list was, I think, from May.

1 Q. Ms. Yarborough, I can understand that this whole
2 situation with the mailers has been embarrassing for
3 you and your company, but there's never been
4 anything threatening from Mr. Roach about the
5 mailers, has there?

6 A. I understand that it was -- that you -- that you
7 think that it's just embarrassing, but it goes far
8 beyond just embarrassment. I -- I've had fear.
9 I've had anxiety. I haven't been able to sleep. I
10 have to take medication during the day and at night
11 to sleep. I feel -- I've had to sit there and tell
12 my children, show pictures of Sean and having my 17-
13 year-old say I would have thought he was a normal
14 man walking in the gate. I would have let him into
15 my house. And so I mean I've had to have lessons
16 about people aren't always -- what they look like
17 and you need to be safe. I -- I drive around and I
18 worry about, you know, am I going to run into him
19 here. I go to the bank. I got to a restaurant. Is
20 he there? So it's more than embarrassing. It is a
21 fear.

22 Q. Okay.

23 A. And I think he's trying to take down the company,
24 and I don't understand why, and I think he's trying
25 to hurt me, and that whether he can do it from a

1 psychological perspective or a -- a physical -- no,
2 he's not physically hurt me, but I think that if
3 someone goes to this extreme when they could easily
4 have contacted you and said I have a contract
5 dispute, but for them to spend all of this time and
6 money and energy, what else could he do? So I have
7 a fear that is beyond embarrassment, and I need to
8 know that -- I have actually felt like I can walk in
9 my neighborhood since December 2, when that
10 restraining order came in, and it is beyond an
11 embarrassment. It is a fear.

12 Q. Okay. And since you had that discussion with your
13 daughters, they've never reported to you that
14 they've seen Mr. Roach in any kind of suspicious
15 manner?

16 A. No.

17 Q. At school or following them around or anything like
18 that, have they?

19 A. No.

20 Q. Okay. And you also mention in your complain that
21 the YMCA. When was the last time you attended the
22 YMCA?

23 A. It's been a -- I have not attended since May because
24 I knew that he went there.

25 Q. Okay. Have you ever seen Mr. Roach at the YMCA?

1 A. No, but I've heard that he's -- has been
2 disrespectful to a worker there.

3 MR. ROTHSTEIN:

4 I don't have any further questions, Your Honor.

5 THE COURT:

6 Mr. Few?

7 REEXAMINATION BY MR. FEW:

8 Q. Ms. Yarborough, let's find Exhibit 9, I believe it
9 is. Opposing counsel was wanting you to agree that
10 these mailings didn't relate to you directly. Do
11 you believe that all eight of the mailings refer to
12 you directly or indirectly?

13 A. Well, it talks -- this one talks about women
14 founder-executives, so it does refer to me there.

15 Q. It actually says women fonder executives, doesn't
16 it?

17 A. Fond? Oh, yes, fonders.

18 MR. ROTHSTEIN:

19 Which one are you looking at?

20 MR. FEW:

21 This is 9, the --

22 MS. YARBOROUGH:

23 Exhibit --

24 MR. FEW:

25 -- get the party started.

1 MR. ROTHSTEIN:

2 Okay.

3 EXAMINATION CONTINUED BY MR. FEW:

4 Q. And then it also talks about -- and that's in
5 respect to a hostile work environment. Has the
6 company ever been successfully sued by anybody over
7 a hostile work environment claim?

8 A. We've never had even an unsuccessful. Nobody has
9 ever made a accusation of hostile work environment
10 until -- until recently.

11 Q. And who has the recent claim been made by?

12 A. Angela Tyler.

13 Q. The one who's --

14 A. Who's left.

15 Q. -- letter is referred to in -- her resignation
16 letter is referred to in Exhibit 5, which was the
17 first mailing?

18 A. First mailing.

19 Q. And somehow or another, Mr. Roach got a hold of
20 these things, didn't he?

21 A. Yeah. He would not have been on -- Propel World is
22 where the -- anybody that has a PropelHR.com email
23 address would get that. So on June 17, when she
24 sent this letter to -- to our staff, he was not on
25 the email. So she must have sent it to him or

1 somebody (inaudible) office.

2 Q. Somehow or another, these emails from Angela Tyler
3 and Arron Drye, these -- hers is a three-page
4 resignation, and -- and her first-page resignation,
5 doesn't it refer to The Help or something in here?

6 A. Yes.

7 Q. Let's show the court where that is. This is a long
8 resignation letter.

9 A. It's -- it's two and three (inaudible) a paragraph.
10 I feel like these final months, I've been in a live
11 version of the book -- movie/book/movie The Help.
12 The employees are ungrateful indentured servants to
13 (inaudible) Two-Slice Hilly.

14 Q. So a reference to Two-Slice Hilly has been made at
15 that point in time?

16 A. Somebody told me, and I don't know who told me, that
17 they -- that Sean chose The Help because he knew I -
18 - I own it and love it and the book (inaudible) and
19 -- and things like that -- that I'm a book person.

20 Q. I guess my questions to you are, really, just in
21 summary, a response that -- that with respect to the
22 hostile work environment, there's never even been a
23 hostile work environment claim made?

24 A. No.

25 Q. Okay. And with respect to Exhibit 5, somehow or

1 another Mr. Roach got copies of these -- hard copies
2 of these emails from Arron Drye after his -- his
3 contract had been terminated, right?

4 A. Correct.

5 Q. Do you know how he got those?

6 A. I do not.

7 Q. And then take a look at Angela Tyler's -- something
8 you had mentioned before. I think it's in the --
9 what time did that go out June 17?

10 A. On this email right here, it says it went out at
11 9:11 a.m., and we received it in our office.
12 Because of our firewalls, we received it at 9:17.
13 However, we received a phone call or somebody in our
14 office received a phone call from -- from someone
15 else that said that Angela specifically put it out
16 at 9:11 as a threat.

17 Q. Okay. And then -- and just as I look at this --
18 this is the last three pages of Exhibit 5, you're
19 not -- I mean this is just what was in the mailings
20 that --

21 A. This is what was in the mailings. If you got it
22 from my computer, it would say 9:17 a.m.

23 Q. And then it looks like it's maybe been -- just been
24 cut and then pasted in there. This is not like a --
25 doesn't appear to be a printout from Microsoft

1 Outlook or Gmail or anything, does it?

2 A. I have no clue. We have the -- I mean it looked
3 like printed.

4 Q. Right. Okay.

5 A. I -- I don't know.

6 Q. All right.

7 MR. FEW:

8 That's all the questions I have, Judge.

9 MR. ROTHSTEIN:

10 Could I ask one follow-up?

11 THE COURT:

12 Yes.

13 REEXAMINATION BY MR. ROTHSTEIN:

14 Q. You mentioned Angela Tyler's filed (inaudible)
15 complaint.

16 A. Absolutely.

17 Q. And you're aware that Mr. Roach submitted an
18 affidavit in support of that?

19 A. I am not aware (inaudible).

20 Q. You're not aware of that?

21 A. Huh-uh.

22 Q. That's all I have.

23 THE COURT:

24 Mr. Few, any -- have any other witnesses that you
25 would like to --

1 MR. FEW:

2 None planned, Your Honor. We would just make a
3 motion for -- for judgment in favor of -- of our client
4 and to continue the restraining order. I've got the code
5 section here that I can walk the court through, 16-3-
6 1700. Your Honor, as we mentioned before, this is
7 referred to as Mary Lynn's Law. It was amended in 2005
8 to give more protections to people that are subject to
9 these types of harassments, and it absolutely covers way
10 more than somebody having to make a direct threat of
11 physical harm to a person, contrary to what Mr. Rothstein
12 is suggesting. Harassment in the first degree is a
13 pattern, which we have proven, of intentional,
14 substantial, and unreasonable intrusion into the private
15 life that serves no legitimate (inaudible), and all we
16 have to show is that it causes the person or would cause
17 a reasonable person to suffer mental or emotional
18 distress. So we've met all three with this abundance of
19 evidence that's been presented, Your Honor. And then
20 harassment in the second degree is obviously intended to
21 be an easier standard to meet, and -- and that's been met
22 as well for the same reasons that harassment under
23 subsection (inaudible), in the first degree, has been
24 met. Stalking is a pattern of words, whether verbal,
25 written, or electronic, or a pattern of conduct that

1 serves no legitimate purpose and is intended to cause and
2 does cause a targeted person, which we've proven, and
3 would cause a reasonable person, which we've proven, to
4 fear, death, assault, bodily injury, and criminal sexual
5 contact, kidnapping, damage to property. The witnesses -
6 - the plaintiff has testified that she's been in fear of
7 -- of up to -- things up into death and -- and given
8 reference to the Grim Reaper. Your Honor, I'm not sure
9 where we're going to go if the defendant is going to put
10 up a case, but all that's required under this statute is
11 that we make a prima facie showing of these facts. The
12 court really doesn't even need to weigh the evidence.
13 And respectfully to Mr. Rothstein, who's a very smart
14 man, his cross-examination established, if anything, only
15 that Mr. Roach has not made a direct threat of I will do
16 something to you. And the statute, again, clearly is
17 intended to cover way more than that. And in our
18 verified complaint and in the additional evidence that --
19 that Ms. Yarborough's put up today, we've more than
20 proven all of these elements. And we really only need to
21 establish one of the three for the restraining order to
22 be put in place. There's no prejudice for the defendant
23 by the restraining order. None whatsoever. In fact, he
24 even claims that he has had no contact with -- with the
25 plaintiff. But, you know, and -- and I think the fact

1 that their -- their affidavit that doesn't disavow the
2 responsibility for the mailings, despite plenty of
3 opportunity to do so, just speaks volumes about whether
4 or Mr. Roach is primarily responsible for these mailings.
5 And so, Your Honor, based on those reasons, we think that
6 the court has been in supply of an abundance of evidence
7 that meets the standard of (inaudible) prima facie case
8 of either harassment in the first degree, harassment in
9 the second degree, or stalking ever since December 5,
10 when we submitted this verified complaint. And on
11 December 2, we were prepared to go forward with a trial,
12 but we didn't do so merely because Mr. Roach at that time
13 did say he wanted counsel. He said he wanted 60 days,
14 and I think the court gave him 14. And then -- and
15 really, to answer the question of why we didn't do the
16 mutual order, it's because when I got back to my office,
17 and I think I've been clear on this, there was no grounds
18 for a mutual order at that time because he still hadn't
19 come forward with any -- with any evidence, and he's had
20 the opportunity to do that, and yet they waited until
21 today, and then they claim they're going to -- you know,
22 they've made it clear they're going to serve the Fifth
23 Amendment. So Your Honor, frankly, we would just ask the
24 court, based on what's before the court right now, to
25 continue the order with a new order and -- and have it

1 extend, you know, for the longest time that it can under
2 the statute based on the fact that we've now had a trial
3 and there's been ample notice of it, and it's something
4 that's clearly necessary to protect my client and give
5 her the -- you know, the most assurance that she can get.
6 And Your Honor, it's really important, too, that the
7 restraining order -- I'm no expert on this, but I've
8 certainly learned a lot about it and a lot of about the
9 magistrate's court through this proceeding. The criminal
10 penalties if there is further contact, are substantial,
11 and -- and so that's why -- that's why the law was -- was
12 put in effect, and that's why my client deserves the
13 protection of that law, because it gives her some
14 assurance, and we need do nothing further than look to
15 the conduct that has ceased from the day that Mr. Roach
16 came into this court on December 2. In a period of a
17 month, there were eight mailings that went out that are -
18 - I could tell you the word of somebody that's described
19 it to me, but it's just there's -- there's no purpose for
20 anything like this anywhere, not in -- not in a civilized
21 or an uncivilized society. And so, Your Honor, we would
22 just ask for the order in our favor and to be continued
23 again for as long as the statute allows. And if Mr.
24 Roach is still in town, we plan on coming back and asking
25 for an extension of it if and when that time is expired.

1 THE COURT:

2 Mr. Rothstein.

3 MR. ROTHSTEIN:

4 Yes, Your Honor. I appreciate you being here today.
5 Mr. Few misread the -- the stalking statute and the
6 harassment statute. There's the word "and" between the
7 two. It says causes person and would cause a reasonable
8 person in his position to suffer mental or emotional
9 distress. It's not "or," it's "and," and I don't doubt
10 that Ms. Yarborough has suffered emotional distress. You
11 know, she has not been evaluated, but I'll take her word
12 for it. But I question whether her actions are
13 reasonable in response to anything that Mr. Roach is
14 alleged to have done. You know, hiring a -- three
15 bodyguards to attend an event with your family members --
16 I don't know that there's anything that Mr. Roach has
17 said or done that would have given cause to that. You
18 know, she's testified that the company has installed new
19 locks, that they've revamped their surveillance and swept
20 for bugs. It seems to me that they have taken care of
21 any potential concerns they had about Mr. Roach
22 surveilling the business. Ms. Yarborough testified
23 specifically that -- and, Your Honor, I went through --
24 in my cross-examination just went through the list of
25 things that are listed as examples of harassment and

1 stalking. Has any of them been followed? She said no.
2 Has there been any visual or physical contact with Mr.
3 Roach as an issue? She said no. Has there been any
4 surveillance or maintaining of a presence near her
5 residence, place of work, or school? She said no. Has
6 there been vandalism or property damage? She said no.
7 Then went through the stalking. Has there been a threat
8 of death to a person or her -- anybody in her family
9 members? She said no. Has there been a threat of
10 assault? She said no. Threat of any bodily injury or
11 kidnapping or damage to property? She said no to every
12 one of those examples that's listed in the stalking and
13 harassment. And so I mean the first thing they would
14 have to show is that there is -- there has been a pattern
15 of stalking or harassment that needs this court's
16 intervention to stop. And with all due respect, they
17 have not proved that. Whether Ms. Yarborough or her
18 business are embarrassed or -- or, you know, they've got
19 concerns about this being some sort of civil dispute,
20 that's all being handled in the federal court system.
21 There's no need for this court to get involved, and --
22 and Mr. Few indicated, well, there's no prejudice to Mr.
23 Roach in issuing this injunction. Well, that's -- with
24 all due respect, Your Honor, that's not what the standard
25 is for entering a court order saying you can't come into

1 contact with this person or come within a certain, you
2 know, space of -- a geographical space or territory
3 within this person. You know, your prior order, Your
4 Honor, was -- was very broad, and Mr. Roach was very
5 concerned when he first saw it because it said he can't
6 go any or all places that Ms. Yarborough might be. Mr.
7 Roach's son plays basketball or played basketball and now
8 plays soccer at the YMCA. If he happened to see Ms.
9 Roach -- I mean Ms. Yarborough at the YMCA, he's worried
10 about whether he's going to be in violation of a court
11 order. If he sees her at the grocery store or driving
12 down the street, as Ms. Yarborough testified, that --
13 that shouldn't give rise to a -- a claim for contempt of
14 court or, you know, a rule to show cause as to why he
15 should be thrown in jail for violating a no-contact
16 order. So, Your Honor, with -- with all due respect,
17 there's been now showing. They have the burden of
18 proving, you know, a legitimate reason for the TRO or --
19 or some type of court order. They have not proved that.
20 Most of their case is -- today has been dealing with what
21 effect, if any, this has had on her business and how
22 embarrassing it was for her to be in the community and
23 have her neighbors come up and say, you know, I got this
24 mailing; is this referring to you or something like that.
25 But, again, that's not a basis for a claim of harassment

1 in the first or second degree or stalking sufficient to -
2 - to obtain court order under this Mary Lynn's Law, Your
3 Honor. I think the case needs to be dismissed.

4 THE COURT:

5 Very well. Without further ado, I'm going to render
6 a -- my decision here, and it really concerns me that
7 we're here. It really does. Mr. Rothstein and Mr. Few,
8 I commend both of you on the presentation of your case.
9 At this time, I'm going to have rule in favor of the
10 plaintiff in this case, Ms. Yarborough, and I'm not going
11 to etch out every detail of this and what makes me feel
12 this is the way to go. I do feel that you met the burden
13 of proof in violation of the harassment law, and I'm
14 going to extend the restraining order for one year. And
15 without further ado, I will proceed now to have the order
16 drawn up. If you wish to wait, we could probably have
17 this done within a matter of minutes. If not, we'll have
18 it delivered or you can come and -- and pick up the
19 order, copies of the order, or we can mail them to you,
20 whichever would be -- I want to try to be as convenient
21 for you guys as I possibly can. If you would like to
22 wait, we can have this drawn up right now.

23 MR. FEW:

24 Your Honor, I'm happy to wait. I might ask that my
25 clients be allowed to ahead and (inaudible).

1 THE COURT:

2 I don't have a problem with that, and Mr. Rothstein,
3 if -- you know, I would grant you the same. If Mr. Roach
4 needs to leave for whatever reason, we can do them with
5 you two fellows here and carry on with what we need to
6 do.

7 MR. ROTHSTEIN:

8 I'm fine if you just send me a copy of the order
9 this afternoon, Your Honor, once it's entered
10 (inaudible).

11 THE COURT:

12 We can do -- we can do that.

13 MR. FEW:

14 We could just do it by email, Judge. That way we
15 can (inaudible).

16 THE COURT:

17 Just give you an email would be good?

18 MR. FEW:

19 That's fine with me.

20 THE COURT:

21 Mr. Roach, I hope you understand, and I know you
22 received a copy of the temporary order. Primarily it's
23 going to be basically the same. There's to be no contact
24 directly or indirectly with this young lady and her
25 family, her residence, and/or her place of employment.

1 I understand about the Y and things of that nature. I go
2 there, too. I got grandkids that I love to go watch play
3 ball, and I understand that, and being a parent or a
4 father or a grandparent, I want you to be able to do
5 those things. But we've got to think about what we're
6 involved with here. We got to be careful as to what we
7 do if contact is made. You know, my thing is don't go
8 looking for it, you know. If it happens -- it's going to
9 happen eventually. If you guys live that close to one
10 another, you -- you entertain the same places, you go to
11 the grocery store, you go to the Y or wherever it may be,
12 just be aware and act as an adult as to how to handle
13 that. If you know it's a situation where you both are in
14 the same place at the same time, if it's something that,
15 hey, maybe we just need to leave, well, get on. Move on.
16 Don't confront each other. Don't cause a scene. Don't
17 make a threat. Don't scare somebody. We know how to
18 act. We're grown-ups here. Let's do this. If you both
19 show up at the Y because of little people, then let's
20 deal with it, you know. I mean you -- you don't have to
21 speak to one another. You don't even have to look at one
22 another. Go your way. If it's a situation where, hey, I
23 can leave, well, then leave. But if it's like a ball
24 game where you've got kids playing against each other or
25 whatever, stay away from each other. The order is going

1 to read a certain way. If you violate that, don't take
2 that chance of being arrested or going to jail because of
3 it, you know. Just use a little common sense and let's
4 move on, okay, and I hope it never comes to that. I
5 really don't. I mean very intelligent folks here, grown
6 folks, professional folks. Let's keep it that way. You
7 know, I'm not trying to ruin anybody by doing what we're
8 doing here, but this is a situation that has to be dealt
9 with, and that's where I have to get involved, and that's
10 what we're going to do. Now, we'll get this to you
11 sometime this afternoon. We need to make sure we have
12 your email addresses and things of that nature so we can
13 -- we'll get this order to you. Now, if you get this
14 order and there's a question, feel free. Contact us.
15 Call us. Whatever. I'll deal with it. But right now,
16 we're going to put the restraining order in place for one
17 year, and then if need be down the road, if it needs to
18 be extended, we can look into that, as well.

19 UNKNOWN:

20 Thank you, Judge.

21 THE COURT:

22 Okay. Mr. Roach, I wish you the very best, sir.
23 Mr. Rothstein, it's been a pleasure. Ms. Yarborough, the
24 same to you and -- and your folks here. I hate we had to
25 meet like this, but it is what it is, and we're going to

1 move on. Mr. Few, a pleasure dealing with you, sir. But
2 right now, we're going to adjourn, and we'll get this to
3 you here in just a little bit.

4 UNKNOWN:

5 Thank you, Your Honor.

6 THE COURT:

7 Okay. All right.

8 (END OF AUDIO)

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C E R T I F I C A T E

I, the undersigned, Katherine Crowe, CVR-M, Notary Public in and for the State of South Carolina, do hereby certify that the foregoing transcript was prepared by me at my hand;

That I was not present at said proceeding; That the within statements are an accurate transcription of the audio file transcribed, to the best of my ability;

I further certify that I am neither counsel nor solicitor to any of the parties in said suit, nor interested in the event of the cause.

In witness whereof, I have hereunto set my hand and seal this 20th day of March, 2020.



Katherine Crowe, CVR-M

Notary Public for South Carolina

My Commission Expires: 9/29/25



State of South Carolina
The Circuit Court of the Thirteenth Judicial Circuit

Hollie M. Jenkins
Circuit Court Reporter

P.O. Box 16506
Greenville, SC 29606

STATEMENT

October 6, 2020

Mr. Wesley D. Few, Esq.
P.O. Box 9398
Greenville, SC 29604

INVOICE: 1138
JUDGE: Perry H. Gravely
DATE: July 22, 2020
LOCATION: Greenville County
CASE: #2020-CP-23-01669, Sean Eric Roach vs. Lee Yarborough

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STATE OF SOUTH CAROLINA
COUNTY OF GREENVILLE

COURT OF COMMON PLEAS
2020-CP-23-01669

SEAN ERIC ROACH,
PLAINTIFF,

vs.

LEE YARBOROUGH,
DEFENDANT.

TRANSCRIPT OF RECORD

ORIGINAL

July 22, 2020
Greenville, South Carolina

B E F O R E:

THE HONORABLE PERRY H. GRAVELY, JUDGE.

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

DAVIE E. ROTHSTEIN, ESQ.
Attorney for the Plaintiff

WESLEY D. FEW, ESQ.
Attorney for the Defendant

HOLLIE M. JENKINS
Circuit Court Reporter

I N D E X

(There were no witnesses called.)

E X H I B I T S

(There were no exhibits introduced.)

P R O C E E D I N G S

(WHEREUPON, the following proceedings were held via Webex.)

COURT REPORTER'S NOTE: Due to remote platform interruption and video-audio interference throughout the hearing, those instances are denoted with "--" in the transcript.

THE COURT: This is Sean Roach v. Lee Yarborough, 2020-CP-23-1669. It's an appeal from magistrate's court, restraining order.

If the parties -- if the attorneys could identify themselves and who they're representing.

MR. ROTHSTEIN: This is David Rothstein. I represent the Appellant Defendant in the case, Sean Roach.

THE COURT: Okay. Mr. Few.

MR. FEW: Your Honor, Wesley Few. I represent the Plaintiff Respondent, Lee Yarborough. And just for the record, I'm -- I'm here by myself with my wife and my dog. So I don't have any employees or clients with me.

THE COURT: Okay. And, also, present are my law clerk, Ryan Bondura; Hollie Jenkins as the court reporter; and Steven Snow, who is observing this week. He just finished his second year of law school. And we, also, have Jeremy Summerlin listening as well.

Do -- any objections to this matter being heard by

1 way of Webex, Mr. Rothstein?

2 MR. ROTHSTEIN: No, sir. No objection.

3 THE COURT: And Mr. Few?

4 MR. FEW: No, sir.

5 THE COURT: All right. Mr. Rothstein, I think this
6 is your appeal. And I have -- since we did have a little
7 bit of gap from my previous hearing, I had a chance to
8 review, I think, most of the record. I didn't review the
9 entire transcript. But I reviewed your references to it.
10 So I'll be glad to hear from you.

11 MR. ROTHSTEIN: All right. Thank you, Your Honor.

12 And, again, for the record, this is David Rothstein.
13 I'm an attorney in Greenville at the Rothstein Law Firm.
14 I represent Sean Roach. Sean is my across the street
15 neighbor. And I'm doing this as a -- as a favor to him.

16 Mr. Few and I are getting a bit of an education on
17 magistrate's court in this case. I don't know that he --
18 either one of us had -- had done much in magistrate's
19 court. But I think we're quickly coming to understand
20 that phrase -- where the phrase rough justice comes from.

21 The infamous wild west judge, Roy Bean, who is a
22 saloon keeper and justice of the peace in Val Verde
23 County, Texas, once said, "hang them first, try them
24 later." Fortunately, this is not the wild west. And
25 unlike Judge Roy Bean, a magistrate judge in South

1 Carolina cannot declare himself, "the law west of the
2 pecos."

3 As you know, magistrate judges are appointed by the
4 governor with the advice and consent of the senate. There
5 are only four requirements for a person to serve as a
6 magistrate judge, one is that he be a U.S. -- he or she be
7 a U.S. citizen. The other is that he or she be a resident
8 of South Carolina for, at least, five years --

9 THE COURT: Let's get to the meat of the -- of your
10 appeal. I know all about magistrates, and all that, so.

11 MR. ROTHSTEIN: Mr. Roach is a widowed, single father
12 of an eight-year-old boy who moved out here from
13 California. And I think his -- he grew up in Nevada. But
14 after his young wife passed away from ALS, he found the
15 Chandler School, and moved to South Carolina, and started
16 working for Propel HR, which was a plaintiff in the
17 federal lawsuit that's owned by Lee Yarborough and her
18 father, Braxton, Cutchin, primarily. There are a few
19 other minor owners, but those are the primary players of
20 the case.

21 This is, basically, a civil business dispute that
22 arose out of Mr. Roach's termination of his independent
23 contract with Propel HR. There is a pending lawsuit in
24 federal court that was filed on December 20th, 2019.
25 Attached is the exact same exhibits that were attached in

1 the magistrate court's action.

2 It seeks very much the similar relief. It includes
3 claims for intentional infliction of emotional distress,
4 defamation, invasion of privacy, those types of common law
5 claims, in addition to some federal claims for alleged
6 copyright or trademark violations, and some other federal
7 statutory claims.

8 Your Honor, this case, you know, was -- is sort of
9 like a multi-faceted approach. The Plaintiffs in that
10 litigation are taking -- the first thing they did was try
11 to run out to federal court to get some type of injunction
12 against Mr. Roach.

13 And, you know, unfortunately, the magistrate judge
14 here, whether it's from inexperience or ignorance of the
15 law, basically, ignored things like burden of proof,
16 finding of facts, threat of irreparable harm, things
17 that -- that are required to issue an injunction -- kind
18 of like a restraining order that was entered here.

19 The first part of our appeal, Your Honor, relates to
20 the -- the -- my motion in the magistrate's court to file
21 a 12(b)(8) motion to dismiss, which I filed on
22 February 28th, 2020. And, as Your Honor knows, Rule
23 12(b)(8) allows for dismissal --

24 THE COURT: Let me stop you there and ask you, is
25 there any type of order, injunction, or mutual restraining

1 order in the federal court matter?

2 MR. ROTHSTEIN: There is not. They've not sought any
3 type of -- of emergency relief as of this date.

4 THE COURT: All right. Proceed.

5 MR. ROTHSTEIN: But it is -- it is pleaded. They've
6 asked for a preliminary injunction and permanent
7 injunction in their prayer for relief. But they've not
8 filed a motion for any type of preliminary injunction.

9 THE COURT: Okay.

10 MR. ROTHSTEIN: So, Your Honor, again, the -- the
11 basis for the 12(b)(8) motion is the -- is this pending
12 federal court case, you know, that's -- that's -- was
13 pending at the time of the remanded hearing, which was in
14 March of 2020. And in that case, Mr. Few is, also,
15 representing the Plaintiffs.

16 They've used the exact same 14 exhibits. All of the
17 allegations relate to these alleged mailings. I think
18 there were seven or eight different mailings that were
19 sent out, these postcards. And as I mentioned before --
20 and as I mentioned in my brief, during the
21 cross-examination in the magistrate's court case, I said
22 to Ms. Yarborough, And you're suing him for the same thing
23 in -- in federal court?

24 And she said, Correct.

25 So that -- I mean, the case should have been

1 dismissed under Rule 12(b)(8). So that's the first part
2 of our appeal.

3 Getting into the merits of the restraining order,
4 Your Honor, as you know, under this harassment and
5 stalking statute, a prerequisite to getting a restraining
6 order is that you show some type of -- first, that --
7 there's a -- a prerequisite that you show some type of
8 harassment or stalking.

9 Second, to get an emergency order like was entered
10 here, you have to show that there's some type of threat of
11 present danger of bodily injury. And Ms. Yarborough
12 during the hearing -- obviously, they have the burden of
13 proof. Preliminary injunction is an extraordinary remedy,
14 as Your Honor knows.

15 This has been a tremendous hardship on Mr. Roach in
16 terms of his ability to get other work. He's had numerous
17 job opportunities since his termination from Propel that
18 have fallen through after they've done a -- a preliminary
19 background check on him and see that there's a restraining
20 order against him in South Carolina.

21 So, I mean, this -- this appeal today has real world
22 consequences on his ability to earn a living to support
23 himself and his eight-year-old son. So, I mean, this is
24 an important matter, you know. I -- I think this is
25 something that's -- that can't be left to the sort of

1 rough justice ideas of the magistrate court.

2 And, you know, the bottom line is that embarrassment
3 is not a threat to safety and well-being. Harm to a
4 companies reputation is not a threat to the safety and
5 well-being of the individual persons. Even as this
6 alleged smear campaign toward Propel HR is not a threat to
7 safety and well-being to justify any type of -- of a
8 preliminary injunction here, Your Honor.

9 One thing I did during cross-examination is I went
10 through each of the elements in the statute. The statute
11 lists a -- a number of items as examples of things that
12 constitute harassment, that constitute stalking. I went
13 through each one of those things from surveillance to
14 following somebody around to spying on somebody. And
15 Ms. Yarborough admitted that there was no evidence that
16 Mr. Roach had ever done that.

17 In fact, the only time she had seen Mr. Roach since
18 the termination, other than at the hearing itself on
19 December 2nd, was she happened to see him in the car ahead
20 of her. So, you know, it's obvious that he wasn't
21 following her. She, actually, came upon him. And that
22 was in the testimony as well.

23 I hope Your Honor has had a chance to read the -- the
24 brief that I filed. But I went through --

25 THE COURT: I have.

1 MR. ROTHSTEIN: -- the testimony at the -- the
2 hearing and there was absolutely no evidence, other than
3 Ms. Yarborough's, I guess, irrational fears, and
4 speculation, and -- and assuming of the worst that would
5 have justified any type of an injunction or suggested that
6 Mr. Roach was doing any type of harassment or stalking.

7 In fact, she admitted that the only -- that the
8 communications directed toward her stopped in June of 2019
9 after they hired the Ogletree Deakins Law Firm to send
10 Mr. Roach a cease and desist letter. Mr. Roach had sent
11 a -- a few text messages after his termination inquiring
12 where were the promised payments that he was supposed to
13 receive. They had offered to buy him out of the remaining
14 year of his contract -- or the remaining -- the remainder
15 of the year contract and pay him commissions on things
16 that have sold prior to his termination that -- that he
17 had not received commissions on yet.

18 So as soon as he got the letter from the attorney,
19 he -- he ceased all communications with Propel. These
20 alleged mailings that went out, Your Honor, I mean, I
21 think Ms. Yarborough admitted in her cross-examination
22 that she wasn't sure who was behind them.

23 They named three people in the federal lawsuit
24 claiming that they were all either partially or -- or
25 entirely involved in sending the mailings. But even if

1 you assume that Mr. Roach did send the mailings, those
2 things were not directed at Ms. Yarborough, the -- the
3 only Plaintiff in the magistrate's case. There's no
4 threat in -- conveyed in any of those mailings.

5 You know, I think Ms. Yarborough is only mentioned in
6 the very first one. It's a -- a parity of the -- the
7 movie or the book The Help. And Ms. Yarborough's
8 picture's interposed in a scene from the movie. But,
9 again, there's no threat conveyed toward -- toward her in
10 any way, shape, or form, you know. There's just no basis
11 for injunction -- preliminary injunction or -- or a
12 restraining order in this case, Your Honor.

13 I did want to mention my concerns about the
14 procedural irregularities in this case. I'm still today
15 not sure how this case was, actually, started in
16 magistrate court. Yesterday, I went down to the circuit
17 court and -- and looked through -- what they had was
18 the -- the file that, eventually, was certified over from
19 the magistrate's court.

20 And the very first documents -- I think they were
21 supposedly in reverse chronological order. And the very
22 first documents in the file before the summons were issued
23 was a four or five page -- it looks like a report from a
24 private investigator that is wildly speculative. It has
25 some complete misrepresentations in it. It's not sworn.

1 I was never given an opportunity to cross-examine that
2 person.

3 But that seems to be the genesis for the magistrate
4 summons that was issued in this case on November the 18th
5 commanding Mr. Roach to appear at a hearing on
6 December the 2nd. Mr. Roach was served with that document
7 the -- I think that was the week of Thanksgiving. He was
8 served at home. I think he was away for Thanksgiving.

9 He got home on the -- on Saturday, the 30th, I think,
10 or the 31st -- the 30th or the 1st of December. I guess
11 it must have been Saturday, the 30th. And his housekeeper
12 had -- had left something that was -- had been jammed in
13 his front door, left it for him to see. The first notice
14 he had of this was the Saturday before the Monday hearing.

15 But he goes down to the hearing. And I was able to
16 get the recording and have that transcribed from the
17 December 2nd hearing, Your Honor. And at that hearing,
18 Mr. Roach requested that the case be dismissed because he
19 hadn't had any contact with Ms. Yarborough since June of
20 2019 with a text message.

21 And Mr. Roach indicated that he didn't know what
22 the -- what he was there about. He had not seen any kind
23 of complaint. And he didn't have an attorney. And the
24 magistrate judge said, Look, I'll give you two weeks to
25 get an attorney. And you need to notify me by December

1 16th whether you're going to proceed pro se or whether
2 you're going to have an attorney involved. And then we'll
3 set the hearing in -- in the first or second week of
4 January.

5 And at that hearing, Mr. Roach expressed some
6 concerns that he had that there were some strange things
7 that happened to him that he was concerned about, threats
8 as well. There was a note left on his back door that
9 said, Stop this or we'll stop you. His dog, who was his
10 wife's service dog while she had ALS, suddenly died of
11 kidney failure. And they suspected that the dog had been
12 poisoned somehow.

13 So there were -- and Mr. Roach had -- had numerous
14 contacts from his bank where people were trying to access
15 his bank accounts. So that -- the one account, in
16 particular, was his -- the account that he used for the
17 direct deposits of his money from Propel HR. And -- and
18 somebody was -- I guess called up the bank pretending to
19 be him and trying to get information about his account.

20 So when Mr. Roach brought all that stuff up to the
21 magistrate --

22 MR. FEW: Mr. Rothstein, I'm -- I'm -- I've let you
23 go on putting so much stuff that's not in the record
24 and -- and it's just -- it's just -- none of this is in
25 the record. Your client never testified. I'm just

1 pointing that out. Okay. None of this is in the record.
2 Y'all could have brought your own restraining order
3 action. You're -- this is way beyond the record.

4 THE COURT: Okay. Are -- are you -- direct it to me,
5 Mr. Few. This is not --

6 MR. FEW: I'm sorry, Judge.

7 THE COURT: All right. Let's stick to whatever --
8 the appeal is the second order from the second hearing.
9 So let's stick to that.

10 MR. ROTHSTEIN: That's correct, Your Honor. But I'm
11 just -- I'm just concerned about these irregularities.
12 But at that December 2nd hearing, the -- the way the
13 hearing broke up was Mr. Few was supposed to circulate a
14 proposed mutual no contact order.

15 And Mr. -- Mr. Few, instead of doing that like he was
16 supposed to, rushed out and filed on December 5th, three
17 days later, a brand new complaint and motion for
18 restraining order. And we have no idea what happened
19 after that, other than the Judge signed a TRO on
20 December 10th and tried to leave it in place for over
21 three months.

22 And so I took an appeal from that, Your Honor. And
23 that was heard by Judge --

24 THE COURT: Miller. And then it got -- it got sent
25 back and reheard --

1 MR. ROTHSTEIN: So we go down to the hearing and
2 there was a single witness. Ms. Yarborough testified at
3 the hearing, Your Honor. And -- and all she did --
4 basically, Mr. Few walked her paragraph by paragraph
5 through the complaint. And, I mean, she started talking
6 about the business dispute and about defamation. And, you
7 know, I would object. But, Judge, this is -- this is
8 what's covered by the federal case. He's making my
9 argument for the 12(b)(8) motion.

10 And, you know, the Judge sustained a number of those
11 objections. And then, you know, I cross-examined, you
12 know, Ms. Yarborough. And she admitted -- every single
13 one of the examples in the statute, she admitted Mr. Roach
14 had not engaged in any harassing or stalking behavior.

15 So, you know, I was -- I was somewhat taken aback
16 when the -- when the Judge entered the -- the TRO against
17 us -- or this preliminary injunction against us or the
18 restraining order. But the -- the strangest thing
19 happened after the appeal, you know.

20 In light of this being a burden on Mr. Roach's
21 ability to get a job, I kept requesting the Court to
22 schedule a hearing, the non-jury coordinator. And every
23 time I'd call up, she'd say, Well, the magistrate judge
24 hasn't sent over the file yet.

25 So I kept pushing the clerk at the magistrate's court

1 to send over the file. And I said, You need to file this
2 return under the statute. And the clerk said, Well,
3 usually when the lawyers are involved, they file the
4 return.

5 I said, No, you're mistaken. You're -- you're
6 thinking about, you know, some sort of response to the
7 appeal. What I'm talking about is you certify -- you, the
8 clerk, certifying that the record is complete and accurate
9 and here is a certified copy of it to the circuit court.

10 And I, actually, had to get the -- court
11 administration involved, you know, for him to do that. I
12 think it was over 60 days after the appeal was filed, the
13 return still had not been filed. And, initially, the
14 clerk filed what they called an answer to appeal, which
15 was, basically, the judge trying to advocate for his
16 decision, which I thought was highly improper
17 and unusual --

18 THE COURT: That's -- that's, actually, the -- that's
19 normally what happens in these appeals from magistrate's
20 court, actually --

21 MR. ROTHSTEIN: But -- but that's, clearly, not what
22 the rule is designed for.

23 THE COURT: They've always filed their little return.
24 And it's their summary of what -- the testimony and how
25 they made their finding. That's -- that's not unusual.

1 MR. ROTHSTEIN: But, Your Honor, I -- I just have --
2 I mean, there was no communication in the file between
3 Mr. Few, and no e-mails, no correspondence. There was
4 one -- I forwarded to you an e-mail thread yesterday. I
5 don't know if you've had a chance to see that or not. But
6 Mr. White, the clerk of the magistrate's court, basically,
7 said that -- that they don't keep e-mails. They have such
8 an old system that they delete the e-mails routinely and
9 don't print them out and put them in the file.

10 So I have no idea what Mr. Few had done after the
11 December 2nd hearing. But, clearly, my client never had
12 an opportunity to respond to that before the initial TRO
13 was entered.

14 And I -- I believe that the -- the magistrate judge
15 considered things that were not presented at the hearing,
16 specifically, that first set of documents, which was
17 Ms. -- appears to be Ms. Yarborough's request to the
18 private investigator for help. And then the private
19 investigator's, you know, four or five-page report about
20 what his findings were.

21 Again, that -- that's not a proper affidavit or
22 application to the Court for any type of restraining
23 order, you know. I think that this was, clearly,
24 improperly granted. I know this -- the -- there's an
25 abuse of discretion standard here, Your Honor. But if

1 there's no evidence to support a restraining order, it's
2 an abuse of discretion for the magistrate judge to have
3 entered it.

4 So we request that it be vacated immediately and that
5 the case be dismissed.

6 THE COURT: All right. And before -- and unlike the
7 two of you, apparently, I was involved in a lot of
8 magistrate's court. And I handled a lot of magistrate
9 court appeals on the circuit bench. And I must say,
10 these -- the -- some of the procedure in this is highly
11 unusual. It's -- some of the things I haven't seen.

12 So, Mr. Few, with that -- with that premise, I'll
13 hear from you.

14 MR. FEW: Thank you, Judge.

15 Going in order, Rule 12(b)(8) by its very terminology
16 says that it has to be the same claim. Okay. We do not
17 have a claim under the harassment and stalking statute,
18 16-3-1700, in the federal case.

19 The only thing that the case -- so Mr. Rothstein is a
20 very capable attorney. And Mr. Roach is very fortunate to
21 have his services. He cites a case under his standard of
22 review, which throws in the words -- I'm sorry, Judge.
23 I'm looking. I thought I flagged it.

24 And so he's, also, mistaken -- as I flip through
25 this -- when he talks about irreparable harm. This is an

1 injunction that's granted under the statute, 16-3-1700,
2 which is known as Mary Lynn's law, which was amended in
3 2005 to give greater protections after a lady named Mary
4 Lynn had lost her life because, apparently, the
5 legislature viewed the statute as not sufficient.

6 On Page 11 of his brief, he cites Capital City
7 Insurance vs. BP Staffing, 674 S.E.2d 524 at 528, for the
8 provision that the Court may determine whether there's
9 another action involving the same parties common claims,
10 parenthesis, or subject matter and remedies as a matter of
11 law. Well, that is some expanded language.

12 But the actual holding of that case is proper under
13 Rule 12(b)(8). And it says -- it distinguishes that an
14 administrative proceeding is not the same as a breach of
15 contract proceeding.

16 So, plain and simple, Judge Miller's already ruled on
17 this as well before on the 12(b)(8). Because when we were
18 before Judge Miller, the federal court case was already
19 pending. So Mr. Rothstein's already made that argument
20 there. It was rejected. The case was remanded. Plain
21 and simple, 12(b)(8) is, essentially, like a collateral
22 estoppel, but it's, actually, more limited. Because we
23 can only look at what the statute says.

24 Certainly, Mr. Rothstein in his 18 pages of briefing
25 if he had a case that said that a different claim could be

1 thrown out under Rule 12(b)(8), he would have cited it to
2 the Court. He didn't.

3 So that leaves us with the abuse of discretion
4 standard and his grounds for appeal numbers two through
5 six. Ground of appeal number two, Your Honor, is somewhat
6 taken out of context by Mr. Rothstein. He quotes the
7 term -- the phrase, present danger or threat of bodily
8 injury.

9 Well, you search the statute, you find that in that
10 section 1760 -- in 1760 -- I'll share my screen. 1760 --
11 while I'm here, let me point this out. This is the
12 statute in question that I have up right here. What
13 Mr. Rothstein is talking about ignores the fact that the
14 statute said, May include, but is not limited to. That's
15 in harassment first degree.

16 If you scroll down on the statute, harassment second
17 degree -- and then the Judge's order simply finds
18 harassment. He doesn't distinguish between first or
19 second degree. And I think the reason for that is -- is
20 this is apparently -- and I could be wrong on this. But,
21 apparently, this is a criminal statute. But if you meet
22 the elements of this, then you, also, are entitled to an
23 injunction under -- I mean, you're entitled to a
24 restraining order under the statute.

25 Harassment in the second degree is, certainly, less

1 than harassment in the first degree. We disagree with
2 whether or not the -- there was evidence in the record
3 about a surveillance. The record here is substantially
4 developed with our complaint that I sent over this morning
5 that we filed on December 1st. And so -- and Judge Fisher
6 responds to that and he says he did find it based upon the
7 pattern of conduct.

8 So the question is, is the present danger or threat
9 of bodily injury. As I read the statute, Your Honor,
10 that's only required if you go without notice. And we
11 proceeded with notice to the Defendant from the beginning.
12 The Court was contacted.

13 The statute allows for an affidavit of a person who's
14 not the harmed person. Because, sometimes, these people
15 are afraid. A lot of times, these involve intimate
16 partners. But the statute is not limited to intimate
17 partners. The gun prohibition only relates to intimate
18 partners.

19 And I think Judge Fisher responded to that when he
20 filed his answer. And he said that nothing in what he
21 checked on the form order, form 751, would prevent
22 Mr. Roach from getting a gun. And -- and so they need to
23 just probably look at the statute, 18 USC 922, on that.

24 So the evidence in the record is overwhelming if you
25 look at the complaint that was filed December 5th. That

1 was what resulted in the first restraining order, which
2 was appealed. Then we were remanded. We had a hearing.
3 Lee Yarborough testified. She was subject to
4 cross-examination.

5 Mr. Rothstein filed the affidavit that they e-mailed
6 to the Court the other day of Mr. Roach. And it was
7 delivered to me on the morning of March the 9th. I had --
8 I'm not real good at reviewing things on the fly, but I
9 did. And noticeably absent from the affidavit was any
10 denial that Mr. Roach sent the eight mailings, which are
11 attached to the complaint in this action as exhibits five
12 through 12, which were all sent within about a one-month
13 period.

14 And when they say that this was not directed to the
15 Plaintiff, they, apparently, are just ignoring the fact
16 that this was mailed to everyone that lives in her
17 neighborhood. She lives on Heather Way, which is over --
18 and Mr. Roach, by the way, lives on Douglas, which is
19 about two and a half blocks from her house.

20 So evidence in the record of -- Mr. Rothstein may
21 have gone through what he says he did. The Court has the
22 transcript. We wouldn't even have needed the transcript
23 of the hearing. What's in the complaint is a gracious
24 plenty to have met the elements under the statute for a
25 preponderance of the evidence, particularly under a breach

1 of -- I mean an abuse of discretion standard.

2 They would have to show that the Judge had no
3 evidence from which to find that the elements were met.
4 And that includes a pattern of harassment as set forth in
5 1760 up here, Judge. The Court did not distinguish
6 between -- so if I'm looking at harassment in the second
7 degree, it's a pattern of intentional, substantial, and
8 unreasonable intrusion.

9 Your Honor, what happened up -- prior to June and the
10 harassment and the threats of -- of taking down her
11 company were, certainly, directed at her as the majority
12 owner in the company. My understanding is her dad is not
13 an owner, another gentleman named Paul Garrigan is. So
14 that was other evidence that's inaccurate that's not in
15 the record. She founded the company with her dad. But
16 Lee's the owner, along with Mr. Garrigan.

17 An unreasonable intrusion into the private life of a
18 targeted person. Your Honor, I would ask the Court to
19 just -- let's take a look at -- here's the letter. This
20 is another element that Mr. Rothstein mentioned for me.
21 And I appreciate it.

22 There was a letter sent to him. That's one of the
23 triggers in the statute, that you've been contacted.
24 There was a report to law enforcement made, I believe, in
25 June, as well as in November once these mailings started.

1 But let's look at the first mailing. The first
2 mailing -- this is a picture right here of the postcard
3 where my client, Lee Yarborough, who lives and was raised
4 in this community, and has a company that employs dozens
5 of people, and has been successful since 1996 is called
6 Two Slice Hilly. Well, if you haven't seen the movie The
7 Help, I can pretty much assure you that's intended as an
8 insult and it's defamatory.

9 And so her neighbors proceed to start contacting her
10 when these mailings are coming out. Included in the first
11 mailing are these resignation letter from Mr. Summerlin's
12 client, Angela Tyler Morris. She's gotten married or
13 divorced and changed her name. Her first name's Angela.
14 And there's another guy named Aaron Dry, who's named in
15 the federal case.

16 Here's -- here's the postcard. And that's -- that is
17 my client's picture right there, if you can see my cursor.
18 That's Lee Yarborough superimposed as Two Slice Hilly from
19 The Help. And then you have this -- this narrative that's
20 put in here. And they claim that it's from a group of,
21 like, former employees.

22 So, you know, Mr. Roach had the opportunity -- and
23 when he appeared on December the 2nd and was making all
24 these representations to Judge Fisher, I asked Judge
25 Fisher at some point -- and it should be in the

1 transcript -- I said, Your Honor, if -- if he's going to
2 make these representations before the Court, we need to
3 put him under oath and let him make them under oath.
4 Well, he -- he didn't want to do that. And that matter
5 was continued.

6 Then he appeared on March the 9th with the assistance
7 of Mr. Rothstein. And he had this affidavit. And as I --
8 as was mentioned in the e-mail that I sent to the Court
9 the other day -- and I am learning that the records are
10 developed a little bit differently in magistrate's court
11 than they are with the circuit court appeal. Although we
12 do have complete transcripts here that were made, I guess,
13 by -- Mr. Rothstein got the -- the Court gives you the
14 audio recording. And I guess he gets a court reporter to
15 make those.

16 He submitted this affidavit. And I pointed out to
17 Judge Fisher, I said, Your Honor, I'm going to oppose this
18 affidavit being submitted at the March the 9th hearing.
19 If he's here to testify and if he wants to testify, he's
20 got to testify about all of the matters. And I get to
21 cross-examine him about all of the matters. And they
22 elected not to testify.

23 So if -- and when Mr. Rothstein says if we assume
24 that Mr. Roach did the mailings, you know, we're -- we're
25 pretty confident we can prove that. And we're going to

1 prove that. And that his actions have proven it.

2 And what Mr. Rothstein was talking about earlier is
3 Lee Yarborough in her testimony would have acknowledged we
4 do not have definitive proof that he did it yet. But we
5 knew that he told people he was going to do it. He told
6 people he was going to take Propel down. All of that
7 is -- is in her testimony. It's in the documents that are
8 being produced in the other case.

9 Are the facts similar? Yes, they are. But this is a
10 unique statute that we used, initially, to get a
11 restraining order. And that's what we wanted. We wanted
12 a restraining order for Lee Yarborough because she was
13 absolutely very, very scared of this type of behavior.
14 And is this unreasonable? Here's -- here's an employee
15 that he didn't like. They call him the jerk.

16 By the way, three employees left the company, one of
17 them was about a 16-year employee within about a month of
18 when Mr. Roach left, so. And they all ended up working at
19 the same place. And -- and two [sic] of those are Mr. Dry
20 in the federal case.

21 So, Your Honor, where we get to is this abuse of
22 discretion standard --

23 THE COURT: Well, the appeal from the magistrate is
24 not abuse of discretion.

25 MR. FEW: Well, that's -- that's what Mr. Rothstein

1 has cited in his brief --

2 THE COURT: The appellate court shall give judgment
3 according to the justice of the case without regard of
4 technical errors, so.

5 MR. FEW: Well, I guess we're both [inaudible] then.

6 Well, Your Honor, the -- then, number three -- the
7 complaint is -- I'm sorry. Number three, he erred in
8 failing to list these specific acts that constitute a
9 defense. Well, court administration requires the
10 magistrate judges to use this form order. Here it is
11 right here, 751. There's the blank. So they have to
12 follow this form order.

13 And, you know, so the -- you may not have an order
14 like you would have. But, you know, the -- what's in the
15 record is undeniable. You have our complaint, which is
16 right here, which is 74 pages --

17 THE COURT: And your complaint bothers me a little
18 bit because it -- or a lot a bit. Because it has a lot of
19 hearsay information in it that was considered by the
20 Judge, which is not proper evidence.

21 MR. FEW: Well, Your Honor, the -- the -- I'm not
22 sure what you're referring to specifically --

23 THE COURT: Well, there's e-mails in here. There's
24 cards, which y'all say are from him. But I don't think
25 that was -- I mean, there's a lot of stuff in this

1 complaint that would not be admissible evidence in a
2 hearing without having Ms. Yarborough testify.

3 MR. FEW: Well, we had the hearing. And
4 Ms. Yarborough testified about the -- the way it affected
5 her and how as soon as this happened, people were
6 contacting her.

7 And if you notice, they used -- they used the name
8 Propel HR. They used -- so what they did -- you see that
9 right here. They tried to make these mailings look like
10 they were from Propel. So many people would get these in
11 the mail and think that they, actually, came from Propel
12 HR. And -- and they didn't --

13 THE COURT: And -- and where is that in the record?
14 I mean, let's -- let's stick to what's in the record.

15 MR. FEW: Your Honor, the record's -- the record -- I
16 mean, this -- Lee Yarborough testified that her clients
17 and her neighbors started contacting her about this
18 immediately --

19 THE COURT: And I'm sure -- and I'm sure
20 Mr. Rothstein objected to any of that hearsay information.

21 MR. FEW: I -- I don't know that he did or if he
22 didn't. But, I mean, it's not hearsay. She received it.
23 These are things that went to her clients.

24 THE COURT: What other people told her is hearsay. I
25 mean, unless they've changed the rules of evidence in

1 magistrate's court. I mean, they still have to apply.

2 MR. FEW: Well, Your Honor, here's the other thing
3 that --

4 THE COURT: How about the investigative report?
5 Where did that come from?

6 MR. FEW: That, apparently, was the investigative
7 report that was done, you know, to --

8 THE COURT: No. How did it get to the magistrate's
9 court?

10 MR. FEW: Well, if you look -- apparently,
11 Mr. Beasley must have dropped that off over there one day.
12 Because the stuff that Mr. Rothstein sent yesterday has
13 two notices of hearings, one of them was to Mr. Beasley
14 and the other was to Mr. Roach. And that was, in fact,
15 served on him. And that's why he showed up.

16 So, like you said, Judge, the -- we're here on the
17 second order from the second hearing. At that point in
18 time, Mr. Roach -- and I mentioned this at the hearing in
19 March. If he wanted a mutual restraining order, he could
20 have -- he had all the time in the world to -- to do the
21 requirements under the statute. He had notice of it. He
22 had an attorney. We had a trial.

23 I don't even know that Mr. Rothstein has raised that
24 any of these things are hearsay. I don't believe they're
25 hearsay. They would have come in -- and this is something

1 that maybe I need to point out. The Propel HR client list
2 was used for these mailings.

3 So these mailings went to every single Propel HR
4 client that was included on an e-mail that went to
5 Mrs. Tyler and to Mr. -- Mr. Roach in May, and maybe early
6 June of 2019. Every single -- and, see, when clients were
7 added after --

8 THE COURT: This may be relevant to your federal
9 court case. But I don't see how it's relevant in
10 harassment to Ms. Yarborough and based on the magistrate's
11 court hearing.

12 MR. FEW: Well, Your Honor, I mean, the -- the
13 statute itself says that if you -- if you do something
14 with somebody at their place of work -- so this was at her
15 place of work. It was a substantial intrusion to every
16 single one of her clients. He'd already made the threat
17 that he was going to take the company down.

18 And then in October, it all turned to her
19 neighborhood, and the Greenville Country Club, and the
20 National Association of Professional Employer -- NAPEO,
21 which she's on the board, other places for which she's on
22 the board. Those are the things that were directed at
23 her, specifically. And those are the things that she
24 knows about. She received the -- all of the mailings. I
25 mean, there's no denying the mailings, you know.

1 Mr. Roach says at number four, no in-person
2 interaction. Well, that's not required under the statute.
3 I mean, the statute is the statute. And we -- we complied
4 with the statute. And the order says that it was
5 harassment. It doesn't distinguish first degree or second
6 degree. And that's all that's required, Your Honor.

7 The -- the records there, they had notice of it.
8 That's why 1760 doesn't apply. And the -- you know, he
9 found the harassment continued. There was a pattern of
10 it. That's -- that's really where Mr. Roach talks
11 about -- I mean Mr. Rothstein talks about how the -- the
12 specific things in the statute weren't there. That's only
13 for harassment in the first degree. And that is
14 immediately following the words may include, but is not
15 limited to.

16 So the statute is just saying these are things that
17 can be found to be first degree. But first degree is
18 more -- is, also, more than this.

19 And so where we are today is that we've been to court
20 twice before Judge Fisher. And we ended up proceeding
21 with substantial notice to Mr. Roach. He had notice from,
22 at least, as early as December 2nd of 2019 to March the
23 9th. He appeared with counsel. Counsel had the
24 opportunity to cross-examine. He chose not to testify.

25 And -- and so we have that entire exhibit A, this

1 transcript, as well as our complaint to show that the
2 elements were met. And...

3 THE COURT: All right. Anything else?

4 (WHEREUPON, there was no response.)

5 THE COURT: All right. Mr. Rothstein, brief, brief
6 reply.

7 MR. ROTHSTEIN: Just a brief reply, Your Honor.

8 First of all, on the 12(b)(8) issue, Judge Miller
9 never ruled on that issue. He -- he remanded for a
10 hearing within 10 days, period. He didn't address the --
11 the 12(b)(8). In fact, I didn't file the 12(b)(8) motion
12 until, I think, two or three days after Judge Miller's
13 order -- Form 4 order came down.

14 So the 12(b)(8) issue -- and the other thing is -- is
15 when you file a lawsuit, you have to join all claims that
16 arise out of the same transaction or occurrence, as Your
17 Honor knows. And the case law that I cited that Mr. --
18 Mr. Few referenced is a South Carolina Court of Appeals
19 case, which is, obviously, binding on Your Honor.

20 And, I mean, when they say -- and this is a 12(b)(8)
21 decision. When they say if the claim involves the same
22 parties, claims, or subject matter and remedies as a
23 matter of law. That's exactly what we have here. That's
24 the standard the Court of Appeals has announced for Rule
25 12(b)(8). We've, clearly, met that.

1 On the -- the injunction, Your Honor, Mr. Few was
2 reading the statute to you and he stopped after he said
3 the word intrusion. There has to be an intrusion into the
4 private life of a targeted party. The -- the mailings
5 that were sent out had nothing to do with Ms. Yarborough's
6 private life.

7 And Mr. -- Mr. Few, also, said that his intent was to
8 take Propel down. He didn't say his intent was to try to,
9 you know, intrude into Ms. Yarborough's private life. I
10 mean, this -- this whole federal case is about the issue
11 of whether there was intent to take Propel down.

12 Mr. Few, also, mentioned that during the December 2nd
13 hearing, he told the Judge that, Well, if Mr. Roach is
14 going to make all these representations, he needs to be
15 sworn under oath. And then Mr. Few said he didn't want to
16 do that. When he says he didn't want to do that, he's --
17 he's -- I think if you'll read the transcript, he's
18 talking about the Judge. The Judge didn't want to put
19 anybody under oath at that hearing because Mr. Roach had
20 not had an opportunity to get counsel or discuss the case
21 with counsel.

22 So you asked a question, Your Honor, about where did
23 these documents come from. And Mr. Few tried to blame
24 this on Mr. Beasley. When I got the file yesterday and
25 saw that Mr. Beasley's name was on a -- a magistrate

1 court summons, I was perplexed. I mean, I know who
2 Mr. Beasley is. But I don't think he's had any -- I've
3 never heard his name in connection with this case. I
4 don't know if he's representing one of the parties or if
5 he was just serving as a courier for Mr. Few to drop
6 something off at magistrate's court.

7 I mean, there had to have been some type of
8 application filed for an injunction, some type of -- some
9 document to start this case, rather than just the
10 magistrate getting wind of a PI report about these
11 mailings. So, you know, there's -- there's nothing in the
12 record, Your Honor, to support a restraining order in this
13 case.

14 And -- and, again, we'd request that -- you know, I
15 don't want to rehash everything that's in my brief, but --

16 THE COURT: Okay.

17 MR. ROTHSTEIN: So that's all I've got to say.

18 THE COURT: I've got to review the record and review
19 the things that y'all have referenced. And I will take a
20 look at it and let y'all know what I come up with, so.

21 And with that, I will end the hearing.

22 *****END OF TRANSCRIPT OF RECORD*****
23
24
25

CERTIFICATE OF REPORTER

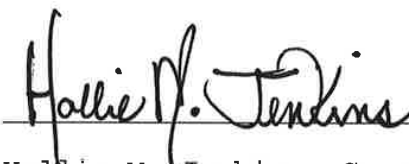
STATE OF SOUTH CAROLINA)

COUNTY OF GREENVILLE)

I, HOLLIE JENKINS, Official Court Reporter for the Thirteenth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete Transcript of Record of the proceedings had and the evidence introduced in the captioned case, relative to appeal, in the Court of Common Pleas for Greenville County, South Carolina, on the 22nd day of July, 2020.

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

October 6, 2020


Hollie M. Jenkins, Court Reporter

RECEIVED
MAR 17 2020WEST GREENVILLE
SUMMARY COURT

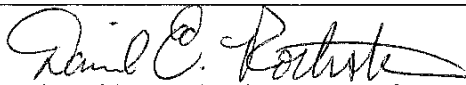
STATE OF SOUTH CAROLINA	)	2020-CP-23-00183
	)	COMMON PLEAS CASE NUMBER
COUNTY OF <u>GREENVILLE</u>	)	2019OR2310100014
	)	MAGISTRATE CIVIL CASE NUMBER
<u>Sean Eric Roach,</u>	)	
APPELLANT(S)	)	IN THE COURT OF COMMON PLEAS
VS.	)	NOTICE OF CIVIL APPEAL
<u>Lee Yarborough,</u>	)	
RESPONDENT(S)	)	

The plaintiff/defendant (circle one), Sean Eric Roach hereby gives notice of appeal from the judgment of the magistrate's court in the above action, to the Circuit Court of Common Pleas, in the county of Greenville.

This notice of appeal is made subsequent to personal notice of the judgment which was received on the 9th day of March, 2020.

The appellant's exceptions to the judgment of the magistrate are set forth as follows:

- (1) The Magistrate Judge erred in denying Defendant's Motion to Dismiss pursuant to Rule 12(b)(8), SCRCF, because of the pending civil case in Federal Court involving the same parties and same subject;
- (2) The Magistrate Judge erred in issuing a restraining order because Plaintiff failed to establish a present danger or threat of bodily injury by a preponderance of evidence;
- (3) The Magistrate Judge erred in failing to list any specific acts that constitute the offense of Harassment in the 1st or 2nd degree or Stalking;
- (4) The Magistrate Judge erred in disregarding Plaintiff's own testimony that she had no in-person interaction with Defendant since May 2019 and no communication with Defendant since a group text message in June 2019;
- (5) The Magistrate Judge erred in disregarding Plaintiff's own testimony that Defendant had not engaged in any of the activities listed in the statutory definitions of harassment or stalking; and
- (6) The Magistrate Judge erred in checking the box for Federal Firearms Prohibition, pursuant to 18 U.S.C. § 922, despite specifically finding that two of the three requisites were not present.



s/ David E. Rothstein, Attorney for Appellant

Dated: March 17, 2020

Appellant (or his attorney)

David E. Rothstein, SC Bar No. 66295

Rothstein Law Firm, PA

1312 Augusta St.

Greenville, SC 29605

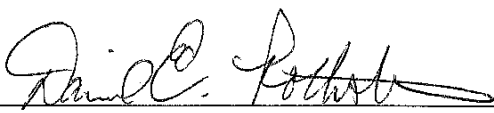
(864) 232-5870 (office)

SCCA/720 (Amended 8/1/2011)

CERTIFICATE OF SERVICE

The undersigned hereby certifies that he served a copy of the foregoing **NOTICE OF CIVIL APPEAL** upon Plaintiff's counsel of record by email and by depositing a copy of the same in the United States Mail, proper first-class postage pre-paid, this 17th day of March, 2020, addressed as follows:

Wesley D. Few, Esq. (wes@wesleyfew.com)
Wesley D. Few, LLC
P.O. Box 9398
Greenville, SC 29604



David E. Rothstein

Greenville, SC.

Exhibit 1

RECEIVED
MAR 06 2020
WEST GREENVILLE
SUMMARY COURT

STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENVILLE)

AFFIDAVIT OF SEAN E. ROACH

PERSONALLY appeared before me Sean E. Roach, who, after being duly sworn, deposes and states the following:

1. My name is Sean E. Roach. I am older than eighteen (18) years of age and am otherwise competent to make the statements in this Affidavit. The following statements are made based on my own, personal knowledge.

2. I worked for Propel HR in Greenville as an independent contractor from on or about October 22, 2018 to May 8, 2019, pursuant to an Independent Contractor Agreement, which was back-dated to November 1, 2018. I understand that the principal owners of Propel HR are Braxton Cutchin, his daughter, Lee Yarborough, and Paul Garrigan.

3. Early in my engagement as a consultant for Propel HR, I was interviewing current and former employees to get background about the company. After a couple of weeks, on November 16, 2018, I met with Mr. Garrigan and Ms. Yarborough to present my proposal for working with Propel HR. During that meeting Ms. Yarborough asked me what employees were saying about her. One of the things I mentioned to her was that some of the sales team stated that they felt like she "shit on everything" they brought to her. Later that same evening, I ordered two plastic poops from Amazon, with the note, "Hi Lee. Enjoy your gift. I hope this makes you laugh," as a joke for Ms. Yarborough in an attempt to defuse her obvious discomfort about the above-quoted phrase. Mr. Garrigan was in the car with me when I made the order from Amazon, and he agreed that he thought Ms. Yarborough would find it funny. The plastic poops were delivered to Ms. Yarborough on Monday, November 19, 2018. At 2:15 p.m. that day, Ms. Yarborough sent me a text messages with four

Sn

laughing-crying emojis, and the words "Thanks for my gift!" followed by a poop emoji. I responded "I just figured that if you don't want to approve anything you can send it back with a paperweight." Ms. Yarborough commented "Ha Ha" to my response. A copy of the text thread about this is attached hereto as Exhibit A. I did not mean anything threatening or offensive in sending this as a gag gift, and Ms. Yarborough's light-hearted response did not indicate to me that she was bothered by it.

4. At the end of January 2019, I was informed for the first time that Ms. Yarborough was "mortified" to receive the plastic poop gag gift from me. On January 30, 2019, I sent Ms. Yarborough an email apologizing and stating, "I now see that my attempt at humor to disarm the situation was a very poor choice on my part." A copy of the email thread between Ms. Yarborough and myself is attached hereto as Exhibit B.

5. I have never made a personal threat towards Lee Yarborough or any other owner, officer, employee, or agent of Propel HR. I have not even seen Ms. Yarborough or had any in-person contact with her since approximately May 8, 2019, other than the court meeting on December 2, 2019. The last time I communicated with Ms. Yarborough in any manner was a group text message on June 19, 2019, at 5:35 p.m. to her, Mr. Cutchin, and Mr. Garrigan.

6. After my sudden termination from Propel HR, Mr. Cutchin and Mr. Garrigan offered to buy out the remainder of my contract on Friday, May 10, 2019, by paying me the six months remaining on the one-year contract. We agreed to meet on Monday, May 13, 2019, at 2:30 p.m. at Mr. Cutchin's house to talk through the details of my severance agreement.

7. I received a text message from Mr. Garrigan on Mothers' Day, Sunday, May 12, 2019, at 4:20 p.m., stating, "Sean, I want to let u know that you and [Roach's son] has been on my mind



all weekend. And even on this Mother's Day in memory of [Roach's deceased wife]. I pray and we can make things work out for all of us and continue to be friends. You have been a very positive influence in my life in such a short period of time. I want more than anything to continue our friendship." Mr. Garrigan and I spoke by phone later that evening, which I thought was very positive in terms of reaching an amicable resolution regarding the separation of my employment with Propel HR.

8. On Monday, May 13, 2019, at 12:08 p.m., I received another text message from Mr. Garrigan stating that our scheduled meeting had been called off. I received an email from Ms. Yarborough at 5:08 p.m. on May 13, 2019, formally terminating my employment. The email stated, in part, "I realize that it was not always easy working with us, but please know that you did challenge us and provide us valuable insight. Thank you especially for your hard work surrounding Salesforce. I realize that required lots of time and attention. I appreciate you getting us off to a great start. We all wish you the very best and the best for [your son] too. I know you are a proud father, he is a sweet boy. Thanks, Lee Yarborough."

9. The termination letter indicated that I would be paid for the thirty (30) day notice period provided for in the contract, as well as commissions for the new clients I contracted with for Propel from March 1, 2019 for which I had not yet been paid commissions. Propel did not pay me the six-month severance that Mr. Cutchin and Mr. Garrigan had promised me, and they did not even pay all of the commissions they had promised.

10. I have never conducted any type of surveillance of Ms. Yarborough or anyone at Propel HR. My references to having "heard" things in their office meant that I was hearing reports from current and former employees of Propel HR about what was occurring in the office after my



termination.

11. During my employment with Propel, I used my own, personal lap-top in connection with my job duties, responsibilities, and assignments. I do not have access to Propel's computer system and have not accessed or attempted to access any of Propel's confidential data since my termination.

12. I was not involved in procuring or setting up Propel HR's computerized surveillance system and do not know anything about the smartphone app that reportedly controls the system. I have never touched Ms. Yarborough's phone. I do not know anything about the set-up of Propel HR's surveillance system, and do not even know how many cameras they had installed.

13. I was contacted by Detective Drew Palmer of the City of Greenville Police Department on or about June 20, 2019, about "some uneasiness" that my departure from Propel HR had caused. Detective Palmer requested that I not have any communication with any Propel HR employees. I followed up with a call to Detective Palmer, who was very friendly and indicated that he hoped everything could be resolved amicably in the civil courts through attorneys.

14. I told Detective Palmer that I felt that Mr. Cutchin had made some threatening remarks towards me, had been disparaging me to others, had hired a private investigator to try to dig up dirt on me, and that someone from Propel HR had attempted to access my bank accounts on several occasions after my departure from Propel HR.

15. Although I live a few blocks away from Ms. Yarborough, since my termination from Propel HR, I have never been in Ms. Yarborough's yard or anywhere near her house. In fact, when I was helping my son sell cookie dough as a fund-raiser for his school last fall, we did not even go on Ms. Yarborough's street, or the parallel street across the park from Ms. Yarborough's house, out



of an abundance of caution.

16. I have never “ranted” about Ms. Yarborough to anyone in my neighborhood. I do recall seeing one of our neighbors, Laura Saunders, one time in late August or early September while I was walking my dog on Brookside Way. She ask how I was doing, and I told her that I was no longer doing any work for Propel HR. I recall telling Ms. Saunders that the company had a lot of turnover in its employees recently, but I never made any type of threatening or slanderous remarks about Propel HR or its owners. I understand that Ms. Saunders is a magistrate or municipal court judge in Simpsonville.

17. On November 13, 2019, I was contacted by Detective Dempsey from the City of Greenville about Propel HR. I called Detective Dempsey back on November 18, 2019, and told him that I had recently found a note on the back door to my house stating, “Make it stop, or you’ll be stopped.” I also informed him that my credit had been run and that Propel HR had attempted to access my bank account on several occasions. I know that it was someone at Propel HR because they are the only ones who have my company’s EIN and the account number, because that is where my paychecks form Propel HR were deposited.

18. During the first court meeting in this case on December 2, 2019, I attempted to contact Wes Few several times by email and by phone to comply with the Court’s instructions to the parties to draft a mutual no-contact order to be submitted before the end of the week. Mr. Few never responded to my email and voicemail messages. I was very surprised to learn that the Court had entered an Ex Parte Temporary Restraining Order on December 5, 2019, without any additional input from me. I was served with a copy of the TRO on December 13, 2019, which I believe had an incorrect date of March 31, 2019 for the next hearing.



19. On January 5, 2020, at 8:03 a.m., I was served with a second copy of the Restraining Order and a federal Summons and Complaint in the case of Propel PEO, Inc. et al. v. Sean Eric Roach et al., Civil Action No. 6:19-cv-03546-HMH-KFM, which case was filed on December 20, 2019.

20. On February 24, 2020, I was contacted by two Postal Inspectors, who informed me that they had recently received a complaint from Propel HR about the mailings involving the company and that federal crimes may have been committed in connection with the mailings.

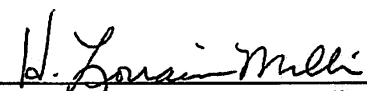
21. I have been advised by a criminal defense attorney not to discuss anything else about the mailings in light of the pending criminal investigation.

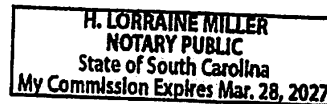
FURTHER AFFIANT SAYETH NOT.


Sean E. Roach

SWORN and subscribed before me,

this 9th day of March, 2020


Notary Public for South Carolina (L.S.)



My commission expires: 3/28/2027

Exhibit A

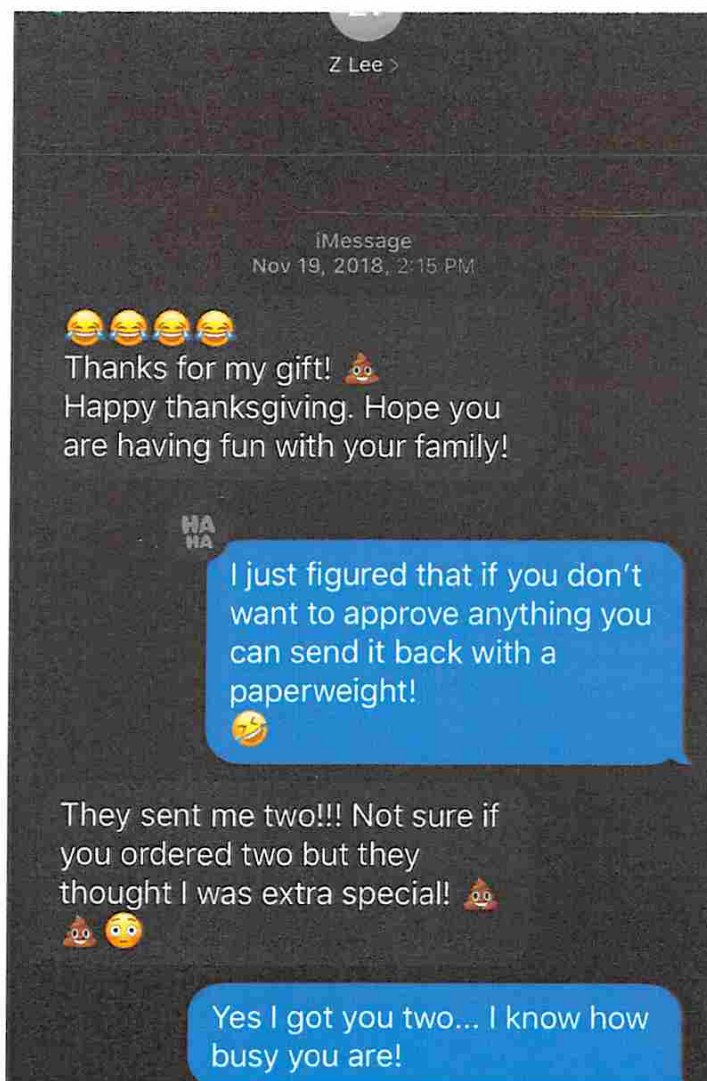


Exhibit B

From: Lee Yarborough lee@propelhr.com
 Subject: RE: Sorry!!!
 Date: January 31, 2019 at 9:17 AM
 To: Sean Roach sroach@propelhr.com

Thank you for this email. We definitely have different communication styles, however I do not think you were acting with bad intent. It is important that you understand that we are not big like your past organizations and our decision making is not done lightly. We take time to review things and the correct team is gathered to make sure the decisions made are best for the organization as a whole. When we have not done this, mistakes have been made.

I know that you have our interest in your mind, but there are factors beyond just that when making a decision. I do not like to feel bullied into making a decision and this whole process has been unnerving to me. I realize that you were taking this personally and I hope you realize that we don't mean anything personally. Decisions of this financial impact and the resources of time are made based on true value and ROI. I do see the value in the applications and services, but other factors have to be considered in the process which I do not feel were discussed or thought of. The approach could have been entirely different with pros/cons and truly discuss how this would benefit the team and evaluate the time requirements to make this work. Instead it was presented on a Friday late afternoon with pressure that it had to be done in less than a week.

If we go forward with the implementation, I do feel that you will be a valuable part of the process. You have a skill set and experience that will help. I am asking that you not assume you know our business processes and get our experts involved. This is an opportunity that our team can better define the best practices, but this can not be a time for one person to come in and decide how it should be done. I trust our team and know they have valuable experience. They need to be listened to and consulted with. I feel confident that you will look to them for the area expertise.

Let's just move forward and not keep this over our heads. There is too much work to be done. I do appreciate your passion and hard work.

Thank you,

Lee Yarborough
 President | [Propel HR](#)
 (864) 679-6055 (direct) | (864) 386-6361 (cell)
[LinkedIn](#) | [Twitter](#) | [Facebook](#)

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From: Sean Roach
 Sent: Wednesday, January 30, 2019 11:58 AM

From: Wednesday, January 30, 2019 11:36 PM
To: Lee Yarborough <lee@propelhr.com>
Subject: Sorry!!!

Lee,
I am so sincerely sorry!

In working with Rebecca the other day on ways I could work better with you and allow you to trust me, it raised issues that were brought to my attention this afternoon and for that, I am sincerely sorry.

In November when working with you and Pual late on a Friday night, I told you what I had heard from a few people at PropelHR during my investigation phase. During that description and debriefing to you and Paul, the words "You shit on everything" came up and at that time I saw you were stunned and shaken by this account of what was said to me. As the conversation continued I could see it really bothered you to the core. As a way to defuse it, I choose to use humor, and I choose poorly in sending you fake poo to make light of the issue. Not really knowing you, I now see my attempt at humor to disarm the situation was a very poor choice on my part.

Then again in January when you and I were talking about what I did for PropelHR, I used the term "Business Colonoscopy" to which you replied "I think you have an issue with poo." and I should have seen with my background that yet again I offended you.

And for all of this, I am sorry. Very Sorry!

I have not cried in a while, but hearing this tonight brought me to tears. Yes, I am a softy and those that I care about I really care what they think about me. Add that to also letting someone down... This is a big BIG deal to me and I feel I have let you down.

I left your office today so deflated and gutted thinking that I hurt you in any way.

I have wondered a few times since November, if you were fully on board having someone like me as a strategist or if this was a pass from pressure with your dad and maybe Paul to just move on and see if it worked.

If the latter is the case and I am causing you any stress or others any stress on the Executive team, I will humbly resign effective today and move on.

I have only wanted the best for PropelHR. I have from the start seen so much opportunity with this company and the family that has built it. It is this reason I turned down other opportunities to help this company become the \$10-\$15 million dollar company I know it is, in a short time.

Yet during my short time, I have never wanted to be seen as Stress, a Problem, or Stepping on anyone's toes/area. This is why it was so important to me in our November talks to explain an entirely holistic approach to the company around Sales and Revenue strategy that I would be doing. To accomplish this it requires looking at all areas of the company as each part works with or affects the others in both good and bad ways.

Again, I am so sorry I did not see or recognize this sooner the pain and stress I have caused you.

I would love to move forward, have an Amazing relationship with you and everyone on the executive team, and help take PropelHR to the next level.

I would love to have you trust me as a new fresh look at things, knowing that I need my rains pulled back every now and then and that I give advice and its not always the best decision for PropelHR.

I would love to help sales smash the sales goal of \$1.2 million for 2019, find and fix revenue bleeds, and

make sure money spent is like spending my own money.

Most important is I would love for you to be Happy with me and see me as an asset to your family and company.

Please let me know what you decide so I can either move forward with you & PropelHR or work on a smooth transition for all.

All my best,
Sean Roach

All My Best,
Sean Roach
Business Strategist for PropelHR

"Every relationship needs two basic things. Trust and Communication. If you don't Communicate you lose Trust and if you lose Trust you stop Communicating.

The next thing you know, you said to meet somewhere with an "S". You are in Singapore and I'm in Seattle and neither of us can figure out WHY." --Sean Roach

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Exhibit 2

Matter Overview

Sean Eric Roach moved to Greenville, SC from Nevada in about September 2018. It appears that the move was prompted by an offer from the Chandler School on Augusta Rd. to admit his son, Regan, who has special educational needs. As of 01 November 2018 he began acting as a consultant, via an agreement with one of his businesses, Idea Catapult, LLC, to Propel HR located at 669 N. Academy St. Greenville, SC 29601.

His consulting contract gave him access to most company systems, clients and employees. Interviews with a number of employees indicate that he is very bright, charismatic and aggressive. At the same time, he began developing personal relationships with a number of Propel HR employees and indicating that they were undervalued and that he could help them find better positions or that there should be a change of management at the current company. During this same period the Company became increasingly dissatisfied with the Subject's performance and his apparent attempts to undermine the management of the Company. On 13 May 2019 the Company informed the Subject, by letter, that they were terminating his contract but were going to pay commissions due as well as consulting fees for the balance of May and the month of June. At this time the Subject appears to begun a campaign to annoy, embarrass and dis-credit the management of Propel HR to the extent of appearing to threaten the management of the Company. At that time then Det. Drew Palmer was contacted and he had a conversation with Sean Roach in which he indicated that Propel HR was represented by counsel and that he should direct his inquiries to the lawyers. It appears that he did in fact contact the lawyers on several occasions and then went silent.

On Friday 01 November 2019 Propel HR was inundated by calls from clients, competitors, employees and neighbors of management indicating that they had received a malicious, racist and disturbing mailings and post cards targeting the Company in general and its' President, Ms. Lee Yarborough in particular. The mailing contains a color postcard using her image and likens her to the social elitist and racist character Hilly in the movie "The Help". In fact, this mailing, which appears to number in the hundreds, was mailed from Jackson, MS and used the same return address, 1119 Pinehurst St. Jackson, MS 39202, as the former residence of the book and which is now part of the Mississippi Department of Archives and History. The Department has been notified and has offered to assist if needed.

The mailing went to all of the Company's customers, including South Carolina state agencies, associations to which the Company belongs including one on whose Board Ms. Yarborough sits, more than 100 of Ms. Yarborough's neighbors as well as employees, banks and the Greenville Chamber of Commerce. It appears that business relationships received a complete mailing and neighbors received post cards.

Post Cards -

On receiving the post cards Ms. Yarborough's neighbors began contacting her and indicating that Sean Roach, who also lives in the area, had been walking the area and talking to neighbors about Ms. Yarborough for several weeks before the mailing. One of those neighbors, Laura Saunders Cox, a judge in Greenwood, has indicated that she had been approached by Roach and was more than willing to give a statement.

Corporate Mailings –

The actual mailings included a copy of the post card printed on the envelope and contained a letter claiming that the Company was the subject of sexual harassment and racism investigations and also included private and confidential electronic communications between two former employees and the Company; all without their knowledge or consent. Also, a number of the mailings contained partial customer EIN's which are safeguarded in the Company records and could only been accessed, illegally, through Company systems.

The foregoing would appear to more than meet the threshold for consideration as Harassment in the first degree as defined in SC Code § 16-3-1700 (2013) (an overview of the code is attached with this report) as well as Unlawful Communication statutes including;

(A) It is unlawful for a person to:

- (1) use in a telephonic communication or any other electronic means, any words or language of a profane, vulgar, lewd, lascivious, or an indecent nature, or to communicate or convey by telephonic or other electronic means an obscene, vulgar, indecent, profane, suggestive, or immoral message to another person;
- (2) Threaten in a telephonic communication or any other electronic means an unlawful act with the intent to coerce, intimidate, or harass another person;
- (3) Telephone or electronically contact another repeatedly, whether or not conversation ensues, for the purpose of annoying or harassing another person or his family;

Fear / Physical Threats –

Numerous interviews with various parties indicates that Sean Roach has continued to contact, harass and threaten people up until Saturday 02 November 2019. The following individuals have indicated their willingness to be interviewed and provide affidavits as to the continued concerns and anxiety;

Lee Yarborough – President Propel HR [REDACTED]

Braxton M. Cutchin - EVP Propel HR [REDACTED]

Teresa Dick – VP Propel HR [REDACTED]

Dee Sibert - Controller Propel HR [REDACTED]

Nora Nix – Implementation Specialist [REDACTED]

Kelli Harvey – Former Employee [REDACTED]

Angela Tyler – Former Employee [REDACTED] – Text Messages Provided

Aaron Drye Former Employee [REDACTED]

Updates –

The Chandler School – Sean Roach initially came to Greenville, according to what he told employees of Propel HR, because he was friends with Jan Jones, Mayor of Las Vegas from 1990 to 1999. His son Regan is dyslexic and he claims that Jan Jones told him that her husband, Dana Blackburn, was the headmaster of Chandler School and that he could arrange a scholarship for Regan. Recently Michael O'Shea an investigator with Forensic Research Group was contacted by Dana Blackburn who had heard about the mailing related to Propel HR and wanted to share his experience with Sean Roach. He indicated that there was no scholarship available and emailed Roach prior to his arrival in Greenville to tell him that. Roach showed up anyway and Chandler admitted Regan with the understanding that they would give Sean Roach a month or so to get a job and then pay the tuition of \$14,000 per semester. At the end of the semester the School released Regan and Sean Roach began a continued campaign of mailings and phone calls to parents and staff and culminating with a screaming match in the school office with Dana Blackburn. To date Roach still owes the tuition and continues to attempt to contact parents and even took out an ad in the Greenville News maligning the school and its staff. Dana Blackburn is prepared to provide statements.

Home / Lawsuit in Rancho Mirage, CA – recent research indicates that Sean Roach et al was named as a Defendant in PSA 1804531. In December 2015 Roach, via one of his business entities, purchased the residence at [REDACTED] CA for a consideration of \$885,000.00 and put \$25,000.00 down and convinced the sellers to take back a mortgage for the balance. By December 2017 Roach ceased making payments and the Sellers began foreclosure proceedings.

In June 2018 the Sellers completed the foreclosure. At that time they found that the home had been destroyed and ultimately required some \$385,000.00 in repairs. O'Shea contacted the Plaintiffs attorney, Paul D. Bojic who indicated that the Plaintiffs have decided not to pursue Roach because they were afraid of him. They also expressed concern for his child Regan. Attorney Bojic indicated that he had numerous "run-in's" with Roach and indicated that he felt he, Roach, was unstable and disturbed.

As we talked today, I need some help. I am being harassed at work and at home by a former associate. Propel HR entered into a business relationship with Sean Roach last October. He was hired as a 1099 contractor to help as a sales strategist. He worked with us until May 13th when we terminated the contract. We terminated the contract because he began making threats such as he was going to "go nuclear." He was concerned that we may end the contract so he became very aggressive and then it made us terminate quickly, change the locks, and end the relationship immediately.

After the termination, he contacted many of our employees telling them the company was going down and he would help them find another job. These employees asked him not to contact them but he kept contacting them non-stop. HE sent me and other members of our executive team threatening texts as well. He said he would die trying to destroy our company and many other things. The texts also insinuated that he could "hear" and "see" me in the office. It was very frightening and we had to add additional security at the office.

I live in the same neighborhood as Sean Roach. 2 blocks away – he is at [REDACTED]. I used to see Sean when I walked. I now don't walk in my neighborhood because I am scared of him. I have 2 daughters and they are home by themselves after school. IN June, the police talked to Sean and told him to cease contact with anyone from Propel.

As of October 31st, he has sent 1 letter and 5 postcards defaming me and Propel HR to all of my clients. One has my picture on it with my name with despicable and inflammatory language and it was sent to all of my neighbors as well as boards that I am involved in. Today's postcard is attached. This was sent to all my neighbors and clients and the picture has a photoshop of my father. He mentions college as well and he knows that I have a daughter who is a senior and we are working on college applications.

RECEIVED

Apr 19 2021

SC Court of Appeals

Certificate of Counsel

The undersigned hereby certifies that the Record on Appeal contains all material proposed to be included by any of the parties and not any other material.

April 16, 2021
Greenville, South Carolina

s/Wesley D. Few

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