THE STATE OF SOUTH CAROLINA
In The Court of Appeals

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SC Court of Appeals

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas

G. Thomas Cooper, Jr.
Circuit Court Judge

Appellate Case No.: 2018-001134

Glenda R Couram ..... Appellant,

v.

Nationwide Mutual Insurance Company, Titan Indemnity Company, Eugene Matthews in his individual capacity, Sherwood Plumbing Service, LLC, dba, Beatrice T. Tidwell, Rick Skurko in his official and individual capacity and Traccy Peer in her official and individual capacity
..... Respondents

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STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

IN THE COURT OF COMMON PLEAS

CIVIL ACTION NO: 2017-CP-40-4048

Glenda R. Couram,

Plaintiff,

vs.

Nationwide Mutual Insurance Company, Titan Indemnity Company, Eugene Matthews, in his individual capacity, Sherwood Plumbing SVC, LLC, and Sherwood Tidwell,

Defendants.

ORDER GRANTING DEFENDANTS' MOTIONS TO DISMISS

This action is currently before the Court in regards to Motions to Dismiss from Defendant Nationwide Mutual Insurance Company's ("Nationwide") and Defendant Titan Indemnity Company's ("Titan") (hereinafter collectively "the insurers"), Defendant Eugene Matthews (hereinafter Matthews), and Defendants Sherwood Tidwell, Sherwood's Plumbing Services LLC, and Beatrice Tidwell to dismiss Plaintiff's claims against them pursuant Rule 12(b)(6), SCRCP. A hearing was conducted on February 12, 2018. Appearing for Defendants Nationwide Mutual Insurance Company and Titan Indemnity Company was J.R. Murphy, Esquire. Appearing for Defendants Sherwood Tidwell, Sherwood's Plumbing Services LLC, and Beatrice Tidwell was Jescelyn Spitz, Esquire. Defendant Eugene Matthews appeared pro se. The Plaintiff appeared pro se. For the reasons set forth below, Defendants' Motions to Dismiss is GRANTED.

I. FACTUAL AND PROCEDURAL HISTORY

This action arises out of a September 18, 2015 automobile accident involving Plaintiff and Defendant Sherwood Tidwell. On April 12, 2016, Plaintiff filed a complaint against Sherwood Tidwell and "Titian [sic] Indemnity Company Subsidiary of Nationwide Insurance" in the Richland County Court of Common Pleas, styled as: Glenda Couram v. Sherwood Tidwell, et al; Civil Action No. 2016-CP-40-2350 (hereinafter the "Prior Action"). In that suit, Plaintiff sought damages for the

September 18, 2015 automobile accident involving Mr. Tidwell. By Consent Order dated September 2, 2016, "Titan Indemnity Company, Subsidiary of Nationwide Mutual Insurance Company" was removed as a party to the Prior Action. On February 16, 2017, Mr. Tidwell filed an Offer of Judgment pursuant to Rule 68 of the South Carolina Rules of Civil Procedure in which he offered the sum of $20,000 to Plaintiff in full compromise and settlement of her claims. Plaintiff rejected Mr. Tidwell's offer. The case was heard by a jury and on June 16, 2017 a verdict was rendered in favor of Plaintiff in the amount of $1,000. Thereafter, Plaintiff filed a Rule 59(E) Motion requesting additur or, in the alternative, a new trial on damages. By Order filed October 9, 2017, this Court denied Plaintiff's Rule 59(E) Motion. At this time, Plaintiff has filed additional post-trial motions and a Notice of Appeal in the Prior Action.

On July 3, 2017, Plaintiff filed the current Complaint before this Court again suing Mr. Tidwell and Titan Indemnity Company, as well as Nationwide Mutual Insurance Company.[1] Plaintiff's current Complaint arises out of the same September 18, 2015 automobile accident and the Prior Action. In this Complaint, Plaintiff alleges the following causes of action against Defendants Matthews and Insurers: (1) intentional infliction of emotional distress and/or negligent infliction of emotional distress, and (2) civil conspiracy.[2] Plaintiff alleges the following causes of action against Defendants Tidwells: (1) Vicarious Liability/Respondeat Superior Negligent Entrustment and or (Common Law Negligence if applicable).

[1] On July 19, 2017, Plaintiff filed an Amended Complaint adding Beatrice Tyree Tidwell as a defendant.

[2] Plaintiff also alleges as a cause of action she entitles "punitive damage". Punitive damages are a form of damages and not a cause of action. Plaintiff alleges a negligence cause of action as well but only against "Sherwood Plumbing Services, LLC dba Sherwood F. Tidwell, Owner/Operator/Agent and Beatrice Tyree Tidwell."

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II. LEGAL STANDARD

A 12(b)(6) motion to dismiss "must be granted if the facts and the inferences reasonably deducible from them show that the plaintiff could not prevail on any theory of the case." *Gray v. State Farm Auto Ins. Co.*, 327 S.C. 646, 651, 491 S.E.2d 272, 275 (Ct. App. 1997). "Although we are aware of the difference between alleging a cause of action and successfully proving it, the legal sufficiency of a pleading must be tested by the facts alleged therein." *Save Charleston Foundation v. Murray*, 286 S.C. 170, 179, 333 S.E.2d 60, 66 (Ct. App. 1985).

III. ANALYSIS

Plaintiff's first alleged cause of action is "Vicarious Liability/Respondeat Superior Negligent Entrustment and or (Common Law Negligence if applicable) South Carolina Ann Code §15-3-530(5)" against Defendants Sherwood's Plumbing Services LLC, Sherwood F. Tidwell, and Beatrice Tidwell.

Plaintiff's "second and third" alleged causes of action are "Intentional Infliction and or Negligent of Emotion Distress Common Law S.C. Ann. Codes §§15-3-530(5)" against Defendants Nationwide, Titan, and Matthews.

Plaintiff's fourth alleged cause of action is "Common Law Civil Conspiracy with Special Damages" against all named Defendants.

Plaintiff also listed a fifth cause of action as "Punitive Damages." However, this is not a cause of action, but rather a type of damage sought.

1. **"Vicarious Liability/Respondeat Superior Negligent Entrustment and or (Common Law Negligence if applicable)"**

This first cause of action was litigated in the Prior Action and is thus barred from re-litigation pursuant to the doctrine of res judicata. "The doctrine of res adjudicata (or res judicata) in the strict sense of that time-honored Latin phrase had its origin in the principle that it is in the

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public interest that there should be an end of litigation and that no one should be twice sued for the same cause of action." *First Nat'l Bank v. United States Fid. & Guar. Co.*, 207 S.C. 15, 24 (1945). "Under this doctrine, a final judgment on the merits in a prior action will conclude the parties and their privies in a second action based on the same claim as to the issues actually litigated and as to issues that might have been litigated in the first action." *Sub-Zero Freezer Co v. R.J. Clarkson Co.*, 308 S.C. 188 (1992).

To establish res judicata, the defendants must prove three elements: (1) identity of the parties; (2) identity of the subject matter; and (3) adjudication of the issue in the former suit. *Sealy v. Dodge*, 289 S.C. 543 (1986). Plaintiff is seeking to sue the same defendant, Sherwood Tidwell, related to the same motor vehicle accident, which was litigated in the Prior Action. Plaintiff is now alleging fault against Defendant Sherwood's Plumbing Services LLC and Beatrice Tidwell in regards to the September 18, 2015 accident.

Pursuant to South Carolina law, in order to establish collateral estoppel, the defendants must prove "that the issue in the present lawsuit was: (1) actually litigated in the prior action; (2) directly determined in the prior action; and (3) necessary to support the prior judgment." *Carolina Renewal, Inc. v. S.C. Dep't of Transp.*, 385 S.C. 550, 554 (S.C. App. 2009). Each element is established in the case at bar. Plaintiff's claims for injuries and damages related to the accident were (1) actually litigated in the prior action, (2) determined by a jury in the prior action, and (3) were necessary to support the judgment in the Prior Action.

Plaintiff's first cause of action relies on the "Facts Common to All Causes of Action" alleged in Paragraphs 11-32 of her Amended Complaint. The "facts" alleged by the Plaintiff refer to the September 18, 2015 accident with Mr. Tidwell, the Plaintiff's alleged damages caused by the accident, and the settlement negotiations which took place during the Prior Action.

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These matters were conclusively litigated in the Prior Action. For that reason, Plaintiff's first claim of action is barred and dismissed with prejudice.

2. "Intentional Infliction and or Negligent of Emotion Distress Common Law"

To allege a claim for intentional infliction of emotional distress, the Plaintiff must establish that: (1) the defendant intentionally or recklessly inflicted severe emotional distress, or was certain, or substantially certain, that such distress would result from his conduct; (2) the conduct was so "extreme and outrageous" so as to exceed "all possible bounds of decency" and must be regarded as "atrocious, and utterly intolerable in a civilized community;" (3) the actions of the defendant caused plaintiff's emotional distress; and (4) the emotional distress suffered by the plaintiff was "severe" such that "no reasonable man could be expected to endure it." *Hansson v. Scalise Builders of S.C.*, 374 S.C. 352, 356, 650 S.E.2d 68, 71 (2007) (quoting *Ford v. Hutson*, 276 S.C. 157, 162, 276 S.E.2d 776, 778). As the Supreme Court has stressed, South Carolina requires the plaintiff to meet a heightened burden of proof with regards to the "extreme and outrageous" element of the claim and "extreme or severe distress" element of the claim. *Ford*, 276 S.C. at 166. "[W]here physical harm is lacking, the courts should look initially for more in the way of extreme outrage as an assurance that the mental disturbance claimed is not fictitious." *Id.*[3] "Initially, the trial court determines whether the defendant's conduct was extreme and outrageous enough to permit recovery." *Hainer v. American Med. Int'l, Inc.*, 320 S.C. 316, 324, 465 S.E.2d 112, 117 (Ct. App. 1995), *aff'd as modified*, 328 S.C. 128, 492 S.E.2d 103 (1997). Further, the South Carolina Court of Appeals has recognized that "[t]he tort of outrage was designed not as a replacement for the existing tort actions. Rather, it was conceived as a remedy for tortious conduct where no remedy

[3] Physical harm is lacking in this case. To the extent Plaintiff's Complaint alleges physical harm caused by the September 18, 2015 accident, such claims are barred by res judicata as they have been previously litigated in the Prior Action.

previously existed." *Todd v. South Carolina Farm Bureau Mut. Ins. Co.*, 283 S.C. 155, 175, 321 S.E.2d 602, 613 (Ct.App.1984), *quashed on other grounds*, 287 S.C. 190, 336 S.E.2d 472 (1985).

A. Outrageous Conduct

In *Hainer v. American Medical Intern. Inc.*, the South Carolina Court of Appeals stated that "even if [it] had found [the defendants] liable for abuse of process, their actions did not rise to the level of outrage." 320 S.C. 316 at 324, 465 S.E.2d at 117. That court cites *Corder v. Champion Road Mach. Int'l Corp.*, 283 S.C. 520, 324 S.E.2d 79 (Ct.App.1984), for the proposition that even retaliatory behavior absent claims of verbal assaults or hostile, abusive encounters, does not rise to the level required for the tort of outrage. *Id.* The tort of intentional infliction of emotional distress is not a "panacea for wounded feelings rather than reprehensible conduct." *Todd*, 283 S.C. at 171, 321 S.E.2d at 611; *Gattison v. S.C. State Coll.*, 318 S.C. 148, 157, 456 S.E.2d 414, 419 (Ct. App. 1995) (holding that even if factual allegations "demonstrate unprofessional, inappropriate behavior, they fall short of conduct that exceeds all possible bounds of decency and is atrocious and utterly intolerable in a civilized society" necessary for outrage cause of action).

Here, Plaintiff's allegations demonstrate that Defendants used lawful means to defend their insured in the Prior Action and offered the Plaintiff less than she desired to settle her prior lawsuit. As a matter of law, Plaintiff's factual allegations against Nationwide and Titan fall short of the outrageous conduct required for an emotional distress claim.

B. Severe Emotional Harm or Distress

To allege a claim for intentional infliction of emotional distress, the Plaintiff must establish that: (1) the defendant intentionally or recklessly inflicted severe emotional distress, or was certain, or substantially certain, that such distress would result from his conduct; (2) the conduct was so "extreme and outrageous" so as to exceed "all possible bounds of decency" and must be regarded as "atrocious, and utterly intolerable in a civilized community;" (3) the actions of the defendant

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caused plaintiff's emotional distress; and (4) the emotional distress suffered by the plaintiff was "severe" such that "no reasonable man could be expected to endure it." *Hansson v. Scalise Builders of S.C.*, 374 S.C. 352, 356, 650 S.E.2d 68, 71 (2007) (quoting *Ford v. Hutson*, 276 S.C. 157, 162, 276 S.E.2d 776, 778). As the Supreme Court has stressed, South Carolina requires the plaintiff to meet a heightened burden of proof with regards to the "extreme and outrageous" element of the claim and "extreme or severe distress" element of the claim. *Ford*, 276 S.C. at 166. "[W]here physical harm is lacking, the courts should look initially for more in the way of extreme outrage as an assurance that the mental disturbance claimed is not fictitious." *Id.*[4] "Initially, the trial court determines whether the defendant's conduct was extreme and outrageous enough to permit recovery." *Hainer v. American Med. Int'l, Inc.*, 320 S.C. 316, 324, 465 S.E.2d 112, 117 (Ct. App. 1995), *aff'd as modified*, 328 S.C. 128, 492 S.E.2d 103 (1997). Further, the South Carolina Court of Appeals has recognized that "[t]he tort of outrage was designed not as a replacement for the existing tort actions. Rather, it was conceived as a remedy for tortious conduct where no remedy previously existed." *Todd v. South Carolina Farm Bureau Mut. Ins. Co.*, 283 S.C. 155, 175, 321 S.E.2d 602, 613 (Ct.App.1984), *quashed on other grounds*, 287 S.C. 190, 336 S.E.2d 472 (1985).

In addition to alleging extreme and outrageous conduct, the Plaintiff must allege that she has suffered sufficiently severe emotional distress to support her emotional distress claim. In *Hansson v. Scalise Builders of S.C.*, the South Carolina Supreme Court explained that:

> Under the heightened standard of proof for emotional distress claims emphasized in *Ford*, a party cannot establish a prima facie claim for damages resulting from a defendant's tortious conduct with mere bald assertions. To permit a plaintiff to legitimately state a cause of action by

[4] Physical harm is lacking in this case. To the extent Plaintiff's Complaint alleges physical harm caused by the September 18, 2015 accident, such claims are barred by res judicata as they have been previously litigated in the Prior Action.

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> simply alleging, "I suffered emotional distress" would be irreconcilable with this Court's development of the law in this area. In the words of Justice Littlejohn, the court must look for something "more"-in the form of third party witness testimony and other corroborating evidence-in order to make a prima facie showing of "severe" emotional distress.

374 S.C. at 358–59, 650 S.E.2d at 72. In Complaint, Plaintiff states that she suffered "severe emotional distress," "humiliation, embarrassment, mental anguish, emotional distress..." and that "the emotional distress suffered by Plaintiff was and continues to [be] serious and severe." These are "mere bald assertions" of emotional distress insufficient to allege such a claim. According to Plaintiff, the manifestation of her "severe emotional distress" was a "fever blister that remained four days after the trial." Again, this allegation fails to rise to the level of "severe" emotional distress required for this cause of action. Plaintiff also fails to delineate the alleged emotional distress she attributes to the underlying auto accident, for which she has already been compensated, and the alleged emotional distress she attributes to conduct of the insurers. Therefore, as a matter of law, Plaintiff has failed to allege sufficiently severe emotional distress to support her claim.

C. "Common Law Civil Conspiracy with Special Damages"

The elements of a civil conspiracy claim in South Carolina are (1) the combination of two or more people, (2) for the purpose of injuring the plaintiff, (3) which causes special damages. *Pye v. Estate of Fox*, 369 S.C. 555, 567, 633 S.E.2d 505, 511 (2006). A civil conspiracy cause of action requires the Plaintiff to establish that the primary purpose or object of defendants was to injure the Plaintiff. *Id.* (citing *Lee v. Chesterfield General Hosp., Inc.*, 289 S.C. 6, 13, 344 S.E.2d 379, 383 (Ct.App.1986)).

1. Independent Acts in Furtherance of Conspiracy

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"In a civil conspiracy claim, one must plead additional acts in furtherance of the conspiracy separate and independent from other wrongful acts alleged in the complaint, and the failure to properly plead such acts will merit the dismissal of the claim." *Hackworth v. Greywood at Hammett, LLC*, 385 S.C. 110, 115-16, 682 S.E.2d 871, 875 (Ct. App. 2009). Dismissal is proper where "the civil conspiracy action does no more than incorporate the prior allegations and then allege the existence of a civil conspiracy and pray for damages resulting from the conspiracy [and] [n]o additional acts in furtherance of the conspiracy were plead." *Id.* (quoting *Todd*, 276 S.C. at 293, 278 S.E.2d at 611); *Kuznik v. Bees Ferry Assocs.*, 342 S.C. 579, 611, 538 S.E.2d 15, 31 (Ct. App. 2000) ("Because [the third-party plaintiff] ... merely realleged the prior acts complained of in his other causes of action as a conspiracy action but failed to plead additional acts in furtherance of the conspiracy, he was not entitled to maintain his conspiracy cause of action."). Plaintiff states that the Defendants "jointly operated to perpetrate the wrongful acts complained of herein" and "agreed and conspired with each other to engage in the alleged wrongful conduct, including Defendants' interference with plaintiff [sic] employment relationships by coming to an agreement between them to do an unlawful act or to do a lawful act in an unlawful way..." Nowhere in the civil conspiracy section of her Complaint does Plaintiff set forth what these alleged "wrongful acts" or "unlawful acts" committed by Defendants are. *See Hackworth*, 385 S.C. at 116, 682 S.E.2d at 875 (stating that complaint must inform the defendants of what acts in furtherance of the alleged conspiracy they are being accused). Therefore, the alleged "wrongful acts complained of herein" must mean those acts previously alleged in the "Facts Common to all Causes of Action" section of Plaintiff's Complaint. Thus, Plaintiff's civil conspiracy claim fails as a matter of law because she has not plead additional acts in furtherance of the conspiracy separate and independent from other acts alleged in the complaint.

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2. Primary Purpose of Injuring the Plaintiff

One element of the civil conspiracy claim is that the defendants combined "for the purpose of injuring the plaintiff." *Allegro, Inc. v. Scully*, 418 S.C. 24, 32, 791 S.E.2d 140, 144 (2016), *reh'g denied* (Oct. 26, 2016). The "essential consideration" in a civil conspiracy is "whether the primary purpose or object of the combination is to injure the plaintiff." *Pye*, 369 S.C. at 567, 633 S.E.2d at 511 (quoting *Lee*, 289 S.C. at 13, 344 S.E.2d at 383). Plaintiff's own Complaint sets forth this legal standard for this "purpose." Plaintiff's allegations of the actions the insurers undertook undermine the "purpose" element of her civil conspiracy claim. While civil conspiracy "may be inferred from the very nature of the acts done," the acts alleged in the Complaint do not establish any wrongful intent by the insurers to injure the Plaintiff. *See Peoples Fed. Sav. & Loan Ass'n of S.C. v. Res. Planning Corp.*, 358 S.C. 460, 470, 596 S.E.2d 51, 57 (2004); *see also Pye*, 369 S.C. at 568, 633 S.E.2d at 512 (granting summary judgment on civil conspiracy claim where alleged act did not establish wrongful intent by the defendants to injure the plaintiffs); *Stiles v. Onorato*, 318 S.C. 297, 300, 457 S.E.2d 601, 603 (1995) (affirming dismissal when only reasonable inference to be drawn from face of complaint did not support plaintiff's conspiracy claim).

In light of Plaintiff's allegations that: (1) she requested a settlement amount from the insurer that included an amount for lost wages and medical expenses; (2) she refused to settle for less than $20,000 with regards to the previously litigated auto accident; and (3) she brought the Prior Action against Titan and Tidwell, the reasonable inference to be drawn from the alleged responsive acts of the insurer is that its primary purpose was to properly defend its insured, not to injure the Plaintiff. *See First Union Nat. Bank of S.C. v. Soden*, 333 S.C. 554, 575, 511 S.E.2d 372, 383 (Ct. App. 1998) (holding that conspiracy claim failed when it was only supported by mere speculation about motives and not establishment of overt acts pursuant to a common design); *see Ellis v. Davidson*, 358 S.C. 509, 527, 595 S.E.2d 817, 826 (Ct. App. 2004) (holding that plaintiff's

civil conspiracy claim failed as a matter of law where plaintiff was able to show that defendant undertook alleged act but not that that he undertook act for purpose of injuring plaintiff). Therefore, Plaintiff's civil conspiracy claim fails as a matter of law.

IV. CONCLUSION

For the reasons stated above, all Defendants' Motions to Dismiss Plaintiff's claims against them are GRANTED.

Defendants Matthews and Nationwide moved for Sanctions against Plaintiff. This Court declines to issue sanctions at this time.

IT IS SO ORDERED.

_____
The Honorable G. Thomas Cooper, Jr.
Presiding Judge
Fifth Judicial Circuit

_____, 2018
Columbia, South Carolina

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STATE OF SOUTH CAROLINA	IN THE COURT OF COMMON PLEAS
COUNTY OF RICHLAND	CIVIL ACTION NO: 2017-CP-40-4048
Glenda R. Couram, Plaintiff, vs. Nationwide Mutual Insurance Company, Titan Indemnity Company, Eugene Matthews, in his individual capacity, Sherwood Plumbing SVC, LLC, and Sherwood Tidwell, Defendants.	**ORDER DENYING PLAINTIFF'S MOTION FOR LEAVE TO AMEND COMPLAINT**

This matter is before the Court on Plaintiff Glenda R. Couram's Motion for Leave to Amend her Complaint to add additional defendants and causes of action. A hearing on the motion was held on February 12, 2018. Appearing for Nationwide Mutual Insurance Company and Titan Indemnity Company and the proposed new Defendants Shurko and Peer was J.R. Murphy, Esquire. The Plaintiff appeared pro se. For the reasons set forth below, Plaintiff's Motion for Leave to Amend her Complaint is DENIED.

I. FACTUAL AND PROCEDURAL HISTORY

This action arises out of a September 18, 2015 automobile accident involving Plaintiff and Defendant Sherwood Tidwell. On April 12, 2016, Plaintiff filed a complaint against Sherwood Tidwell and "Titian [sic] Indemnity Company Subsidiary of Nationwide Insurance" in the Richland County Court of Common Pleas, styled as: Glenda Couram v. Sherwood Tidwell, et al, Civil Action No. 2016-CP-40-2350 (hereinafter the "Prior Action"). In the Prior Action, Plaintiff sought damages for the September 18, 2015 automobile accident involving Mr. Tidwell. On February 16, 2017, Mr. Tidwell filed an Offer of Judgment pursuant to Rule 68 of the South Carolina Rules of Civil Procedure in which he offered the sum of $20,000 to Plaintiff in full compromise and settlement of her claims.

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Plaintiff rejected Mr. Tidwell's offer. The case was heard by a jury, and on June 16, 2017 a verdict was rendered in favor of Plaintiff in the amount of $1,000.

On July 3, 2017, Plaintiff filed the current Complaint before this Court again suing Mr. Tidwell and Titan Indemnity Company, as well as Nationwide Mutual Insurance Company and Sherwood Plumbing, LLC. On July 19, 2017, Plaintiff filed an Amended Complaint adding Beatrice Tyree Tidwell as a defendant (hereinafter "the Complaint"). Plaintiff's Complaint arises out of the same September 18, 2015 automobile accident and the Prior Action. The Complaint alleges that before the Prior Action Mr. Tidwell's insurer engaged in settlement negotiations with Plaintiff concerning her claim against Mr. Tidwell for the September 18, 2015 accident. The Complaint alleges that such settlement negotiations were conducted through the insurer's adjusters Shurko and Peer. The Complaint also alleges that entering into court-ordered mediation in the Prior Action "led to the plaintiff losing her job."

Plaintiff's Motion now seeks leave from this Court to Amend her Complaint to add Nationwide adjusters Rick Skurko[1] and Tracy Peer as defendants and to add a cause of action which she labels "tortious interference with employment relationship and tortious interference with business relationship to include legal malpractice." Plaintiff attached a proposed Amended Complaint to her Motion (hereinafter the "Proposed Amended Complaint"). In her Proposed Amended Complaint, Plaintiff amends other matters for which her Motion does not seek leave of this Court. This Court will only address the two above-listed matters for which Plaintiff's Motion seeks leave to amend.

II. LEGAL STANDARD

Under Rule 15(a) of the South Carolina Rules of Civil Procedure, when more than 30 days have passed after service of a party's pleading, "a party may amend his pleading only by leave of

[1] Throughout her Complaint and Proposed Amended Complaint, Plaintiff refers to this adjuster as both "Shruko" and "Skruko."

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court or by written consent of the adverse party; and leave shall be freely given when justice so requires and does not prejudice any other party." Rule 15(a), SCRCP. "[A] motion to amend a pleading is addressed to the sound discretion of the trial judge." *Porter Bros., Inc. v. Specialty Welding Co.*, 286 S.C. 39, 41, 331 S.E.2d 783, 784 (Ct. App. 1985); *Pruitt v. Bowers*, 330 S.C. 483, 489, 499 S.E.2d 250, 253 (Ct. App. 1998) (same). Although leave to amend should generally be freely given, "it may be denied where the proposed amendment would be futile." *Jennings v. Jennings*, 389 S.C. 190, 209, 697 S.E.2d 671, 681 (Ct. App. 2010) *rev'd on other grounds*, 401 S.C. 1, 736 S.E.2d 242 (2012); *Higgins v. Med. Univ. of S.C.*, 326 S.C. 592, 604, 486 S.E.2d 269, 275 (Ct. App. 1997) (same).

III. ANALYSIS

In her Motion for Leave to Amend, Plaintiff requests leave to amend her Complaint to: (1) add Nationwide adjusters Rick Skurko and Tracy Peer as defendants, and (2) to add two causes of action which she labels "tortious interference with employment relationship" and "tortious interference with business relationship to include legal malpractice." In her Proposed Amended Complaint, Plaintiff alternatively labels this as a single cause of action for "common law tortious interference with economic, business relationship and legal malice." The Court interprets Plaintiff's claim as one for "tortious interference with contractual relations," which is a cause of action South Carolina courts recognize in relation to employment contracts. *See, e.g., Ross v. Life Ins. Co. of Virginia*, 273 S.C. 764, 259 S.E.2d 814 (1979); *Todd v. S.C. Farm Bureau Mut. Ins. Co.*, 287 S.C. 190, 191, 336 S.E.2d 472, 473 (1985).

A. Addition of Adjuster Defendants

In both her Complaint and Proposed Amended Complaint, Plaintiff makes the following factual allegations concerning adjuster Skurko and adjuster Peer:

- "Plaintiff tried to settle with Adjustor Shruko and he would only offer about $10,000; to include pain and suffering; plaintiff tried to settle several times and during that time she continued to supply the Defendants with medical bills, etc. (Am. Compl. ¶ 23); (Proposed Am. Compl. ¶ 25).

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- "Plaintiff told Mr. Skurko that she would file to the courts by March 30, 2016, and did so, if he would not be reasonable she made another offer of 28k, nothing happened accept a transfer to another adjuster." (Am. Compl. ¶ 24); (Proposed Am. Compl. ¶ 26).

- "Plaintiff informed Ms. Peer she would be going back into therapy and was told to call back when completed, that therapy ended in May 2016, plaintiff once again attempted to settle with the new adjuster and was offered 20k, to include pain and suffering in the end Ms. Peer offered $15,000, that did not account for loss pay or time, plaintiff countered and the negotiation ended." (Am. Compl. ¶ 25); (Proposed Am. Compl. ¶ 27).

All of these allegations charge the adjusters with failure to settle Plaintiff's claim against Mr. Tidwell for the amount she demanded. Plaintiff is collaterally estopped from relitigating the issue of the value of her claim against Mr. Tidwell for the September 18, 2015 accident. *See Carolina Renewal, Inc. v. S.C. Dep't of Transp.*, 385 S.C. 550, 554, 684 S.E.2d 779, 782 (Ct. App. 2009) ("Collateral estoppel, also known as issue preclusion, prevents a party from relitigating an issue that was decided in a previous action, regardless of whether the claims in the first and subsequent lawsuits are the same."); *Snavely v. AMISUB of S.C., Inc.*, 379 S.C. 386, 398, 665 S.E.2d 222, 228 (Ct. App. 2008) ("[T]he primary concern of our courts in applying collateral estoppel is...whether a potentially precluded party had a full and fair opportunity to litigate the issues in a prior action."); *Doe v. Doe*, 346 S.C. 145, 149, 551 S.E.2d 257, 259 (2001) ("[M]utuality is no longer a requirement of collateral estoppel."); *Judy v. Judy*, 383 S.C. 1, 7, 677 S.E.2d 213, 217 (Ct. App. 2009). ("Collateral estoppel applies to specific issues, regardless of whether the claims in the first and subsequent suits are the same."). In the Prior Action, Ms. Couram previously litigated this issue in a jury trial. For this reason, Plaintiff's claims against these proposed defendants are collaterally estopped and futile.

Moreover, taking these allegations as true and viewing them and all reasonable inferences in a light most favorable to Plaintiff, these allegations cannot support Plaintiff's claims against these proposed defendants for intentional infliction of emotional distress, civil conspiracy or intentional

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interference with contractual relations. For this reason, Plaintiff's claims against these proposed defendants are futile.

To allege a claim for intentional infliction of emotional distress[2], the Plaintiff must establish that: (1) the defendant intentionally or recklessly inflicted severe emotional distress, or was certain, or substantially certain, that such distress would result from his conduct; (2) the conduct was so "extreme and outrageous" so as to exceed "all possible bounds of decency" and must be regarded as "atrocious, and utterly intolerable in a civilized community;" (3) the actions of the defendant caused plaintiff's emotional distress; and (4) the emotional distress suffered by the plaintiff was "severe" such that "no reasonable man could be expected to endure it." *Hansson v. Scalise Builders of S.C.*, 374 S.C. 352, 356, 650 S.E.2d 68, 71 (2007) (quoting *Ford v. Hutson*, 276 S.C. 157, 162, 276 S.E.2d 776, 778). "Initially, the trial court determines whether the defendant's conduct was extreme and outrageous enough to permit recovery." *Hainer v. American Med. Int'l, Inc.*, 320 S.C. 316, 324, 465 S.E.2d 112, 117 (Ct. App. 1995), *aff'd as modified*, 328 S.C. 128, 492 S.E.2d 103 (1997). The conduct of these proposed defendants, as alleged by Plaintiff, is set forth above. As a matter of law, the alleged conduct is not conduct sufficiently extreme and outrageous to support and emotional distress claim. For this reason, Plaintiff's emotional distress claim against the proposed defendants is futile.

"In a civil conspiracy claim, one must plead additional acts in furtherance of the conspiracy separate and independent from other wrongful acts alleged in the complaint, and the failure to

[2] Plaintiff has also alleged a negligent infliction of emotional distress claim. However, South Carolina does not recognize such cause of action outside the context of bystander recovery. *See Kinard v. Augusta Sash & Door Co.*, 286 S.C. 579, 583, 336 S.E.2d 465, 467 (1985) ("Our adoption of the cause of action [of negligent infliction of emotional distress] is limited to 'bystander recovery.'"); *Doe v. Greenville Cty. Sch. Dist.*, 375 S.C. 63, 68, 651 S.E.2d 305, 307 (2007) (holding that where plaintiffs alleged a negligent infliction of emotional distress claim outside the context of bystander recovery, they had "not stated a claim which is cognizable under South Carolina law").

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properly plead such acts will merit the dismissal of the claim." *Hackworth v. Greywood at Hammett, LLC*, 385 S.C. 110, 115-16, 682 S.E.2d 871, 875 (Ct. App. 2009); *see Kuznik v. Bees Ferry Assocs.*, 342 S.C. 579, 611, 538 S.E.2d 15, 31 (Ct. App. 2000) ("Because [the third-party plaintiff] ... merely realleged the prior acts complained of in his other causes of action as a conspiracy action but failed to plead additional acts in furtherance of the conspiracy, he was not entitled to maintain his conspiracy cause of action."). In her Complaint, Plaintiff has failed to allege additional acts in furtherance of her conspiracy cause of action. Under the civil conspiracy section of her Complaint, Plaintiff merely incorporates "wrongful acts complained of herein." For this reason, Plaintiff's civil conspiracy claim against the proposed defendants is futile.

In addition, a civil conspiracy cause of action requires the Plaintiff to establish that the primary purpose or object of defendants was to injure the Plaintiff. *Pye v. Estate of Fox*, 369 S.C. 555, 567, 633 S.E.2d 505, 511 (2006) (citing *Lee v. Chesterfield General Hosp., Inc.*, 289 S.C. 6, 13, 344 S.E.2d 379, 383 (Ct.App.1986)). Viewing the factual allegations in the Complaint and Proposed Amended Complaint and all reasonable inferences in the light most favorable to Plaintiff, the only reasonable inference is that the primary purpose of the adjusters was to negotiate a favorable settlement for the insured. Plaintiff's factual allegations against the proposed defendants do not establish any wrongful intent by the adjusters to injure the Plaintiff. *See Pye*, 369 S.C. at 568, 633 S.E.2d at 512 (granting summary judgment on civil conspiracy claim where alleged act did not establish wrongful intent by the defendants to injure the plaintiffs); *see also Stiles v. Onorato*, 318 S.C. 297, 300, 457 S.E.2d 601, 603 (1995) (affirming dismissal when only reasonable inference to be drawn from face of complaint did not support plaintiff's conspiracy claim). For this reason, Plaintiff's civil conspiracy claim against the proposed defendants is also futile.

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For the reasons set forth below, Plaintiff's proposed tortious interference with contractual relations claim is also futile as to all defendants.

B. Addition of Tortious Interference With Contractual Relations Action

Plaintiff's Motion requests leave of the Court to add a tortious interference with contractual relations claim against all Defendants. Plaintiff's Proposed Amended Complaint alleges that Defendants' actions resulted in the termination of her employment with the South Carolina Department of Motor Vehicles. In her Proposed Amended Complaint, Plaintiff bases such cause of action upon the following factual allegations:

- "[T]hey used their status as attorneys in one instant subpoenaing her employment record twice, eliciting help from two other attorneys to call the plaintiff employer and emailing her to instigate a employment problem that directly lead to her termination." (Proposed Am. Compl. ¶ 70)

- "making and maintaining unnecessary contact with the employer and its attorney disrupting the relationship leading to Plaintiff termination" (Proposed Am. Compl. ¶ 80).

- "The attorney hired by Tidwell had subpoenaed the plaintiff's employment records twice, subpoenaed her medical records, mental health records all the way back to ten plus years they elicited the aid of Attorneys Amy Cofield and Lori Shortt who were the mediator and her attorney." (Proposed Am. Compl. ¶ 89).

"The elements of a cause of action for tortious interference with contract are: (1) existence of a valid contract; (2) the wrongdoer's knowledge thereof; (3) his intentional procurement of its breach; (4) the absence of justification[3]; and (5) resulting damages." *Camp v. Springs Mortgage Corp.*, 310 S.C. 514, 517, 426 S.E.2d 304, 305 (1993).

"[I]n order to constitute actionable interference with a contract, it must appear that the act complained of was the proximate cause of the injury or damage." *Smith v. Citizens & Southern Nat.*

[3] This Court notes that Plaintiff alleged lost wages in the Prior Action. Therefore, Tidwell's counsel was justified in subpoenaing Plaintiff's employment records in the Prior Action, and such actions cannot be the basis for a tortious interference claim.

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Bank of S.C., 241 S.C. 285, 288, 128 S.E.2d 112, 114 (1962). Plaintiff's allegations charge that Defendants took the following actions: (1) subpoenaed her employment records; (2) contacted her employer; and (3) emailed either Plaintiff or her employer. Noticeably missing from Plaintiff's Proposed Amended Complaint is any allegation of how these alleged acts caused the termination of Plaintiff's employment. It is also not clear from Plaintiff's Proposed Amended Complaint to which Defendant she attributes each alleged act. Viewing these allegations in the light most favorable to Plaintiff, they do not create a reasonable inference that Defendants intended to procure the breach of Plaintiff's employment contract with the South Carolina Department of Motor Vehicles or that their actions proximately caused the alleged breach. *See DeBerry v. McCain*, 275 S.C. 569, 574-75, 274 S.E.2d 293, 296 (1981) (sustaining defendants' demurrer where complaint contained no "allegations of any acts or omissions by [defendants] warranting the inference that they intentionally procured plaintiff's discharge"). For these reasons, Plaintiff's proposed tortious interference with contract claim is futile.

As stated above, this cause of action requires Plaintiff to establish that the other party to the contract – in this case the South Carolina Department of Motor Vehicles – breached its contract with the Plaintiff as a result of the alleged interference. *See First Union Mortg. Corp. v. Thomas*, 317 S.C. 63, 73, 451 S.E.2d 907, 913 (Ct. App. 1994) ("[W]ithout a breach of the underlying contract, there can be no recovery."). Throughout her Proposed Amended Complaint, Plaintiff alleges that she could be terminated "for cause" from her employment. (Proposed Am. Compl. ¶¶ 79, 91). Plaintiff's Proposed Amended Complaint alleges that "she was dismissed on the grounds of intentional misconduct." (Proposed Am. Compl. ¶ 100). Therefore, if Plaintiff's Employer could terminate her employment for cause and had cause, then there is no breach as required for recovery under this cause

of action.[4] *See Dutch Fork Development Group II, LLC v. SEL Properties, LLC*, 406 S.C. 596, 753 S.E.2d 840 (2012) ("'An action for tortious interference with contract protects the property rights of the parties to a contract against unlawful interference by third parties. Therefore, it does not protect a party to a contract from actions of the other party.'" (quoting *Threlkeld v. Christoph*, 280 S.C. 225, 227, 312 S.E.2d 14, 15 (Ct. App .1984))); *Todd v. South Carolina Farm Bureau Mut. Ins. Co.*, 283 S.C. 155, 321 S.E.2d 602 (Ct. App. 1984), *writ granted in part*, 285 S.C. 84, 328 S.E.2d 479 (1985) *and portion of decision quashed on other grounds*, 287 S.C. 190 336 S.E.2d 472 ("The plaintiff must show that but for the interference, the contractual relationship would have continued."). For the foregoing reason, Plaintiff's proposed tortious interference with contract claim is futile.

IV. CONCLUSION

For the reasons stated above, Plaintiff's Motion for Leave to Amend her Complaint is DENIED.

IT IS SO ORDERED.

_____
The Honorable G. Thomas Cooper, Jr.
Presiding Judge
Fifth Judicial Circuit

_____, 2018
Columbia, South Carolina

[4] Whether the South Carolina Department of Motor Vehicles had proper cause to terminate Plaintiff's employment is not a matter before this Court. As a state employee, Plaintiff may challenge the basis for her termination under the State Employee Grievance Procedure Act. *See* S.C. Code 8-17-310, et seq. Plaintiff indicated at the hearing on this Motion that she was challenging her termination under the procedures set forth in the Act.

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STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND

IN THE COURT OF COMMON PLEAS
CIVIL ACTION NO: 2017-CP-40-04048

Glenda R. Courani,

Plaintiff,

vs.

Nationwide Mutual Insurance Company, Titan Indemnity Company, Eugene Matthews, in his in his individual capacity, Sherwood Plumbing SVC, LLC, dba and Beatrice T. Tidwell, Rick Skurko in his official and individual capacity and Tracey Peer, in her official and individual capacity

Defendants.

DENIAL OF PLAINTIFF'S MOTION TO RECONSIDER

After careful consideration of the Plaintiff's Motion and the record in this case, this Court is unable to discover any material fact or principle of law that either has been overlooked or disregarded and further finds no error of law or facts not appropriately considered. Accordingly, this Court hereby DENIES Plaintiff's Motion pursuant to Rule 59(e) SCRCP to Alter or Amend Judgment of this Court's Order entered on or about April 20, 2018. Pursuant to Rule 59(f), the Court is of the opinion that oral argument is not necessary.

AND IT IS SO ORDERED.

G. Thomas Cooper, Jr.
Presiding Judge, Fifth Judicial Circuit

Re: REGARDING SIGNED ORDERS

glenda c

Tue 5/22/2018 7:30 PM

To:Cooper, G. Thomas Law Clerk (Jamie Rutkoski) <GCooperLC@sccourts.org>;

According to rules is to get from since he is the person who signs and that is what is needed I will send these emails to show i tried thank you

Sent from my iPhon

> On May 22, 2018, at 7:39 AM, Cooper, G. Thomas Law Clerk (Jamie Rutkoski) <GCooperLC@sccourts.org> wrote:
>
> The judge does not serve Orders. Contact the Clerk of Court should you need any further assistance regarding this case.
>
> Thank you,
>
> Jamie Rutkoski
>
> Sent from my iPhone
>
> On May 22, 2018, at 7:29 AM, glenda c <grcouram@hotmail.com<mailto:grcouram@hotmail.com>> wrote:
>
>
> I Received an unsigned order denying the Motion to Reconsider and I have not received a signed written copy of the Order Granting Defendants Motion to Dismiss
>
>
> According to the appeal rules I Must receive and send a signed copy of both these Orders to send with the Notice of Appeal could you please send both for the Court of Appeals
>
>
> Glen
>
> ~~~ CONFIDENTIALITY NOTICE ~~~ This message is intended only for the addressee and may contain information that is confidential. If you are not the intended recipient, do not read, copy, retain or disseminate this message or any attachment. If you have received this message in error, please contact the sender immediately and delete all copies of the message and any attachments.

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REGARDING SIGNED ORDERS

glenda c

Jun 5/17/2018 11:39 AM

[redacted]

I Received an **unsigned order** denying the Motion to Reconsider and I have not received a **signed written** copy of the Order Granting Defendants Motion to Dismiss

According to the appeal rules I Must receive and send a signed copy of both these Orders to send with the Notice of Appeal could you please send both for the Court of Appeals

Glen

STATE OF SOUTH CAROLINA COUNTY OF RICHLAND Glenda R. Couram Plaintiff, vs Nationwide Mutual Insurance Company, *Titan Indemnity Company,* Eugene Matthews, in his individual capacity dba Sherwood's Plumbing Services, LLC Sherwood F. Tidwell, Owner/Oper./Agent #30530 and Beatrice Tyree Tidwell Defendants.	**IN THE COURT OF COMMON PLEAS** **FOR THE FIFTH JUDICIAL CIRCUIT** **CASE NO.: 2017-CP-40-04048** **JURY TRIAL DEMANDED**

ORDER

AND NOW, to-wit, this day of January, 2018, upon consideration of Plaintiff's Motion for Recusal from Plaintiff's Recusal Motion, Request for Continuance and Protection thru out the Month of January 2018, it is hereby ORDERED, ADJUDGED AND DECREED that Plaintiff's' Motion is GRANTED, and the case is referred back to the Administrative Judge of the Civil Division of the Court of Common Pleas of Richland County, South Carolina for further disposition.

All proceedings in this matter are stayed pending reassignment of this matter by the Administrative Judge.

23A

STATE OF SOUTH CAROLINA)
)
COUNTY OF RICHLAND)

Glenda R. Couram)

Plaintiff,)

vs)

Nationwide Mutual Insurance Company,)
Titan Indemnity Company,)
Eugene Matthews, in his individual capacity)
dba Sherwood's Plumbing Services, LLC)
Sherwood Tidwell, Owner/Operator/Agent)
and Beatrice Tyree Tidwell)

Defendants.)

IN THE COURT OF COMMON PLEAS
FOR THE FIFTH JUDICIAL CIRCUIT
CASE NO.: 2017-CP-40-04048

AMENDED SUMMONS

RICHLAND CO. FILED
2017 JUL 19 AM 10:12
JEANNETTE W. McBRIDE
C.C.P. & G.S.

JURY TRIAL DEMANDED

TO THE DEFENDANTS ABOVE NAMED:

YOU ARE HEREBY SUMMONED and required to answer the complaint herein, a copy of which is herewith served upon you, and to serve a copy of your answer to this complaint upon the subscriber, at the address shown below, within thirty (30) days after service hereof, exclusive of the day of such service, and if you fail to answer the complaint, judgment by default will be rendered against you for the relief demanded in the complaint.

Respectfully submitted by:

Glenda R. Couram
104 Macaw Lane
Lexington, SC 29073
grcouram@hotmail.com
803 358-0127

Dated this 18th, day of July 2017
Lexington County, South Carolina

STATE OF SOUTH CAROLINA)
)
COUNTY OF RICHLAND)

Glenda R. Couram)
Plaintiff,)

vs)

Nationwide Mutual Insurance Company,)
Titan Indemnity Company;)
Eugene Matthews, in his individual capacity)
dba Sherwood's Plumbing Services, LLC[1])
Sherwood F. Tidwell, Owner/Oper./Agent)
#30530 and Beatrice Tyree Tidwell)
Defendants.)

IN THE COURT OF COMMON PLEAS
FOR THE FIFTH JUDICIAL CIRCUIT
CASE NO.: 2017-CP-40-04048

AMENDED COMPLAINT

Intentional Infliction of Emotional Distress/Negligent IED
Civil Conspiracy
Punitive Damages
Negligence/Vicarious Liability/ Respondeat Superior and or Negligent Entrustment

JURY TRIAL DEMANDED

RICHLAND COUNTY
FILED
2017 JUL 19 AM 10: 12
JEANETTE W. McBRIDE
CLERK OF COURT & C.S.

COMPLAINT AND PRAYER FOR JURY TRIAL

COMES NOW Plaintiff pro se. Glenda Couram, in the above actions hereby files this amended complaint and or compliant seeking damages and relief and alleges as follows:

PARTIES

1. Glenda R. Couram (hereafter "Plaintiff") is, and at all times relevant a citizen and resident of Lexington County and State of South Carolina.

2. The Defendant. Sherwood Tidwell is, and at all times relevant a citizen and resident of the State of South Carolina. The Defendant, Eugene Matthews is a private citizen and licensed attorney doing business under the laws of the State of South Carolina.

[1] 16 Jade Street, LLC v. R. Design Const. 398 S.C. 338 (2012); 728 S.E.2d 448; This case presents the novel question of whether a member of a limited liability company can be held personally liable for torts committed while acting in furtherance of the company's business. We hold the General Assembly did not intend the LLC act to shield a member from liability for his own torts

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3. The Defendant Nationwide Mutual Insurance Company is a corporation licensed to do business under the laws of the State of South Carolina, headquartered in Ohio. (License SC Co. Code 101093 NAIC Co. Code #23787).

4. The Defendant Titan Indemnity Insurance is a corporation who supplies commercial insurance as a subsidiary of Nationwide Mutual Insurance licensed and doing business under the laws of the State of South Carolina. (License SC Co. Code 101397 NAIC Co. Code 13242)

I. JURISDICTION AND VENUE

5. As all incidents occurred in Richland County of the State of South Carolina this matter is within the proper Jurisdiction of the Richland County Court of Common Pleas.

6. Jurisdiction is appropriate because the claims against the Defendants fall under the SC Statute of common law negligence, intentional infliction of emotional distress, negligent intentional infliction of emotional distress, civil conspiracy and punitive damages.

7. Venue in this court is proper as the injuries to the Plaintiff occurred within the City and County Richland County, Columbia, South.

8. Subject matter in this action is properly heard in this Court, as the action incorporates an amount in controversy as set forth in this complaint exceeds $25,000.00.

9. At all times mentioned herein, South Carolina Code §15-70-20, 30 is binding on all defendants as they are licensed and subject to the laws of South Carolina.

10. Within the time provided by law, Plaintiff now timely files this action. This accident occurred on September 18, 2015 a Friday and has a three (3) year SOL that will not end until September 18, 2018; South Carolina Code Ann. §15-3-530 et.al., and SC Title 38 §§38-59-10 et.al., The remaining claims are filed within the applicable Statute of Limitations.

II. FACTS COMMON TO ALL CAUSES OF ACTION

11. The allegations contained in paragraphs 1 – 10, above, are repeated as if fully rewritten herein.

12. That on September 18, 2015, at approximately 4:20 pm, the Plaintiff, was operating her vehicle a 2012 Honda Fit on 1-20 West Bound towards Atlanta, Georgia in Richland County, Columbia, SC during rush hour traffic when the traffic came to a standstill.

13. That on or about September 18, 2015, at approximately 4:20 pm the second vehicle, Cadillac, operated by Brandon S. Brown, came to a stop directly behind the plaintiff.

14. That the Defendant, Sherwood Tidwell, driving a commercial vehicle for his business as a Plumber, and as he testified driving 30 miles an hour and being unable to stop in the middle lane without colliding with a truck chose to switch lands as he did not see any traffic and collided into the back of the Cadillac driven by Mr. Brown who collided into the rear of the Plaintiff causing damage to property and injury.

15. Plaintiff was sitting behind the car in front of her with good distance due to conditions watched Mr. Brown behind her and moved forward inches to ensure he stopped without problems, and then turned back to the traffic in front of her when next thing she knew she heard and crash and felt movement and realized unbelievably that Mr. Brown's car had collided into her car as a result of Mr. Tidwell colliding into the back of his car.

16. Defendant Tidwell never denied he was the cause of the collision and he was ticketed for going too fast for conditions, he did not contest the ticket, his insurance company paid to fix the plaintiff's car, at about $670 and Mr. Brown's car at about $1300.

17. Defendant Tidwell's car was damaged in the front and cost approximately $7,000 to repair.

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18. This matter comes to this court a result of an automobile accident that happened on September 18, 2017.

19. The insured Mr. Sherwood Tidwell was found 100 percent at fault from day one, he admitted fault and his insurance company admitted fault and paid for damages to the Plaintiff's car about $670 and Mr. Brown's car about $1300. The collision resulted in almost $7000 of damage to Mr. Tidwell's car.

20. Mr. Tidwell, the insured, was found guilty in a court of law for negligence and liability via court order of Judge Hood dated June 2, 2017. This action is a result of the events that occurred after the accident that lead to grave and additional harm to the Plaintiff.

21. The court required the plaintiff to enter into mediation with Defendant Tidwell's attorney that led to the plaintiff losing her job and defendant.

22. Nationwide's and or Tidwell's Attorney subpoenaed all the plaintiff medical records (10 years worth) at Palmetto Health; they subpoenaed plaintiff's records with Blue Cross Blue Shield, Vital Energy, Midlands Counseling, Palmetto Spine Center and then subpoenaed employment records twice in 2016 and later in 2017.

23. Plaintiff tried to settle with Adjustor Shruko and he would only offer about $10,000; include pain and suffering; plaintiff tried to settle several times and during that time she continued to supply the Defendants with medical bills, etc.

24. Plaintiff told Mr. Skruko that she would file to the courts by March 30, 2016, and did so, if he would not be reasonable she made another offer of 28k, nothing happened except a transfer to another adjuster.

25. Plaintiff informed Ms. Peer she would be going back into therapy and was told to call back when completed, that therapy ended in May 2016, plaintiff once again attempted to settle

with the new adjuster and was offered 20k, to include pain and suffering in the end Ms. Peer offered $15,000, that did not account for loss pay or time, plaintiff countered and the negotiation ended.

26. Plaintiff then went into mediation, as required by the Court, Nationwide continued to disregard the laws of South Carolina by refusing to go any higher than 20k despite proof of medical bills and other evidenced that collected on the plaintiff.

27. On April 2, 2017, the plaintiff's lost her employment.

28. Defendant Eugene Matthews entered the picture and a second subpoenaed request for plaintiff's employment records causing the plaintiff additional suffering.

29. Plaintiff brings this action to be compensated for the continued ongoing damages caused as a result of the actions of Defendants Tidwell and Sherwood Plumbing Svc., (hereafter "Defendant");

30. Matthews (hereafter "Defendant");

31. Nationwide and Titan (hereafter "Defendant"); and

32. Plaintiff sues each named Defendant for negligence, intentional and negligent infliction of emotional distress, civil conspiracy and punitive damages.

FIRST CAUSE OF ACITON
VICARIOUS LIABILITY/RESPONDEAT SUPERIOR
NEGLIGENT ENTRUSTMENT AND OR
(COMMON LAW NEGLIGENCE if applicable)
South Carolina Ann. Code §15-3-530(5)
Sherwood's Plumbing Services, LLC dba
Sherwood F. Tidwell, Owner/Operator/Agent and Beatrice Tyree Tidwell

33. Plaintiff re-alleges the allegations set forth in paragraphs 1-32, supra, and incorporates them herein by reference as though set forth here in full.

29

34. That on the occasion in question the Defendant, Sherwood Tidwell, was negligently entrusted to drive a vehicles knowing he was not familiar with the braking system in his truck as he testified to and in doing so he was unable to: 1) to keep vehicle under control; 2) failure to give full time and attention; 3) to keep a proper lookout; 4) to reduce speed to avoid collision admitted was going 30 miles an hour; 4) was ticketed for going too fast for conditions and did not contest ticket paid, etc.; 5) Violated SC Law by - Driving too fast for conditions pursuant to S.C. Code Ann. §56-5-1520 states that it is unlawful for a person to "*drive a vehicle on a highway at a speed greater than is reasonable and prudent under the conditions and having regard to the actual and potential hazards then existing. Speed must be controlled to avoid colliding with a person, vehicle, or other conveyance.*"

35. Mr. Tidwell was negligently entrusted to drive the vehicle used in his business knowing that he needed glasses and did not obtain glasses until January 2016 as attorney admitted to in the admissions after causing lasting injury to the plaintiff and that as a further direct and proximate result of the negligence of the Defendant, Sherwood Tidwell.

36. As a direct and proximate result of the negligence and carelessness of the Defendant, the Plaintiff: suffered serious, painful and chronic back pain, great physical pain and mental; anguish, severe and substantial emotional distress, loss of the capacity for the enjoyment of life, she suffered pain while performing her job; the Plaintiff, Glenda Couram, has been forced to expend large sums of money for (special damages out of pocket costs medical bills, medical treatment, x-rays, and for medicine for the treatment of the aforesaid injuries to herself; with continued anxiety to pay the medical bills at the expense of her normal bills to prevent collections and toll on her credit due to collection letters). And ultimately she lost her job that she relied on for retirement, pension, medical, benefits, etc., See Am. Mut. Fire Ins. Co. v

Passmore, 275 S.C., 618, 621, 274 S.E.2d 416, 418; now she lives in constant fear of loss of her home she has had since 1994 and other enjoyments and necessities of life.

37. That as a further direct and proximate result of the negligence of the Defendant, Sherwood Tidwell, the Plaintiff, was forced to lose time from her employment and has suffered a loss of wages for which she seeks – including three days of leave without pay during the holidays due to using all her time for medical treatment and travel.

38. All of the Plaintiff's losses were, are the direct and solely due to and by reason of the carelessness and negligence of the Defendants, without any negligence or want of due care on the Plaintiff's part contributing or the second vehicle that was shoved and collided into the rear of plaintiff 's vehicle.

39. It was clearly foreseeable by the defendants that their actions would cause harm and damage to another. Defendant testified he did not know how to operate the business truck brakes and his attorney admitted that Defendant got prescription glasses after this accident in January 2016.

SECOND AND THIRD CAUSE OF ACTION
INTENTIONAL INFLICTION AND OR NEGLIGENT
OF EMOTION DISTRESS COMMON LAW
S.C. Ann. Codes §§15-3-530(5) et.al. (Nationwide, Titan and Matthews)

40. Plaintiff re-alleges the allegations set forth in paragraphs 1-39, supra, and incorporates them herein by reference as though set forth here in full.

41. By the conduct alleged above, each Defendant, acted outrageously, with the intention to cause, or with reckless disregard of the probability of causing Plaintiff additional severe emotional distress even with their advance knowledge of the plaintiff's fragile state.

42. This conduct, which was unprivileged and unwanted by Plaintiff, actually and proximately caused Plaintiff severe emotional distress.

43. Defendants, and each of them, harmed Plaintiff because their actions caused her to suffer humiliation, embarrassment, mental anguish, emotional distress, continued physical pain, loss of employment, etc.

44. The actions of Defendants, and each of them, injured Plaintiff's mind and body. As a result of such unlawful conduct and consequent harm, Plaintiff suffered damages that will be proven at trial.

45. The conduct of Defendants proximately caused Plaintiff to suffer, and to continue to suffer, damages, including injuries to her person in an amount which will be proven at trial.

46. The malicious and/or oppressive conduct of the Defendants Matthews and for Nationwide, and each of them, was in reckless disregard of Plaintiff's and therefore warrants the imposition of punitive damages, especially in influencing and controlling the outcome of the trial.

47. The Defendants having full knowledge of the Plaintiff's, fragile state acted as one to harass and torture her resulting in a physical reaction during the trial humiliating and embarrassing her further

48. The emotional distress suffered by Plaintiff was and continues to serious and severe. The Attorney for Nation and Matthews met several times in full view in fact ensured she saw them outside the courthouse, inside the court housing – even when neither were required to be present on the day of meetings, April 27th etc., the relationship between judge and Matthews and other actions that will be proven at trial

49. Plaintiff suffered severe injury by the actions of the Defendants including escalating her anxiety, stress, PTSD and panic attacks.

50. The Defendants played with the plaintiff like she was a mouse in a trap to such an extent that the injury manifested itself in a fever blister that remained four days after the trial.

FOURTH CAUSE OF ACTION
COMMON LAW CIVIL CONSPIRACY
WITH SPECIAL DAMAGES
(Nationwide, Titan, Matthews, Sherwood's Plumbing Svc., LLC
Sherwood F. Tidwell, Owner/Operator/Agent and Beatrice Tyree Tidwell)
South Carolina Ann. Code §§15-3-530(5)

51. Plaintiff re-alleges the allegations set forth in paragraphs 1-50, supra, and incorporates them herein by reference as though set forth here in full.

51. The defendants agreed, implicitly or explicitly, to commit the acts herein alleged.

52. The defendants jointly operated to perpetrate the wrongful acts complained of herein.

53. The defendants equally profited from the wrongful acts complained of herein.

54. The defendants equally profited from the wrongful acts complained of herein.

55. The defendants jointly and severally liable for each of the wrongs and special damages that result from their wrong acts.

56. The "essential consideration" in civil conspiracy is not whether lawful or unlawful acts or means are employed to further the conspiracy, but whether the primary purpose or object of the combination is to injure the plaintiff. The purpose of the acts must be to foreseeable cause injury to the plaintiff. The commission of an unlawful act is not a necessary element of the tort.

57. Including actual earnings loss of pay and concerns with paying house payments and other bills causing additional mental anguish and stress with paying the medical bills to prevent harm to credit with monies earmarked for other bills and comforts;

58. The accident occurred on a Friday and Plaintiff due to fatigue upon finally arriving home slept the entire weekend not engaging in regular activities on a weekend; was, is and will be required to undergo medical treatment and to incur medical; costs and expenses in order to

alleviate injuries, pain and suffering; was, is and will be precluded from engaging in normal activities and pursuits.

59. Defendants willfully, intentionally, and knowingly agreed and conspired with each other to engage in the alleged wrongful conduct, including Defendants' interference with plaintiff employment relationships by coming to an agreement between them to do an unlawful act or to do a lawful act in an unlawful way in agreement that resulted in injury to the plaintiff.

60. Defendants did the acts alleged pursuant to, and in furtherance of, that agreement and/or furthered the conspiracy by cooperating, encouraging, ratifying, or adopting the acts of the others.

61. As a direct and proximate result of the acts in furtherance of the conspiracy, Plaintiff suffered injury, damage, loss, and harm, including, but not limited to, financial status causing loss of her home, causing harm to credit, loss of payment of medical bills, paying bills, unemployment, loss of reputation, pension, status, and loss of employability.

62. The wrongful conduct committed pursuant to the conspiracy was a substantial factor in causing this harm.

63. Defendants' intentional agreement to commit, and commission of, these wrongful acts was willful, malicious, oppressive, and in conscious disregard of Plaintiff's rights, and Plaintiff is therefore entitled to an award of punitive damages to punish their wrongful conduct and deter future wrongful conduct.

64. The Defendants worked in harmony to the detriment of the plaintiff /and or pro se litigant.

65. SPECIAL DAMAGES - Monetary damages, lost of income, legal costs, immediate medical costs, lost of pension, inability to afford necessary medication, medical attention, grooming and vet fees, etc., out of pocket costs.

66. As a result of the conspiracy Plaintiff lost her opportunity to have a $42,000 student loan debt forgiven there was less three (3) years remaining. Now the loan will go into default and any state jobs will be even further away for her to obtain at 58 years old. The loan was based on her income (IBR) and as long as she worked in public service she could have had the loan forgiven and pay no more than $28 a month on a $23,436 salary.

67. Plaintiff has lost medical insurance at 58 years old and continues to have issues suffered from and now those issues are a matter of public record which impact future employment and inability to afford medical care.

FIFTH CAUSE OF ACTION
PUNITIVE DAMAGES
SC. Ann. Code §§15-32-510 et.al. and 56-5-1520
(*ALL NAMED DEFENDANTS*)

68. The allegations contained in paragraphs 1 – 67, above, are repeated as if fully rewritten herein.

69. Violated SC Law by - Driving too fast for conditions pursuant to S.C. Code Ann. §56-5-1520 states that it is unlawful for a person to "*drive a vehicle on a highway at a speed greater than is reasonable and prudent under the conditions and having regard to the actual and potential hazards then existing. Speed must be controlled to avoid colliding with a person, vehicle, or other conveyance.*"

70. The actions of the Defendants were wanton, reckless and willful, with complete disregard of the welfare and the Plaintiff only need to bend any rule and elicit any help necessary so as not

to have a pro se win despite the fact that settling was upper most in the Plaintiff and the trial was the direct result of their own actions; they choose to cause harm to the plaintiff instead.

71. The Defendants failure to timely settle this matter that would have resulted in no additional and lasting harm to the plaintiff when they could have settled this matter in 2016. As specified below, the actions of the Defendants have caused grave injury and damage to the Plaintiff in this matter.

72. The law provides punitive damages in the interest of society by condemning the choice to ignore others' safety. To deter wrongdoers and others from similar future conduct; and to vindicate the victim's rights by requiring the wrongdoer to compensate her for recklessly violating those rights.

IN CONCLUSION

WHEREFORE, Plaintiff prays for relief as set forth below.

WHEREFORE, Plaintiff, Glenda Couram prays for judgments against the Defendants, and each of them, as follows:

A. Special damages, for all medical bills to include out of pocket cost in a sum according to proof against all Defendants;

B. General and or actual damages in against all Defendants in the amount of $1,500,000 dollars (One million five hundred thousand dollars) or the amount deemed appropriate by the court.

C. For attorney's fees as allowed by law against all Defendants and costs of suit and for such other and further relief as the court deems proper against all Defendants;

E. For punitive damages in the amount deemed appropriate by this court.

F. That this Court enters judgment in her favor on all counts of this complaint;

I. That this Court award her any and all other relief to which she may appear entitled.

Respectfully Submitted by:

Glenda R. Couram, pro se
104 Macaw Lane
Lexington, SC 29073
grcouram@hotmail.com
803 358-0127

CERTIFICATE OF SERVICE

I, Glenda Couram, hereby certify that I mailed a copy of the Amended Summons and Compliant to the Court and the Defendants within the first 21 days of filing the initial Summon and Complaint as allowed under the SC Civil Procedure Rules as named below by depositing the same in the United States mail with adequate postage attached on this 20th, day of July 2017.

Nationwide Mutual Insurance Company
ATTN: Legal Department
1000 Yard Street
Grandview Heights, OH 43212

Titan Indemnity Insurance
ATTN: Legal Department
1 West Nationwide Blvd.
Columbus, OH 43215

Eugene Matthews, Esq.,
Richardson Plowden & Robinson
1900 Barnwell Street
Columbia, SC 29201

Sherwood F. Tidwell, Reg., Agent
Sherwood Plumbing Services
1776 Morninglo Ln
Columbia, South Carolina 29223

Respectfully submitted by:

Glenda R. Couram, pro se
104 Macaw Lane
Lexington, SC 29073
grcouram@hotmail.com
803 358-0127

Dated this 18th, day of July 16, 2017
Lexington County, South Carolina

DECLARATION

Under penalties as provided by law pursuant to South Carolina Code of Civil Procedure, the undersigned certifies that the statements set forth in this instrument are true and correct to the best of my knowledge.

Respectfully submitted by:

Glenda R. Couram
104 Macaw Lane
Lexington, SC 29073
grcouram@hotmail.com
803 358-0127

Dated this 18th, day of July 2017
Lexington County, South Carolina

STATE OF SOUTH CAROLINA)	IN THE COURT OF COMMON PLEAS
)	FOR THE FIFTH JUDICIAL CIRCUIT
)	
COUNTY OF RICHLAND)	CASE NO.: 2017-CP-40-4048
)	
Glenda R. Couram)	
Plaintiff,)	
)	
)	
)	SUMMONS
vs)	
)	
Nationwide Mutual Insurance Company,)	
Titan Indemnity Company,)	
Eugene Matthews, in his individual capacity)	
Sherwood Tidwell, in his individual capacity)	
Defendants.)	JURY TRIAL DEMANDED
)	

RICHLAND COUNTY FILED
2017 JUL -3 AM 11:36
JEANNETTE W. McBRIDE C.C.P. & G.S.

TO THE DEFENDANTS ABOVE NAMED:

YOU ARE HEREBY SUMMONED and required to answer the complaint herein, a copy of which is herewith served upon you, and to serve a copy of your answer to this complaint upon the subscriber, at the address shown below, within thirty (30) days after service hereof, exclusive of the day of such service, and if you fail to answer the complaint, judgment by default will be rendered against you for the relief demanded in the complaint.

Respectfully submitted by:

Glenda Couram
Glenda R. Couram
104 Macaw Lane
Lexington, SC 29073
grcouram@hotmail.com
803 358-0127

Dated this 3rd day of July 2017
Lexington County, South Carolina

STATE OF SOUTH CAROLINA)
) IN THE COURT OF COMMON PLEAS
COUNTY OF RICHLAND) FOR THE FIFTH JUDICIAL CIRCUIT
) CASE NO.: 2017-CP-40-4048
Glenda R. Couram)
Plaintiff,)
) SUMMONS AND COMPLAINT
vs)
Nationwide Mutual Insurance Company,) Intentional Infliction of Emotional Distress/Negligent IED
Titan Indemnity Company,) Civil Conspiracy
Eugene Matthews, in his individual capacity) Punitive Damages
Sherwood Plumbing Soc, LLC)
Sherwood Tidwell Defendants.) JURY TRIAL DEMANDED

RICHLAND COUNTY FILED
2017 JUL -3 AM 11:37
JEANNETTE W. MCBRIDE C.C.P. & G.S.

COMPLAINT AND PRAYER FOR JURY TRIAL

COMES NOW Plaintiff, pro se, Glenda Couram, in the above actions hereby files this amended complaint and or compliant seeking damages and relief and alleges as follows:

PARTIES

1. Glenda R. Couram (hereafter "Plaintiff") is, and at all times relevant a citizen and resident of Lexington County and State of South Carolina.

2. The Defendant, Sherwood Tidwell is, and at all times relevant a citizen and resident of the State of South Carolina. The Defendant, Eugene Matthews is a private citizen and licensed attorney doing business under the laws of the State of South Carolina.

3. The Defendant Nationwide Mutual Insurance Company is a corporation licensed to do business under the laws of the State of South Carolina, headquartered in Ohio.

4. The Defendant Titan Indemnity Insurance is a corporation who supplies commercial insurance as a subsidiary of Nationwide Mutual Insurance licensed and doing business under the laws of the State of South Carolina.

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STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOR THE FIFTH JUDICIAL CIRCUIT
COUNTY OF RICHLAND	)	CASE NO.: 2017-CP-40-04048
	)	
Glenda R. Couram	)	
Plaintiff,	)	
	)	
	)	
	)	SUMMONS
vs	)	
	)	
Nationwide Mutual Insurance Company,	)	
Titan Indemnity Company,	)	
Eugene Matthews, in his individual capacity	)	
Sherwood's Plumbing Svcs.	)	
Sherwood Tidwell, Owner	)	
Defendants.	)	JURY TRIAL DEMANDED
	)	

TO THE DEFENDANTS ABOVE NAMED:

YOU ARE HEREBY SUMMONED and required to answer the complaint herein, a copy of which is herewith served upon you, and to serve a copy of your answer to this complaint upon the subscriber, at the address shown below, within thirty (30) days after service hereof, exclusive of the day of such service, and if you fail to answer the complaint, judgment by default will be rendered against you for the relief demanded in the complaint.

Respectfully submitted by:

Glenda R. Couram
104 Macaw Lane
Lexington, SC 29073
grcouram@hotmail.com
803 358-0127

Dated this 3rd day of July 2017
Lexington County, South Carolina

41

STATE OF SOUTH CAROLINA)	IN THE COURT OF COMMON PLEAS
)	FOR THE FIFTH JUDICIAL CIRCUIT
COUNTY OF RICHLAND)	CASE NO.: 2017-CP-40-04048
)	
Glenda R. Couram)	
Plaintiff,)	SUMMONS AND COMPLAINT
)	
)	**Intentional Infliction of Emotional Distress/Negligent IED**
)	**Civil Conspiracy**
vs)	**Punitive Damages**
)	**Negligence**
Nationwide Mutual Insurance Company,)	
Titan Indemnity Company,)	
Eugene Matthews, in his individual capacity)	
Sherwood's Plumbing Svc., LLC)	
Sherwood Tidwell, Owner)	
Defendants.)	JURY TRIAL DEMANDED
)	

COMPLAINT AND PRAYER FOR JURY TRIAL

COMES NOW Plaintiff, pro se, Glenda Couram, in the above actions hereby files this amended complaint and or compliant seeking damages and relief and alleges as follows:

PARTIES

1. Glenda R. Couram (hereafter "Plaintiff") is, and at all times relevant a citizen and resident of Lexington County and State of South Carolina.

2. The Defendant, Sherwood Tidwell is, and at all times relevant a citizen and resident of the State of South Carolina. The Defendant, Eugene Matthews is a private citizen and licensed attorney doing business under the laws of the State of South Carolina.

3. The Defendant Nationwide Mutual Insurance Company is a corporation licensed to do business under the laws of the State of South Carolina, headquartered in Ohio.

4. The Defendant Titan Indemnity Insurance is a corporation who supplies commercial insurance as a subsidiary of Nationwide Mutual Insurance licensed and doing business under the laws of the State of South Carolina.

4.2

I. JURISDICTION AND VENUE

5. As all incidents occurred in Richland County of the State of South Carolina this matter is within the proper Jurisdiction of the Richland County Court of Common Pleas.

6. Jurisdiction is appropriate because the claims against the Defendants fall under the SC Statute of common law negligence, intentional infliction of emotional distress, negligent intentional infliction of emotional distress, civil conspiracy and punitive damages.

7. Venue in this court is proper as the injuries to the Plaintiff occurred within the City and County Richland County, Columbia, South.

8. Subject matter in this action is properly heard in this Court, as the action incorporates an amount in controversy as set forth in this complaint exceeds $25,000.00.

9. At all times mentioned herein, South Carolina Code §15-70-20, 30 is binding on all defendants as they are licensed and subject to the laws of South Carolina.

10. Within the time provided by law, Plaintiff now timely files this action. This accident occurred on September 18, 2015 a Friday and has a three (3) year SOL that will not end until September 18, 2018; South Carolina Code Ann. §15-3-530. The remaining claims are filed within the applicable Statute of Limitations.

II. FACTS COMMON TO ALL CAUSES OF ACTION

11. The allegations contained in paragraphs 1 – 10, above, are repeated as if fully rewritten herein.

12. That on September 18, 2015, at approximately 4:20 pm, the Plaintiff, was operating her vehicle a 2012 Honda Fit on 1-20 West Bound towards Atlanta, Georgia in Richland County, Columbia, SC during rush hour traffic when the traffic came to a standstill.

13. That on or about September 18, 2015, at approximately 4:20 pm the second vehicle, Cadillac, operated by Brandon S. Brown, came to a stop directly behind the plaintiff.

14. That the Defendant, Sherwood Tidwell, driving a commercial vehicle for his business as a Plumber, and as he testified driving 30 miles an hour and being unable to stop in the middle lane without colliding with a truck chose to switch lands as he did not see any traffic and collided into the back of the Cadillac driven by Mr. Brown who collided into the rear of the Plaintiff causing damage to property and injury.

15. Plaintiff was sitting behind the car in front of her with good distance due to conditions watched Mr. Brown behind her and moved forward inches to ensure he stopped without problems, and then turned back to the traffic in front of her when next thing she knew she heard and crash and felt movement and realized unbelievably that Mr. Brown's car had collided into her car as a result of Mr. Tidwell colliding into the back of his car.

16. Defendant Tidwell never denied he was the cause of the collision and he was ticketed for going too fast for conditions, he did not contest the ticket, his insurance company paid to fix the plaintiff's car, at about $670 and Mr. Brown's car at about $1300.

17. Defendant Tidwell's car was damaged in the front and cost approximately $7,000 to repair.

18. This matter comes to this court a result of an automobile accident that happened on September 18, 2017.

19. The insured Mr. Sherwood Tidwell was found 100 percent at fault from day one, he admitted fault and his insurance company admitted fault and paid for damages to the Plaintiff's car about $670 and Mr. Brown's car about $1300. The collision resulted in almost $7000 of damage to Mr. Tidwell's car.

20. Mr. Tidwell, the insured, was found guilty in a court of law for negligence and liability via court order of Judge Hood dated June 2, 2017. This action is a result of the events that occurred after the accident that lead to grave and additional harm to the Plaintiff.

21. The court required the plaintiff to enter into mediation with Defendant Tidwell's attorney that led to the plaintiff losing her job and defendant.

22. Nationwide's and or Tidwell's Attorney subpoenaed all the plaintiff medical records (10 years worth) at Palmetto Health; they subpoenaed plaintiff's records with Blue Cross Blue Shield, Vital Energy, Midlands Counseling, Palmetto Spine Center and then subpoenaed employment records twice in 2016 and later in 2017.

23. Plaintiff tried to settle with Adjustor Shruko and he would only offer about $10,000; include pain and suffering; plaintiff tried to settle several times and during that time she continued to supply the Defendants with medical bills, etc.

24. Plaintiff told Mr. Skruko that she would file to the courts by March 30, 2016, and did so, if he would not be reasonable she made another offer of 28k, nothing happened except a transfer to another adjuster.

25. Plaintiff informed Ms. Peer she would be going back into therapy and was told to call back when completed, that therapy ended in May 2016, plaintiff once again attempted to settle with the new adjuster and was offered 20K, to include pain and suffering in the end Ms. Peer offered $15,000, that did not account for loss pay or time, plaintiff countered and the negotiation ended.

26. Plaintiff then went into mediation, as required by the Court, Nationwide continued to disregard the laws of South Carolina by refusing to go any higher than 20k despite proof of medical bills and other evidenced that collected on the plaintiff.

27. On April 2, 2017, the plaintiff's lost her employment.

28. Defendant Eugene Matthews entered the picture and a second subpoenaed request for plaintiff's employment records causing the plaintiff additional suffering.

29. Plaintiff brings this action to be compensated for the continued ongoing damages caused as a result of the actions of Defendants Tidwell (individual capacity);

30. Matthews (individual capacity);

31. Nationwide and Titan (hereafter "Defendants"); and

32. Plaintiff sues each named defendant for negligence, intentional and negligent infliction of emotional distress, civil conspiracy and punitive damages.

FIRST CAUSE OF ACITON
COMMON LAW NEGLIGENCE
South Carolina Code §15-3-530(5)
Sherwood's Plumbing Svc., LLC
Sherwood Tidwell, Owner

33. Plaintiff re-alleges the allegations set forth in paragraphs 1-32, supra, and incorporates them herein by reference as though set forth here in full.

34. That on the occasion in question the Defendant, Sherwood Tidwell, was negligent in the following particulars, among others by his failure: 1) to keep vehicle under control; 2) failure to give full time and attention; 3) to keep a proper lookout; 4) to reduce speed to avoid collision admitted was going 30 miles an hour; 4) was ticketed for going too fast for conditions and did not contest ticket paid, etc.; 5) Violated SC Law by - Driving too fast for conditions pursuant to S.C. Code Ann. §56-5-1520 states that it is unlawful for a person to "*drive a vehicle on a highway at a speed greater than is reasonable and prudent under the conditions and having regard to the actual and potential hazards then existing. Speed must be controlled to avoid colliding with a person, vehicle, or other conveyance.*"

35. As a direct and proximate result of the negligence and carelessness of the Defendants, the Plaintiff: suffered serious, painful and chronic back pain, great physical pain and mental; anguish, severe and substantial emotional distress, loss of the capacity for the enjoyment of life, she suffered pain while performing her job;

36. That as a further direct and proximate result of the negligence of the Defendant, Sherwood Tidwell, the Plaintiff, Glenda Couram, has been forced to expend large sums of money for medical bills, medical treatment, x-rays, and for medicine for the treatment of the aforesaid injuries to herself; with continued anxiety to pay the medical bills at the expense of her normal bills to prevent collections and toll on her credit due to collection letters.

37. That as a further direct and proximate result of the negligence of the Defendant, Sherwood Tidwell, the Plaintiff, was forced to lose time from her employment and has suffered a loss of wages for which she seeks – including three days of leave without pay during the holidays due to using all her time for medical treatment and travel.

38. All of the Plaintiff's losses were, are the direct and solely due to and by reason of the carelessness and negligence of the Defendants, without any negligence or want of due care on the Plaintiff's part contributing or the second vehicle that was shoved and collided into the rear of plaintiff 's vehicle.

39. It was clearly foreseeable by the defendants that their actions would cause harm and damage to another.

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SECOND AND THIRD CAUSE OF ACTION
INTENTIONAL INFLICTION AND OR NEGLIGENT
OF EMOTION DISTRESS COMMON LAW
SC Code §15-3-530(5) et. al., and §38-77-330(2016) [1]
(Nationwide, Titan and Matthews)

40. Plaintiff re-alleges the allegations set forth in paragraphs 1-39, supra, and incorporates them herein by reference as though set forth here in full.

41. By the conduct alleged above, each Defendant, acted outrageously, with the intention to cause, or with reckless disregard of the probability of causing Plaintiff additional severe emotional distress even with their advance knowledge of the plaintiff's fragile state.

42. This conduct, which was unprivileged and unwanted by Plaintiff, actually and proximately caused Plaintiff severe emotional distress.

43. Defendants, and each of them, harmed Plaintiff because those actions caused her to suffer humiliation, embarrassment, mental anguish, and emotional distress.

44. The actions of Defendants, and each of them, injured Plaintiff's mind and body. As a result of such unlawful conduct and consequent harm, Plaintiff suffered damages that will be proven at trial.

45. The conduct of Defendants proximately caused Plaintiff to suffer, and to continue to suffer, damages, including injuries to her person in an amount which will be proven at trial.

46. The malicious and/or oppressive conduct of the Defendants Matthews and for Nationwide, and each of them, was in reckless disregard of Plaintiff's and therefore warrants the

[1] SC Code § 38-77-330 (2016) No claim for damage to property resulting from a motor vehicle accident may be denied or payment delayed because the person who is entitled to payment or any other person has a claim pending for bodily injury which may have arisen from the same or any other accident. Whenever an insurer has the appropriate motor vehicle coverage for the party liable and there is no dispute as to either the liability for the payment of the full property damages or the amount of monetary equivalent of these damages, then the amount payable is immediately due and owing and must be paid promptly.

imposition of punitive damages, especially in influencing and controlling the outcome of the trial.

47. The Defendants having full knowledge of the Plaintiff fragile state.

48. The emotional distress suffered by Plaintiff was serious and severe.

49. Plaintiff suffered severe injury by the actions of the Defendants including escalating her anxiety, stress, PTSD and panic attacks.

50. The Defendants played with the plaintiff like she was a mouse in a trap to such extent that the injury manifested itself in a fever blister that remained four days after the trial.

FOURTH CAUSE OF ACTION
COMMON LAW CIVIL CONSPIRACY
WITH SPECIAL DAMAGES
(Nationwide, Titan, Matthews, Sherwood's Plumbing Svc., LLC
and Sherwood Tidwell, Owner)
South Carolina Code §15-3-530(5)

51. Plaintiff re-alleges the allegations set forth in paragraphs 1-50, supra, and incorporates them herein by reference as though set forth here in full.

51. The defendants agreed, implicitly or explicitly, to commit the acts herein alleged.

52. The defendants jointly operated to perpetrate the wrongful acts complained of herein.

53. The defendants equally profited from the wrongful acts complained of herein.

54. The defendants equally profited from the wrongful acts complained of herein.

55. The defendants jointly and severally liable for each of the wrongs and special damages that result from their wrong acts.

56. The "essential consideration" in civil conspiracy is not whether lawful or unlawful acts or means are employed to further the conspiracy, but whether the primary purpose or object of the combination is to injure the plaintiff. The purpose of the acts must be to foreseeable cause injury to the plaintiff. The commission of an unlawful act is not a necessary element of the tort.

49

57. Including actual earnings loss of pay and concerns with paying house payments and other bills causing additional mental anguish and stress with paying the medical bills to prevent harm to credit with monies earmarked for other bills and comforts;

58. The accident occurred on a Friday and Plaintiff due to fatigue upon finally arriving home slept the entire weekend not engaging in regular activities on a weekend; was, is and will be required to undergo medical treatment and to incur medical; costs and expenses in order to alleviate injuries, pain and suffering; was, is and will be precluded from engaging in normal activities and pursuits.

59. Defendants willfully, intentionally, and knowingly agreed and conspired with each other to engage in the alleged wrongful conduct, including Defendants' interference with plaintiff employment relationships by coming to an agreement between them to do an unlawful act or to do a lawful act in an unlawful way in agreement that resulted in injury to the plaintiff.

60. Defendants did the acts alleged pursuant to, and in furtherance of, that agreement and/or furthered the conspiracy by cooperating, encouraging, ratifying, or adopting the acts of the others.

61. As a direct and proximate result of the acts in furtherance of the conspiracy, Plaintiff suffered injury, damage, loss, and harm, including, but not limited to, financial status causing loss of her home, causing harm to credit, loss of payment of medical bills, paying bills, unemployment, loss of reputation, pension, status, and loss of employability.

62. The wrongful conduct committed pursuant to the conspiracy was a substantial factor in causing this harm.

63. Defendants' intentional agreement to commit, and commission of, these wrongful acts was willful, malicious, oppressive, and in conscious disregard of Plaintiff's rights, and Plaintiff

is therefore entitled to an award of punitive damages to punish their wrongful conduct and deter future wrongful conduct.

64. The Defendants worked in harmony to the detriment of the plaintiff to prevent their loss to a pro se litigant.

65. SPECIAL DAMAGES - Monetary damages, lost of employment, legal costs, medical costs, lost of pension, inability to afford necessary medication, grooming and vet fees, etc.

66. As a result of the conspiracy Plaintiff lost her opportunity to have a $42,000 student loan debt forgiven there was less three (3) years remaining. Now the loan will go into default and any state jobs will be even further away for her to obtain at 58 years old. The loan was based on her income (IBR) and as long as she worked in public service she could have had the loan forgiven and pay no more than $28 a month on a $23,436 salary.

67. Plaintiff has lost medical insurance at 58 years old and continues to have issues suffered from and now those issues are a matter of public record which impact future employment and inability to afford medical care.

FIFTH CAUSE OF ACTION
PUNITIVE DAMAGES

68. The allegations contained in paragraphs 1 – 67, above, are repeated as if fully rewritten herein.

69. Violated SC Law by - Driving too fast for conditions pursuant to S.C. Code Ann. §56-5-1520 states that it is unlawful for a person to "*drive a vehicle on a highway at a speed greater than is reasonable and prudent under the conditions and having regard to the actual and potential hazards then existing. Speed must be controlled to avoid colliding with a person, vehicle, or other conveyance.*"

51

70. The actions of the Defendants were wanton, reckless and willful, with complete disregard of the welfare and the Plaintiff only need to bend any rule and elicit any help necessary so as not to have a pro se win despite the fact that settling was upper most in the Plaintiff and the trial was the direct result of their own actions; they choose to cause harm to the plaintiff instead.

71. The Defendants failure to timely settle this matter that would have resulted in no additional and lasting harm to the plaintiff when they could have settled this matter in 2016. As specified below, the actions of the Defendants have caused grave injury and damage to the Plaintiff in this matter.

72. SECTION 38-77-330 - Denial of claim or of delay of payment; payments due immediately; consequences of unnecessary delay.

CONCLUSION

WHEREFORE, Plaintiff prays for relief as set forth below.

WHEREFORE, Plaintiff, Glenda Couram prays for judgments against the Defendants, and each of them, as follows:

A. Special damages, for all medical bills to include out of pocket cost in a sum according to proof against all Defendants;

B. General and or actual damages in against all Defendants in the amount of $1,500,000 dollars (One million five hundred thousand dollars).

C. For attorney's fees as allowed by law against all Defendants and costs of suit and for such other and further relief as the court deems proper against all Defendants;

E. For punitive damages in the amount of $1,800,000 dollars (One million eight hundred dollars) against all Defendants or in the amount deemed appropriate by this court.

F. That this Court enters judgment in her favor on all counts of this complaint;

I. That this Court award her any and all other relief to which she may appear entitled.

signature on next page

Respectfully Submitted by:

Glenda Couram

Glenda R. Couram
104 Macaw Lane
Lexington, SC 29073
grcouram@hotmail.com
803 358-0127

CERTIFICATE OF SERVICE

I, Glenda Couram, hereby certify that I mailed a copy of the Motion to Amend/Amended Compliant to defendants and causes of actions or Summons and Complaint on the defendants as named below by depositing the same in the United States mail with adequate postage attached on this 3rd day of July 2017.

Nationwide Mutual Insurance Company
ATTN: Legal Department
1000 Yard Street
Grandview Heights, OH 43212

Titan Indemnity Insurance
ATTN: Legal Department
1 West Nationwide Blvd.
Columbus, OH 43215

Eugene Matthews, Esq.,
Richardson Plowden & Robinson
1900 Barnwell Street
Columbia, SC 29201

Sherwood Tidwell
Sherwood Plumbing Services
1776 Morninglo Ln
Columbia, South Carolina 29223

Respectfully submitted by:

Glenda Couram

Glenda R. Couram
104 Macaw Lane
Lexington, SC 29073
grcouram@hotmail.com
803 358-0127

Dated this 3rd day of July 2017
Lexington County, South Carolina

DECLARATION

Under penalties as provided by law pursuant to South Carolina Code of Civil Procedure, the undersigned certifies that the statements set forth in this instrument are true and correct to the best of my knowledge.

Respectfully submitted by:

Glenda Couram
Glenda R. Couram
104 Macaw Lane
Lexington, SC 29073
grcouram@hotmail.com
803 358-0127

Dated this 3rd day of July 2017
Lexington County, South Carolina

STATE OF SOUTH CAROLINA COUNTY OF RICHLAND Glenda R. Couram Plaintiff, vs Nationwide Mutual Insurance Company, Titan Indemnity Company, Eugene Matthews, in his individual capacity dba Sherwood's Plumbing Services, LLC[1] Sherwood F. Tidwell, Owner/Oper./Agent #30530 and Beatrice Tyree Tidwell Defendants.	IN THE COURT OF COMMON PLEAS FOR THE FIFTH JUDICIAL CIRCUIT CASE NO.: 2017-CP-40-04048 JURY TRIAL DEMANDED

RESPONSE TO DEFENDANTS' AMENDED MOTION TO DISMISS

Now comes the Plaintiff in response to Defendants' Nationwide Mutual Insurance Company's and Titan Indemnity Insurance Company.

1. Plaintiff had previously responded to this Motion on or about August 20, 2017 and is assuming this is a Amended Motion to Dismiss that asks for Sanctions for pro se exercising her civil rights and filing a complaint in the Courts of the United States of American and *seeking justice* which is the purpose of the courts instead of taking the matter into her own hands which is not the law of the land; dismissal pursuant to Rule 12(f), SCRCP, to strike Plaintiff's prayer for attorney fees; pursuant to Rule 20 to severe Plaintiff's claims against the other defendants; and 3) dismissal of Nationwide as a Defendant.

[1] 16 Jade Street, LLC v. R. Design Const. 398 S.C. 338 (2012); 728 S.E.2d 448; This case presents the novel question of whether a member of a limited liability company can be held personally liable for torts committed while acting in furtherance of the company's business. We hold the General Assembly did not intend the LLC act to shield a member from liability for his own torts

2. The defendants' as named above should not be severed or dismissed from this action because they are the principles essential parties to this action along with the other Defendants named to released these defendants will deny the plaintiff's claims for civil conspiracy but for Nationwide and Titans actions in this matte and their failure to settle this matter the plaintiff has suffered emotional, economic, mental, humiliation, ridicule[2] and the actions named in this actions.

3. If the defendants had allowed their adjuster to settle this matter the plaintiff would not have had to file a civil action at all and all of the damages she had suffered would not have occurred instead they hung onto offering small amount of money they were obligated to pay – the Defendant had a limit of 50k which is a small amount in the skim of the insurance industry instead they went after the small guy and crushed her in taking everything she worked for because of an accident was not her fault, an accident she in no way contributed to; an accident they very well knew was insured fault.

4. Plaintiff worked to *mitigate damages* by not obtaining an attorney but acting in good faith and with honestly. The plaintiff attempted to settle thru two adjusters with *Nationwide* and Titan who refused to offer more than $2,500 for pain and suffering; then the matter was sent to another adjuster who offered the same amount, told the plaintiff to continue treatment until dismissed a maximum. Then she turned around and decided that her final offer would the 15K; and then refused to even negotiate; the plaintiff was forced to file considering the fact that her medical bills were over 11K and climbing.

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[2] *Deride* implies scorn and contempt: *"Was all the world in a conspiracy to deride his failure?"* (Edith Wharton). *N* language or behaviour intended to humiliate or mock; derision; *vb* (*tr*) to make fun of, mock, or deride

5. When the plaintiff filed the legal action after asking to settle for 23K and then being denied they decided to offer more. The who effort plaintiff put forth was to prevent filing an action and then sending letter to settle was to prevent filing in the courts and to have them make a final offer of 15K was just unconscionable. Then when the mediation took place the attorney and representative refused to go over 20k in 45 minutes of negotiations after plaintiff asked for 60k and was willing to negotiate once again.

6. There was no justice in this matter the judge was known to Matthews, he was in the courtroom where he had absolutely no need to be except to cause harm to this plaintiff and the attorney for Nationwide and Titan conspiracy with him to cause that harm. For example, at one point in the trial when the plaintiff was told she could enter her medical bills and damages to the jury the judge suddenly changed her mind – could that have been because of *silent signals* between Matthews and the Judge[3] who was just appoint in 2015 and prior to that appointment worked for his law firm..... The word to describe what happen is a court that was a means of humiliation to the pro se and was not a court that was interested in justice.

7. Given that one example, the question under a *Motion to Dismiss* is can the plaintiff win on any grounds and the answer is yes which make this a matter for a jury and not subject to dismiss.

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[3] The Role of the Courts - The justice system is the mechanism that upholds the rule of law. Our courts provide a forum to resolve disputes and to test and enforce laws in a fair and rational manner. The courts are an impartial forum, and judges are free to apply the law without regard to the government's wishes or the weight of public opinion. Court decisions are based on what the law says and what the evidence proves; there is no place in the courts for suspicion, bias or favouritism. This is why justice is often symbolized as a blindfolded figure balancing a set of scales, oblivious to anything that could detract from the pursuit of an outcome that is just and fair.

STANDARD OF REVIEW – In Cole Vision Corporation and Sears Roebuck & Company, Inc., v. Steven C. Hobbs, O.O. and NCMIC Insurance Company; No. 4578. Decided: July 01, 2009

"Under Rule 12(b)(6) of the South Carolina Rules of Civil Procedure a defendant may move to dismiss a complaint based on a failure to state facts sufficient to constitute a cause of action." Spence v. Spence, 368 S.C. 106, 116, 628 S.E.2d 869, 874 (2006). The appellate court applies the same standard of review as the trial court in reviewing the dismissal of an action pursuant to Rule 12(b)(6), SCRCP. Doe v. Marion, 373 S.C. 390, 395, 645 S.E.2d 245, 247 (2007). "In considering a motion to dismiss a complaint based on a failure to state facts sufficient to constitute a cause of action, the trial court must base its ruling solely on allegations set forth in the complaint." Id. A Rule 12(b)(6) motion may not be sustained if facts alleged and inferences reasonably deducible therefrom would entitle the plaintiff to any relief on any theory of the case. Id. "The question is whether, in the light most favorable to the plaintiff, and with every doubt resolved in his behalf, the complaint states any valid claim for relief." Id. The court should not dismiss a complaint merely because the court doubts the plaintiff will prevail in the action. Id.

Prima facie evidence is a legal term used to mean that you have enough evidence to prove something by pointing to some basic facts, but that your proof can be refuted.

8. The plaintiff *has not alleged negligence cause of action* against the defendants, as she had repeatedly stated that has been admitted to and confirmed by the courts. And as the defendants has repeatedly stated cannot bring a third party claim against the named defendants Nationwide and Titan as she *was not* the insured. Pursuant to *Kleckley v Nw. Nat. Cas. Co. 338 SC 131, 134, 13, 526, SE.2d 218, 219(2000). As such the plaintiff has not brought a bad faith or third party claim against the defendants Nationwide and Titan.* Regardless of how many times the defendants state that she is "repackaging" and bring a negligence claims it is not in complaint filed in this court.

9. As to the claims for negligent and or intentional infliction of emotional distress plaintiff has stated more than enough facts for this matter so go before a jury and she should be allowed to

present evidence in a trial court as to if these claims can be proven –dismissing is not appropriate at this stage.

10. As to Plaintiff claims for civil conspiracy – there has been more than enough alleged that would allow this claims to go forward to a jury, including notice of special damages. It is the plaintiff's understanding that special damages are immediate damages, I cannot take my dog to grooming and to the vet as needed which I was able to do prior to this accident and care she was used to the conspiracy actions of the defendants, has cost me to use my retirement to pay bills and to hang on to my house for as long as I have been able to, loss of pension, loss of having my student loan paid by working for a public agency I lost because of loss of my job and now I live in fear of billing for 400 a months to pay without defaulting; I lost medical insurance; life insurance and I live in fear of phones calls from creditor, lose of my home and having to use all my savings as a result of loss of my job – special damages have been alleged – out of pocket cost, my credit is ruined after I spent years after the bankruptcy building it up – immediate loss and damages.
11. If attorney fees are not allowed then they are not allowed.
12. Nationwide is the parent company of Titian Indemity.
13. Plaintiff in all humbleness as a pro se *does not* see how SCRCP 20 disallow this actions against all defendants named.
14. Request for Sanctions:
15. These defendants are taking what they had read from or been told by Matthews when they speak of the plaintiff being a vexatious litigant and in call the plaintiff's legal actions filed a being frivolous.

16. It is Plaintiff understanding that to label a vexatious litigant has been a ruling by a court, the only one who has labeled this plaintiff a vexatious litigant is Matthews and now the Defendants in this action without benefit of ruling by a court or judge.

17. The only time the Plaintiff was warned of being or becoming a vexatious litigant has been by Matthews and now the defendants in this action.

18. The defendants as well as Matthews, has listed all the cases this Plaintiff has filed and determined that they are all frivolous and therefore the plaintiff is vexatious. This court will not found one that was filed without merit.

19. The defendants have been the judge and jury - and apparently their declaration is the means to allow the courts to just dismiss this plaintiff claims. This pro se ask the court to go back read the complaints filed by this plaintiff (pro se) and determine who has been in the wrong and how the rulings determined were against all the well established rules of this Court, SC courts and sister courts as well as the US Federal Courts and US Supreme Court – A prime example is Matthews meetings with Judges and the most recent is his behavior with Judge Newman.

20. The case the Plaintiff has found that discusses this process involving labeling or declaring someone a vexatious litigant and frivolous is Justin *Ringgood-Lockhart; Nina Ringgold v County of Los Angeles, et.al., No. 11-57231, D.C. No. 2:11-cv-01725-R-PLA, decided December 2, 2013, filed August 4, 2014.*

21. The cases cited by the defendants City of Columbia v Assa'ad-Faltas, 420 S.C. 28, 49, 800 S.E2d 782, 792 (2017) does not apply this pro se Plaintiff. She *has harassed* no one she seeks justice which is her right from the courts of South Carolina and so far she has not received that justice

22. Nor has she filed any frivolous claims or meritless[4] claims (not winning in court does not make a claim frivolous, this pro se invite the defendants outside - of Mr. Matthews and Judge Newman and the courts to read those cases and declare them as frivolous, in this pro se case the cases were not without merit she just did not have an attorney. If she had, Judge Newman would have disclosed her relationship with Matthews and or rescued herself. In the cases involving SCDMV – the courts decided that a pro se litigant was not going to prevail against a state agency or a learned attorney example Matthews meeting with Judge Barber without the plaintiff being present; another example, Matthews never filing an answer to the 2015 complaint in the federal court or in the state court after remand, his adding to a motion to dismiss despite a ruling by the South Carolina Supreme Court. See *Limehouse v Hulsey, 744 S.E.2d 566 404, S.C. 93 (2013),* speaking on timeline to file an answer after remand from Federal Court. Also, what appears to be a violation of amending a Dismissed Motion to Dismiss after remand from federal court.

23. There are other examples of the injustice to this pro se - when each case this pro se reads state that the *courts are there to see justice done* for all not just a few.

SCRCP Rule 11 – There is absolutely no basis for the calling of sanctions by each of the defendants in this matter and because have done so "illegally" the only sanctions that should be granted is against them for asking for sanctions were there is no basis or reason to do so.

[4] The Plaintiff in a case that sits in the Supreme Court at the time of this writing filed a case against those who wanted her land Couram v Hooker, etc., she provided all the evidence did everything right – one defense made was that the survey company was a prominent company in South Carolina and well as the Owner of the Company, etc. the court granted a directed verdict despite the well established rules on granting directed verdicts. The case against Time Warner Cable they trespassed and took land and lied in a court of law do you how I learned of filing a Motion to Reconsider it was from there attorney who thought she had lost.

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IN CONCLUSION

A. The defendants has provided no basis for sanctions and should be themselves sanctioned for frivolous asking for sanctions against this pro se because an attorney Matthews has determine her a vexatious litigant.

B. The court should grant summary judgment in favor of the plaintiff in this matter. And deny the defendants' request to Dismiss in this Amended Complaint, which appears to have been amended to declare the plaintiff a vexatious litigant and provide support for that request.

C. This honorable court in seeking justice should deny the request to dismiss Nationwide as a Defendant as the Adjusters worked for Nationwide and they are the Parent company to Titan.

D. This honorable court in the in the interest of justice should has deny the request to severe Nationwide and Titan.

E. This honorable court, in the interest justice should also deny the defendants' request to sanction the Plaintiff because her claims are not frivolous nor *their determination /declaration that the plaintiff is a vexatious*.

D. While the plaintiff is not a learned attorney she has researched each case, researched cases filed, complaints filed by learned attorneys and filed according based on that research.

E. Plaintiff has also taking rulings from all courts and incorporated in her complaints, motions, etc., filed and at times based her complaints, etc., on those rulings and to declare her vexatious or frivolous is to declare all learned attorneys and judges the same. I was also careful to have a case before filing even in this case matter.

F. All this plaintiff seeks is justice without prejudice, bias, predetermine and courts trials that are less than based on the truth instead of taking down a citizen of this state who deserves the same justice as everyone else instead there was an all out conspiracy to see that justice was

not done by all defendants named in this action intentionally or not, by authority or not with knowledge or not because their goal was to pay as little as possible and as much as possible despite the evidence they had outside the jury or the trial court. Because this pro se did all she could to mitigate damages and to act with integrity.

G. The question should be asked if this litigant was not pro se would these motions to dismiss have been filed and the requests made.

H. And all other relief deemed appropriate by this court.

Respectfully submitted by:

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Dated this 28th day of August 2017
Lexington County, South Carolina

STATE OF SOUTH CAROLINA COUNTY OF RICHLAND Glenda R. Couram Plaintiff, vs *Nationwide Mutual Insurance Company,* Titan Indemnity Company, Eugene Matthews, in his individual capacity dba Sherwood's Plumbing Services, LLC[1] Sherwood F. Tidwell, Owner/Oper./Agent #30530 and Beatrice Tyree Tidwell Tracy Peer and Mark Skurko, in their individual and official capacities Defendants.	IN THE COURT OF COMMON PLEAS FOR THE FIFTH JUDICIAL CIRCUIT CASE NO.: 2017-CP-40-04048 PLAINTIFF'S FIRST REQUEST TO AMEND JURY TRIAL DEMANDED

AMENDED COMPLAINT TO ADD NATIONWIDE CLAIM ADJUSTERS TRACY PEER AND MARK SKURKO AND TWO ADDITIONAL CAUSES OF ACTIONS TORITIOUS INTERERENCE WITH EMPLOYMENT RELATIONSHIP AND TORTIOUS INTERFERENCE WITH BUSINESS RELATIONSHIP WITH LEGAL MALICE

COMES NOW pro se Plaintiff, Glenda R. Couram, and complaining of the above-named Defendants, alleges as follows:

PARTIES

1. Glenda R. Couram (hereafter "Plaintiff") is, and at all times relevant a citizen and resident of Lexington County and State of South Carolina.

[1] 16 Jade Street, LLC v. R. Design Const. 398 S.C. 338 (2012); 728 S.E.2d 448; This case presents the novel question of whether a member of a limited liability company can be held personally liable for torts committed while acting in furtherance of the company's business. We hold the General Assembly did not intend the LLC act to shield a member from liability for his own torts

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2. The Defendant, Sherwood Tidwell is, and at all times relevant a citizen and resident of the State of South Carolina. The Defendant, Eugene Matthews is a private citizen and licensed attorney doing business under the laws of the State of South Carolina.

3. The Defendant Nationwide Mutual Insurance Company is a corporation licensed to do business under the laws of the State of South Carolina, headquartered in Ohio. (License SC Co. Code 101093 NAIC Co. Code #23787).

4. The Defendant Titan Indemnity Insurance is a corporation who supplies commercial insurance as a subsidiary of Nationwide Mutual Insurance licensed and doing business under the laws of the State of South Carolina. (License SC Co. Code 101397 NAIC Co. Code 13242)

5. Tracy Peer, Claims Specialist III, Coml Casualty, One Nationwide Gateway, Dept. 5572, Des Moines, IA 50391-5572 and Nationwide Non-Standard Claims, P.O. Box 93863, Cleveland, OH 44101.

6. Rick Skurko, CPCU, AIC; Claims Specialist II, Commercial Casualty, Nationwide Non-Standard Claims, P.O. Box 93863, Cleveland, OH 44101

JURISDICTION AND VENUE

7. As all incidents occurred in Richland County of the State of South Carolina this matter is within the proper Jurisdiction of the Richland County Court of Common Pleas.

8. Jurisdiction is appropriate because the claims against the Defendants fall under the SC Statute of common law negligence, intentional infliction of emotional distress, negligent intentional infliction of emotional distress, civil conspiracy and punitive damages.

9. Venue in this court is proper as the injuries to the Plaintiff occurred within the City and County Richland County, Columbia, South.

10. Subject matter in this action is properly heard in this Court, as the action incorporates an amount in controversy as set forth in this complaint exceeds $25,000.00.

11. At all times mentioned herein, South Carolina Code §15-70-20, 30 is binding on all defendants as they are licensed and subject to the laws of South Carolina.

12. Within the time provided by law, Plaintiff now timely files this action. This accident occurred on September 18, 2015 a Friday and has a three (3) year SOL that will not end until September 18, 2018; South Carolina Code Ann. §15-3-530 et. al., and SC Title 38 §§38-59-10 et.al., the remaining claims are filed within the applicable Statute of Limitations.

GENERAL ALLEGATIONS

13. The allegations contained in paragraphs 1 – 10, above, are repeated as if fully rewritten herein.

14. The plaintiff's terror, persecution and drama begin with an automobile accident on September 18, 2015, when she became a direct victim[2] of the Tidwell that lead to her becoming a victim of those with "power" to include the named defendants and a school of attorneys. Where her only crime was following the law as of the State and exercising her rights with the resulting consequences outlined in this complaint.

15. Were her only crime was following the laws of the State that lead to the accident on or about September 18, 2015, at approximately 4:20 pm the second vehicle, Cadillac, operated by Brandon S. Brown, and came to a stop directly behind the plaintiff.

16. That the Defendant, Sherwood Tidwell, driving a commercial vehicle for his business as a Plumber, and as he testified driving 30 miles an hour and being unable to stop in the middle lane without colliding with a truck chose to switch lands as he did not see any traffic and collided

[2] Title 16 Crimes and Offices against a person Article 15, Section 16-3-1505 et.al., Victim" means any individual who suffers direct or threatened physical, psychological, or financial harm

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into the back of the Cadillac driven by Mr. Brown who collided into the rear of the Plaintiff causing damage to property and injury.

17. Plaintiff was sitting behind the car in front of her with good distance due to conditions watched Mr. Brown behind her and moved forward inches to ensure he stopped without problems, and then turned back to the traffic in front of her when next thing she knew she heard and crash and felt movement and realized unbelievably that Mr. Brown's car had collided into her car as a result of Mr. Tidwell colliding into the back of his car.

18. Defendant Tidwell never denied he was the cause of the collision and he was ticketed for going too fast for conditions, he did not contest the ticket, his insurance company paid to fix the plaintiff's car, at about $670 and Mr. Brown's car at about $1300.

19. Defendant Tidwell's car was damaged in the front and cost approximately $7,000 to repair.

20. This matter comes to this court a result of an automobile accident that happened on September 18, 2017.

21. The insured Mr. Sherwood Tidwell was found 100 percent at fault from day one, he admitted fault and his insurance company admitted fault and paid for damages to the Plaintiff's car about $670 and Mr. Brown's car about $1300. The collision resulted in almost $7000 of damage to Mr. Tidwell's car.

22. Mr. Tidwell, the insured, was found guilty in a court of law for negligence and liability via court order of Judge Hood dated June 2, 2017. This action is a result of the events that occurred after the accident that lead to grave and additional harm to the Plaintiff.

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23. The court required the plaintiff to enter into mediation[3] with Defendant Tidwell's attorney that led to the plaintiff losing her job and defendant.

24. Nationwide's and or Tidwell's Attorney subpoenaed all the plaintiff medical records (10 years worth) at Palmetto Health; they subpoenaed plaintiff's records with Blue Cross Blue Shield, Vital Energy, Midlands Counseling, Palmetto Spine Center and then subpoenaed employment records twice in 2016 and later in 2017.

25. Plaintiff tried to settle with Adjustor Shruko and he would only offer about $10,000; to include pain and suffering; plaintiff tried to settle several times and during that time she continued to supply the Defendants with medical bills, etc.

26. Plaintiff told Mr. Skruko that she would file to the courts by March 30, 2016, and did so, if he would not be reasonable she made another offer of 28k, nothing happened except a transfer to another adjuster.

27. Plaintiff informed Ms. Peer she would be going back into therapy and was told to call back when completed, that therapy ended in May 2016, plaintiff once again attempted to settle with the new adjuster and was offered 20k, to include pain and suffering in the end Ms. Peer offered $15,000, that did not account for loss pay or time, plaintiff countered and the negotiation ended.

28. Plaintiff then went into mediation, as required by the Court, Nationwide continued to disregard the laws of South Carolina by refusing to go any higher than 20k despite proof of medical bills and other evidenced that collected on the plaintiff.

29. On April 2, 2017, the plaintiff's lost her employment.

30. Defendant Eugene Matthews entered the picture and a second subpoenaed request for plaintiff's employment records causing the plaintiff additional suffering.

[3] The mediator attorney Amy Cofield of Cofield Law Firm and her Attorney Lori Shortt.

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31. Plaintiff brings this action to be compensated for the continued ongoing damages caused as a result of the actions of Defendants Tidwell and Sherwood Plumbing Svc., (hereafter "Defendant");

32. Matthews (hereafter "Defendant");

33. Nationwide and Titan (hereafter "Defendant"); and

34. Plaintiff sues each named Defendant for intentional and negligent infliction of emotional distress, civil conspiracy, negligence/vicarious liability, negligent entrustment, tortious interference with employment and business relationship and punitive damages.

FIRST CAUSE OF ACITON
VICARIOUS LIABILITY/RESPONDEAT SUPERIOR as applicable
AND OR NEGLIGENT ENTRUSTMENT
(COMMON LAW NEGLIGENCE if applicable)
South Carolina Ann. Code §15-3-530(5)
Sherwood's Plumbing Services, LLC dba
Sherwood F. Tidwell, Owner/Operator/Agent and Beatrice Tyree Tidwell

33. Plaintiff re-alleges the allegations set forth in paragraphs 1-32, supra, and incorporates them herein by reference as though set forth here in full.

34. That on the occasion in question the Defendant, Sherwood Tidwell, was negligently entrusted to drive a vehicles knowing he was not familiar with the braking system in his truck as he testified to and in doing so he was unable to: 1) to keep vehicle under control; 2) failure to give full time and attention; 3) to keep a proper lookout; 4) to reduce speed to avoid collision admitted was going 30 miles an hour; 4) was ticketed for going too fast for conditions and did not contest ticket paid, etc.; 5) Violated SC Law by - Driving too fast for conditions pursuant to S.C. Code Ann. §56-5-1520 states that it is unlawful for a person to "*drive a vehicle on a highway at a speed greater than is reasonable and prudent under the conditions and having*

regard to the actual and potential hazards then existing. Speed must be controlled to avoid colliding with a person, vehicle, or other conveyance."

35. Mr. Tidwell was negligently entrusted to drive the vehicle used in his business knowing that he needed glasses and did not obtain glasses until January 2016 as attorney admitted to in the admissions after causing lasting injury to the plaintiff and that as a further direct and proximate result of the negligence of the Defendant, Sherwood Tidwell.

36. As a direct and proximate result of the negligence and carelessness of the Defendant, the Plaintiff: suffered serious, painful and chronic back pain, great physical pain and mental; anguish, severe and substantial emotional distress, loss of the capacity for the enjoyment of life, she suffered pain while performing her job; the Plaintiff, Glenda Couram, has been forced to expend large sums of money for (special damages out of pocket costs medical bills, medical treatment, x-rays, and for medicine for the treatment of the aforesaid injuries to herself; with continued anxiety to pay the medical bills at the expense of her normal bills to prevent collections and toll on her credit due to collection letters). And ultimately she lost her job that she relied on for retirement, pension, medical, benefits, etc., See *Am. Mut. Fire Ins. Co. v* Passmore, 275 S.C., 618, 621, 274 S.E.2d 416, 418; now she lives in constant fear of loss of her home she has had since 1994 and other enjoyments and necessities of life.

37. That as a further direct and proximate result of the negligence of the Defendant, Sherwood Tidwell, the Plaintiff, was forced to lose time from her employment and has suffered a loss of wages for which she seeks – including three days of leave without pay during the holidays due to using all her time for medical treatment and travel.

38. All of the Plaintiff's losses were, are the direct and solely due to and by reason of the

carelessness and negligence of the Defendants, without any negligence or want of due care on the Plaintiff's part contributing or the second vehicle that was shoved and collided into the rear of plaintiff 's vehicle.

39. It was clearly foreseeable by the defendants that their actions would cause harm and damage to another. Defendant testified he did not know how to operate the business truck brakes and his attorney admitted that Defendant got prescription glasses after this accident in January 2016.

SECOND AND THIRD CAUSE OF ACTION
INTENTIONAL AND NEGLIGENT INFLICTION
OF EMOTIONAL DISTRESS COMMON LAW
LEGAL MALICE
S.C. Ann. Codes §§15-3-530(5) et.al.
(All applicable Defendants)

40. Plaintiff re-alleges the allegations set forth in paragraphs 1-39, supra, and incorporates them herein by reference as though set forth here in full.

41. By the conduct alleged above, each Defendant, acted outrageously, with the intention to cause, or with reckless disregard of the probability of causing Plaintiff additional severe emotional distress even with their advance knowledge of the plaintiff's fragile state.

42. This conduct, which was unprivileged and unwanted by Plaintiff, actually and proximately caused Plaintiff severe emotional distress.

43. Defendants, and each of them, harmed Plaintiff because their actions caused her to suffer humiliation, embarrassment, mental anguish, emotional distress, continued physical pain, loss of employment, etc.

44. The actions of Defendants, and each of them, injured Plaintiff's mind and body. As a result of such unlawful conduct and consequent harm, Plaintiff suffered damages that will be proven at trial.

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45. The conduct of Defendants proximately caused Plaintiff to suffer, and to continue to suffer, damages, including injuries to her person in an amount which will be proven at trial.

46. The malicious and/or oppressive conduct of the Defendants Matthews and for Nationwide, and each of them, was in reckless disregard of Plaintiff's and therefore warrants the imposition of punitive damages, especially in influencing and controlling the outcome of the trial.

47. The Defendants having full knowledge of the Plaintiff's, fragile state acted as one to harass and torture her resulting in a physical reaction during the trial humiliating and embarrassing her further

48. The emotional distress suffered by Plaintiff was and continues to serious and severe. The Attorney for Nation and Matthews met several times in full view in fact ensured she saw them outside the courthouse, inside the court housing – even when neither were required to be present on the day of meetings, April 27th etc., the relationship between judge and Matthews and other actions that will be proven at trial

49. *Plaintiff suffered severe injury by the actions of the Defendants including escalating her* anxiety, stress, PTSD and panic attacks.

50. The Defendants played with the plaintiff like she was a mouse in a trap to such an extent that the injury manifested itself in a fever blister that remained four days after the trial.

51. The actions was from Nationwide who felt it was okay to call Lexington County Sheriff Department to report the plaintiff as suicidal merely because she called to check on her life insurance policy after her dismissal from employment a policy she was paying for and still had to pay for with her change in circumstances; the report lead to EMS coming to Couram's home and the Sheriff standing outside her home for 40 plus minutes; and their refusal to not call EMS.

Now Couram has a suicidal call on her record with the other obstacles set in her path by the Defendant in finding future employment.

52. The Defendants Nationwide further defamed Couram when they published to Lexington County Sheriff that she was suicidal sending them to her home she has maintained since 1994; who called EMS, despite Couram's denial now the Couram has a reputation as being suicidal which will affect her future.

53. Plaintiff suffered severe injury by the actions of the Defendants including escalating her anxiety, stress, PTSD and panic attacks. Fact - Plaintiff had to call her abuser who she had not spoken to or seen except twice since she was 18 years old for money to pay the mortgage thru February 2018 and as always when she grew up it had a catch (disability).

FOURTH CAUSE OF ACTION
COMMON LAW CIVIL CONSPIRACY
WITH SPECIAL DAMAGES
South Carolina Ann. Code §§15-3-530(5)
(All Defendants)

54. Plaintiff re-alleges the allegations set forth in paragraphs 1-53, supra, and incorporates them herein by reference as though set forth here in full.

55. The defendants conspired and agreed, implicitly or explicitly, to commit the acts herein alleged.

56. The defendants jointly operated to perpetrate the wrongful acts complained of herein.

58. The defendants equally profited from the wrongful acts complained of herein.

59. The defendants jointly and severally liable for each of the wrongs and special damages that resulted from their wrong acts.

60. The "essential consideration" in civil conspiracy is not whether lawful or unlawful acts or means are employed to further the conspiracy, but whether the primary purpose or object of the combination is to injure the plaintiff.

61. The purpose of the acts was foreseeable injury irreparable to the plaintiff given all of the acts involved and the plaintiff herself, age, race, physical and mental issues already present that each defendant were perfectly aware of and unlawful act is not a necessary element of the tort.

62. Including actual damages earnings loss of pay and fear of losing her home she home every day, concerns with paying house payments and other bills causing additional mental anguish and stress with paying the medical bills remaining after the accident, harm to credit, loss of pension and retirement, etc.

63. Special damages to include all immediate losses, impack

64. Defendants willfully, intentionally, and knowingly agreed and conspired with each other to engage in the alleged wrongful conduct, *including Defendants' interference* with plaintiff employment relationships by coming to an agreement between them to do an unlawful act or to *do a lawful act in an unlawful way* in agreement that resulted in injury to the plaintiff.

65. Defendants did the acts alleged pursuant to, and in furtherance of, that agreement and/or furthered the conspiracy by cooperating, encouraging, ratifying, or adopting the acts of the others. Matthews abused his power and authority bestowed upon by SCDMV and South Carolina State government – conspiring with others resulting in psychological, physical and financial devastation to the Plaintiff.

66. As a direct and proximate result of the acts in furtherance of the conspiracy, Plaintiff suffered injury, damage, loss, and harm, including, but not limited to, financial status causing

loss of her home, causing harm to credit, loss of payment of medical bills, paying bills, unemployment, loss of reputation, pension, status, and loss of employability

67. Daily calls from bill collectors, etc.

68. Defendants' intentional agreement to commit, and commission of, these wrongful acts was willful, malicious, oppressive, and in conscious disregard of Plaintiff's rights, and Plaintiff is therefore entitled to an award of punitive damages to punish their wrongful conduct and deter future wrongful conduct eliciting the help of two other attorneys Lori Shortt and Amy Cofield.

69. The Defendants worked in harmony to the detriment of the plaintiff /and or pro se litigant.

70. Fact - *SPECIAL DAMAGES* - inability to afford necessary medication, pay bills obtain medical attention, grooming and vet fees, pet food, inability to afford her medication, etc., out of pocket costs; destroyed credit – creditor calling two three times a day in the amount to be proven.

71. Fact As a result of the conspiracy Plaintiff lost her opportunity to have a $42,000 student loan debt forgiven there was less than three (3) years remaining. Now the loan will go into default and any state jobs will be even further away for her to obtain at 59 years old because default has to be reported.

72. Fact Plaintiff has lost medical insurance at 59 years old and continues to have issues suffered from and now those issues are a matter of public record which impact on future employment and inability to afford medical care; to include now the report of her being suicidal.

FIFTH CAUSE OF ACTION
PUNITIVE DAMAGES
SC. Ann. Code §§15-32-510 et.al. and 56-5-1520
(All Defendants as applicable)

73. The allegations contained in paragraphs 1 – 72, above, are repeated as if fully rewritten herein.

74. Violated SC Law by - Driving too fast for conditions pursuant to S.C. Code Ann. §56-5-1520 states that it is unlawful for a person to "*drive a vehicle on a highway at a speed greater than is reasonable and prudent under the conditions and having regard to the actual and potential hazards then existing. Speed must be controlled to avoid colliding with a person, vehicle, or other conveyance.*"

75. The actions of the Defendants were wanton, reckless and willful, with complete disregard of the welfare and the Plaintiff only need to bend any rule and elicit any help necessary so as not to have a pro se win despite the fact that settling was upper most in the Plaintiff and the trial was the direct result of their own actions; they choose to cause harm to the plaintiff instead.

76. The Defendants failure to timely settle this matter that would have resulted in no additional and lasting harm to the plaintiff when they could have settled this matter in 2016. As specified below, the actions of the Defendants have caused grave injury and damage to the Plaintiff in this matter.

77. The law provides punitive damages in the interest of society by condemning the choice to ignore others' safety. To deter wrongdoers and others from similar future conduct; and to vindicate the victim's rights by requiring the wrongdoer to compensate her for recklessly violating those rights.

SIXTH CAUSE OF ACTION
COMMON LAW TORTIOUS INTERFERENCE WITH
ECONOMIC, BUSINESS RELATIONSHIP AND LEGAL MALICE
(as applicable)
South Carolina Ann. Code §§15-3-530(5)
(All Defendants)

78. The allegations contained in paragraphs 1 – 77, above, are repeated as if fully rewritten herein.

79. Plaintiff[4] has established a 10.8 year relationship in her state government job and could be terminated for cause the defendants interfered in that relationship a relationship each were very much of aware of they used their status as attorneys in one instant subpoenaing her employment record twice, eliciting help from two other attorneys to call the plaintiff employer and emailing her to instigate a employment problem that directly lead to her termination.

80. The conduct as described was designed to wrongfully disrupt the economic relationship between the Plaintiff and her government employer (SCDMV) making and maintaining unnecessary contact with the employer and its attorney disrupting the relationship leading to Plaintiff termination.

81. As a proximate result of these Defendants conduct the Plaintiff has suffered continued and lasting economic, physical and mental harm to be proven at trial.

82. The conduct of the Defendants interference with Plaintiff's economic relationship was intentional, willful and calculated to cause as much damage as possible to Plaintiff. The conduct was perpetrated with actual malice, legal malice and ill will toward Plaintiff and with the intentional and improper purpose o causing damage. There no justifiable cause for the actions of the Defendants as a result, an award of punitive damages is warranted.

83. There was an existing employment relationship each defendant was aware of; the interference was from a school of third parties to the employment relationship between the Plaintiff and her employer SCDMV. The defendants knew of the existence of the relationship and were aware or should have been aware that if they did not act with due care their actions

[4] To establish tortious interference with a business relationship or contract, the plaintiff must prove that the interference was improper by showing that the defendant committed an intentional act which lacked justification and purposely interfered with the plaintiff's contractual rights or business relationship. Improper interference can be established by: "(1) the intentional doing of an act wrongful per se, or (2) the intentional doing of a lawful act with malice and unjustified in law for the purpose of invading plaintiff's contractual rights or business relationship."

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would interfere with the employment relationship causing the plaintiff to lose in whole present and future economic benefit of the relationship

84. The third parties conduct interfered with the relationship

85. The third parties intended to interfere with the relationship

86. The third parties' conduct caused the Plaintiff termination directly.

87. The conduct of the third parties resulted in economic damages and mental distress anguish – the damages are especially egregious (shocking, appalling, horrendous) due to the plaintiff's health, race and age (and unlikelihood of finding another comparable position)

88. The defendants were well aware of the plaintiff's health issues as Matthews has called her vexatious, mental, and divorced from reality (showing no connection to what is real) or true.

89. The attorney hired by Tidwell had subpoenaed the plaintiff's employment records twice, subpoenaed her medical records, mental health records all the way back to ten plus years they elicited the aid of Attorneys Amy Cofield and Lori Shortt who were the mediator and her attorney..

90. The conduct of Defendants was purposeful and intentional and was engaged in for the express purpose of depriving Plaintiffs of property and legal rights to her employment or otherwise causing injury, and was despicable conduct that has subjected Plaintiff to cruel and unjust hardship in conscious disregard of its rights, and was performed with fraud, oppression or malice.

91. The Couram was an established public employee with standing who had a good satisfactory relationship with her employer to include an employment record for over 8 years at the time of the car accident. She could only be terminated for cause which was provided by the defendants without any regard for the Plaintiff and the resulting devastation on her life as a result

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of an accident that was not her fault a fault the Defense Attorney Spitz, Titan, Nationwide, Peer and Skurko admitted to and Tidwell found guilty of.

100. The foregoing actions on the part of the Defendants constitute an unlawful interference with Couram's relationship with her employer where she was dismissed on the grounds of intentional misconduct that resulted in a destruction of the relationship with South State Government and denial of unemployment.

101. The Plaintiff has suffered irreparable damages that she will not recovery from at the hands of the defendants as a result of an accident that was not her fault and one she should not have been in but for the actions of Tidwell and because she chose to mitigate damages by not obtaining an attorney.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs seeks judgment against all Defendants for:

1. Compensatory damages (consisting of general and special damages) in an amount to be proven at trial;
2. An award of punitive damages;
3. Injunctive Relief (as applicable)
4. Reasonable legal fees and costs of suit; (as applicable)
5. Costs incurred herein; and
6. Such other and further relief as justice may require.

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STATE OF SOUTH CAROLINA COUNTY OF RICHLAND Glenda R. Couram Plaintiff, vs Nationwide Mutual Insurance Company, Titan Indemnity Company, *Eugene Matthews, in his individual capacity* dba Sherwood's Plumbing Services, LLC *Sherwood F. Tidwell, Owner/Oper./Agent* #30530 and Beatrice Tyree Tidwell Tracy Peer and Mark Skurko, in their individual and official capacities Defendants.	IN THE COURT OF COMMON PLEAS FOR THE FIFTH JUDICIAL CIRCUIT CASE NO.: 2017-CP-40-04048 JURY TRIAL DEMANDED

RICHLAND COUNTY
FILED
2017 DEC -6 PM 12:17
JEANNETTE W. WALKER
C.C.P. & G.S.

PLAINTIFFS' MOTION FOR
(1) LEAVE TO FILE FIRST AMENDED COMPLAINT
ADDING TWO ADDITIONAL PARTIES
HAS NOT RUN AND
(2) ADDING TWO ADDITIONAL CAUSES OF ACTION

Pursuant to South Carolina and Federal Rule of Civil Procedure 15(a)(2), pro se Plaintiff Glenda Couram respectfully file this motion seeking leave to file a first Amended Complaint by leave of this court as Plaintiff's, adds two new Defendants claims Adjusters Tracy Peer and Rick Skurko in their individual and official capacities and 2) Plaintiff ask for leave to add two new causes of action Tortious interference with employment relationship and tortious interference with business relationship to include legal malice. The statute of limitations has not run on this matter.

2. There is no prejudice to the defendants.

3. This Court should grant leave freely to amend a complaint. *Foman v. Davis*, 371 U.S. 178, 182 (1962).

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Plaintiff hereby demands a trial of her claims against all defendants by jury.

Respectfully submitted by,

Glenda L. Couram, pro se
104 Macaw Lane
Lexington, SC 29073
grcouram@hotmail.com
803 358-0127

Dated this 4th day of December 2017
Lexington County South Carolina

STATE OF SOUTH CAROLINA)
) IN THE COURT OF COMMON PLEAS
COUNTY OF RICHLAND) FOR THE FIFTH JUDICIAL CIRCUIT
) CASE NO.: 2017-CP-40-04048
Glenda R. Couram)
Plaintiff,)
vs)
)
Nationwide Mutual Insurance Company,)
Titan Indemnity Company,)
Eugene Matthews, in his individual capacity)
dba Sherwood's Plumbing Services, LLC)
Sherwood F. Tidwell, Owner/Oper./Agent)
#30530 and Beatrice Tyree Tidwell)
Tracy Peer and Mark Skurko, in their)
individual and official capacities)
Defendants.)
)

JURY TRIAL DEMANDED

RICHLAND COUNTY FILED
2017 DEC -6 PM 2:12
JEANNETTE W. WORRILL C.C.P. & G.S.

CERTIFICATE OF SERVICE

This certifies that I caused a true and correct copy of Plaintiffs' Motion for Leave to File the attached Amended Summons and Complaint and the accompanying Memorandum in Support of Plaintiff's Motion for Leave to File Amended Complaint to be served on December 4th 2017, by First Class U.S. mail to adequate postage attached:

Eugene H. Matthews, Esquire
Pro se Defendant
c/o Richardson, Plowden and Robinson
1600 Marion Street
P.O. Drawer 7788
Columbia, South Carolina 29202

Jescelyn T. Spitz, Esquire
Attorney for Sherwood Tidwell Plumbing Svc., LLC and Beatrice Tidwell
Clawson and Staubes, LLC
1612 Marion Street, Suite 200
Columbia, South Carolina 29201-2939

J.R. Murphy, Esquire
Murphy & Grantland, P.A.
P.O. Box 6648
Columbia, South Carolina 29260

Tracy Peer, Claims Specialist III,
Commercial Litigation
Nationwide Non-Standard Claims
P.O. Box 93863
Cleveland, OH 44101-5863

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Rick Skurko, CPCU, AIC
Claims Specialist II, Commercial Casualty
Nationwide Non-Standard Claims
P.O. Box 93863
Cleveland, SC 44101

Respectfully Submitted by,

Glenda R. Couram
Pro se Plaintiff
104 Macaw Lane
Lexington, South Carolina 29073
(803) 358-0127
grcouram@hotmail.com

Dated this 4th, day of December 2017
Lexington County, South Carolina

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOR THE FIFTH JUDICIAL CIRCUIT
COUNTY OF RICHLAND	)	CASE NO.: 2017-CP-40-04048
	)	
Glenda R. Couram	)	
Plaintiff,	)	
	)	
vs	)	
	)	
Nationwide Mutual Insurance Company,	)	
Titan Indemnity Company,	)	
Eugene Matthews, in his individual capacity	)	
dba Sherwood's Plumbing Services, LLC[1]	)	
Sherwood F. Tidwell, Owner/Oper./Agent	)	
#30530 and Beatrice Tyree Tidwell	)	
Tracy Peer and Mark Skurko, in their	)	
individual and official capacities	)	
	)	
Defendants.	)	JURY TRIAL DEMANDED
	)	

MEMORANDUM IN SUPPORT OF MOTION TO AMEND *BE FREELY ALLOWED* PUSURANT TO SCRCP RULE 15

SC Supreme Court in Patton v. Miller, 27730, (2017) expounded the requirements in allowing an amendment of a complaint pursuant to Rule 15(a) which provides that when a party asks to amend his pleading, "leave shall be freely given when justice so requires and does not prejudice any other party." Rule 15(a), SCRCP. "This rule strongly favors amendments and the court is encouraged to freely grant leave to amend." *Parker v. Spartanburg Sanitary Sewer Dist.*, 362 S.C. 276, 286, 607 S.E.2d 711, 717 (Ct. App. 2005) (citing *Jarrell v. Seaboard Sys. R.R., Inc.*, 294 S.C. 183, 186, 363 S.E.2d 398, 399 (Ct. App. 1987)). "Rule 15(a) is substantially the same as the Federal Rule," Rule 15(a), SCRCP notes, and

[1] 16 Jade Street, LLC v. R. Design Const. 398 S.C. 338 (2012); 728 S.E.2d 448; This case presents the novel question of whether a member of a limited liability company can be held personally liable for torts committed while acting in furtherance of the company's business. We hold the General Assembly did not intend the LLC act to shield a member from liability for his own torts

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the Supreme Court of the United States has referred to the Rule's "freely given" provision as a "mandate" that "is to be heeded," *Foman v. Davis*, 371 U.S. 178, 182, 83 S.Ct. 227, 230, 9 L. Ed. 2d 222, 226 (1962). A pleading must not be dismissed for failure to state a legally cognizable claim unless the allegations indicate beyond any doubt that the litigant can prove no set of facts which would entitle the plaintiff to relief. The burden to show the legal insufficiency of the petition is on the party moving for dismissal. Motions to dismiss are usually viewed with disfavor under this standard, and the burden of demonstrating a petition's insufficiency is not a light one. The plaintiff has pled a claim for which relief is legally possible, therefore the plaintiff's Motion for Amending should be granted and the defendants' motions to dismiss and judgment on the pleading should be denied.

I. IN CONSIDERING A MOTION TO DISMISS/JUDGMENT ON THE PLEADINGS

On March 2, 2016, the Second Circuit issued a decision in Vasomedical, Inc. v. Barron, 2016 NY Slip Op. 01483; in considering a motion to dismiss a complaint pursuant to CPLR 3211(a)(7), the court must accept the facts as alleged in the complaint as true, accord plaintiffs the benefit of every possible favorable inference, and determine only whether the facts as alleged fit within any cognizable legal theory. **Whether a plaintiff can ultimately establish its allegations is not part of the calculus.**; ... the plaintiffs alleged sufficient facts to show that their claimed damages in this regard were proximately caused by the defendants' alleged misconduct.

A motion to dismiss pursuant to New York Budget Inn LLC v. Averbuch, 2017 NY Slip Op. 31296(U), denying a motion to dismiss based on documentary evidence, explaining: may be appropriately granted only where the documentary evidence utterly refutes plaintiff's factual

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allegations, conclusively establishing a defense as a matter of law. The facts as alleged in the complaint are regarded as true, and the plaintiff is afforded the benefit of every favorable inference.

II. TREATMENT OF *PRO SE* LITIGANTS IN THE COURTS

III. A. PLEADING STANDARDS[2]

Pro se pleadings are held to a less stringent standard than those drafted by lawyers[1] Haines v. Kerner, 404 U.S. 519, 520 (1972). Pro se complaints are construed liberally and may *only be dismissed if it appears beyond doubt that the plaintiff can prove no set of facts in support of his claim which would entitle him to relief. Nordstrom v. Ryan, 762 F.3d 903, 908 (9th Cir. 2014).* A pro se litigant is entitled to notice of the deficiencies in the complaint and an opportunity to amend, unless the complaint's deficiencies could not be cured by amendment. See Noll v. Carlson, 809 F.2d 1446, 1448 (9th Cir. 1987). See *Genaro v. Municipality of Anchorage*, 76 P.3d 844 (Alaska 2003); 745 P.2d 66 (Alaska 1987).

IV. STANDING - CLAIM FOR TORTIOUS INTERFERENCE W/ EMPLOYMENT AND BUSINESS RELATIONSHIP TO INCLUDE LEGAL MALICE

Standing is the legal right of a litigant to challenge the conduct of another in a judicial forum. A party whose standing is challenged must show a concrete, particularized, actual, or imminent injury in fact for which some relief can be given, and that the interest to be protected is within a statutorily or constitutionally protected zone. The interest must be direct, immediate, and substantial, and the litigant must have a personal stake in the outcome must be denied.

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[2] Erickson v. Pardus, 551 U.S. 89, 94, 127 S.Ct. 2197 (2007) (*pro se* pleadings "however in artfully pleaded, must be held to less stringent standards than formal pleadings drafted by lawyers").
Bobal v. Rensselear Polytechnic Institute, 916 F.2d 759, 762-63 (2nd Cir. 1990), *cert. denied*, 499 U.S. 943, 111 S.Ct. 1404 (1991). (Attached)
Washington v. James, 782 F.2d 1134, 1138 (2nd Cir. 1986) (complaint not to be dismissed unless "frivolous on its face or wholly unsubstantial").
Pezhman v. City of New York, 29 A.D.3d 164, 168, 812 N.Y.S.2d 14, 18 (1st Dep't 2006) (a "*pro se* complaint should be construed liberally in favor of the pleader).

The plaintiff has been with her employer for 10.8 years and she had standing and only could be terminated for cause the interference of the attorneys and the other defendants provided that cause via the car accident. The plaintiff employment was terminated and the call made to the employer was instrumental in that termination. The defendants Matthews, Shortt, Cofield, (all Attorneys, were *third parties* in her employment relationship with SC Department of Motor Vehicles. (Facts - Emails and testimony before Judge Anderson of the ALC and the SC Administration Grievance Committee Attorney is proof of that interference). The plaintiff's committee to her employer, the value of that employment and status as a satisfactory employee placed her in good standing until September 18, 2015 when Mr. Tidwell entered into her life.

In Forrester v. Stockstill, 869 S.W.2d 328 (1994) the Supreme court of Tennessee stated: "An individual has a property interest in his labor, and the right to work without unjustified interference. Large v. Dick, 207 Tenn. 664, 343 S.W.2d 693 (1960). One who intentionally interferes with this right, *331 causing the employee to be discharged, is liable in tort for the resulting damages. Dukes v. Brotherhood of Painters, 191 Tenn. 495, 235 S.W.2d 7 (1950). The essential allegations of such a claim are that the defendant intentionally and without justification procured the discharge of the employee in question. Dukes v. Brotherhood of Painters, supra, 57 C.J.S. Master & Servant § 630... .

Proof can be maintained if it establishes that the named defendants stood as third parties to the employment relationship at the time they performed the acts found to have caused Couram's discharge making this a factual question for a jury and a clear fact that would survive a motion to dismiss at this point in the because process.

In determining if the record contains material evidence to support the jury verdict, the evidence must be viewed in the light most favorable to the plaintiff. Tenn. R.App.P. 13(d);

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Crabtree Masonry Co. v. C & R Const., Inc., 575 S.W.2d at 5; Haga v. Blanc & West Lumber Co., Inc., 666 S.W.2d 61, 63 (Tenn. 1984). For the purpose of this review, the Court will accept the plaintiff's statement of the facts.

The *Foman* Court continued:

> .... Under Rule 15(a), the circuit court should have considered whether the defendants were prejudiced by the amendment, or whether there was some other substantial reason to deny it. Instead, the circuit court denied the motion to amend based solely on its mistaken belief that the amendments could not relate back under Rule 15(c). The circuit court thus denied the motion to amend the complaint on its perception of the merits of the amended claims, not under the criteria for amendment the court was required to consider under Rule 15(a). This was error, regardless of the soundness of the Rule 15(c) analysis. *SeeTanner v. Florence Cty. Treasurer*, 336 S.C. 552, 558-60, 521 S.E.2d 153, 156-57 (1999) (analogizing a Rule 15(d) motion to supplement a complaint to a motion to amend a complaint under Rule 15(c) and finding the trial court erred in denying the plaintiff's motion to supplement his complaint because the trial court should not have relied on the merits-related question of whether the defendant was immune under the Tort Claims Act). *Cf.* 6 Charles Alan Wright, Arthur R. Miller & Mary Kay Kane, *Federal Practice and Procedure* § 1487 (3d ed. 2010)
>
> *See Lee v. Bunch*, 373 S.C. 654, 661, 647 S.E.2d 197, 201 (2007) ("The prejudice that would warrant denial of a motion to amend the pleadings is a lack of notice that a new issue is to be tried and a lack of opportunity to refute it."

If the underlying facts or circumstances relied upon by a plaintiff may be a proper subject of relief, he ought to be afforded an opportunity to test his claim on the merits. In the absence of any apparent or declared reason—such as undue delay, bad faith or dilatory motive on the part of the movant, repeated failure to cure deficiencies by amendments previously allowed, undue prejudice to the opposing party by virtue of allowance of the amendment, futility of amendment, etc.—the leave sought should, *as the rules require*, be freely given. *Id.* (citing Fed. R. Civ. P. 15(a)); *accord Forrester v. Smith & Steele Builders, Inc.*, 295 S.C. 504, 507, 369 S.E.2d 156, 158 (Ct. App. 1988).

The Fed.R.Civ.P. FRCP 15 places leave to amend within the sound discretion of the trial court, we have stressed that a court must remain guided by "the underlying purpose of Rule 15 ...

to facilitate decision on the merits, rather than on the pleadings or technicalities." *United States v. Webb,* 655 F.2d 977, 979 (9th Cir.1981); *see also Conley v. Gibson,* 355 U.S. 41, 48, 78 S.Ct. 99, 103, 2 L.Ed.2d 80 (1957).

This court also state leave should be freely given and that a pro se litigant must be given leave to amend his or her complaint unless it is "absolutely clear that the deficiencies of the complaint could not be cured by amendment." *Broughton v. Cutter Laboratories,* 622 F.2d 458, 460 (9th Cir.1980) (Per Curiam).

The rule favoring liberality in amendments to pleadings is particularly important for the pro se litigant. Presumably unskilled in the law, the pro se litigant is far more prone to making errors in pleading than the person who benefits from the representation of counsel. Indeed, the Supreme Court has held that allegations of a pro se complaint are held to less stringent standards than formal pleadings drafted by lawyers. *Haines v. Kerner,* 404 U.S. 519, 520-21, 92 S.Ct. 594, 595-96, 30 L.Ed.2d 652 (1972) (Per Curiam); *see also Maurer v. Individually and as Members of Los Angeles County Sheriff's Dept.,* 691 F.2d 434, 437 (9th Cir.1982); *Gillespie v. Civiletti,* 629 F.2d 637, 649 (9th Cir.1980).

The requirement that courts provide a pro se litigant with notice of the deficiencies in his or her complaint helps ensure that the pro se litigant can use the opportunity to amend effectively. Without the benefit of a statement of deficiencies, the pro se litigant will likely repeat previous errors. This is equally true for the pro se litigant who amends his complaint at his own instance without any guidance from the court. Amendments that are made without an understanding of underlying deficiencies are rarely sufficient to cure inadequate pleadings.

IN CONCLUSION

The plaintiff has alleged significant facts to survive a motion to dismiss. The plaintiff files this motion to amend her complaint for the *first time* with permission of this court the motion ask to add two additional causes of action tortious interference with employment and business relationship/*legal malice* and based on the forgoing well established law.

Courts are required to allow amendments of complaints especially for pro se plaintiffs. The pro se is not asking this court for special favors what she asks for is a fair and just hearing and that she be allowed to amend and the courts be as lenient with her as they have been with the defense attorneys by freely allowing amending in order form her obtain justice in these courts.

The Plaintiff is the master of her complaint and she dropped Nationwide and Titan under the approval by the court she could sue them later and working with the Defendant's attorney she agreed to drop both Nationwide and Titan from the initial complaint however the court upon review of the filed Order will note that she did not give up her rights to bring claims against these defendants in the future if the need arose.

Respectfully Submitted by,[3]

Glenda R. Couram
Pro se Plaintiff
104 Macaw Lane
Lexington, South Carolina 29073
(803) 358-0127
grcouram@hotmail.com

Dated this 4th day of December 2017
Lexington County, South Carolina

[3] I ask the court to please forgive any typos or grammatically errors.

STATE OF SOUTH CAROLINA)	IN THE COURT OF COMMON PLEAS
)	FOR THE FIFTH JUDICIAL CIRCUIT
COUNTY OF RICHLAND)	CASE NO.: 2017-CP-40-04048
)	
Glenda R. Couram)	
Plaintiff,)	
vs)	
)	
Nationwide Mutual Insurance Company,)	SUMMONS
Titan Indemnity Company,)	
Eugene Matthews, in his individual capacity)	
dba Sherwood's Plumbing Services, LLC[4])	
Sherwood F. Tidwell, Owner/Oper./Agent)	
#30530 and Beatrice Tyree Tidwell)	
Tracy Peer and Mark Skurko, in their)	
individual and official capacities)	
Defendants.)	JURY TRIAL DEMANDED
)	

TO THE DEFENDANTS ABOVE NAMED:

YOU ARE HEREBY SUMMONED and required to answer the amended complaint herein, a copy of which is herewith served upon you, and to serve a copy of your answer to this complaint upon the subscriber, at the address shown below, within thirty (30) days after service hereof, exclusive of the day of such service, and if you fail to answer the complaint, judgment by default will be rendered against you for the relief demanded in the complaint.

Respectfully submitted by:

Glenda R. Couram
104 Macaw Lane
Lexington, SC 29073
grcouram@hotmail.com
803 358-0127

Dated this 4th, day of December 2017
Lexington County, South Carolina

[4] 16 Jade Street, LLC v. R. Design Const. 398 S.C. 338 (2012); 728 S.E.2d 448; This case presents the novel question of whether a member of a limited liability company can be held personally liable for torts committed while acting in furtherance of the company's business. We hold the General Assembly did not intend the LLC act to shield a member from liability for his own torts

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STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

IN THE COURT OF COMMON PLEAS

CIVIL ACTION NO: 2017-CP-40-04048

Glenda R. Couram,

Plaintiff,

vs.

Nationwide Mutual Insurance Company, Titan Indemnity Company, Eugene Matthews, in his *in his individual capacity, Sherwood Plumbing* SVC, LLC, dba and Beatrice T. Tidwell, Rick Skurko in his official and individual capacity and Tracey Peer, in her official and individual capacity

Defendants.

PLAINTIFF MOTION TO RECONSIDER

PLAINTIFF'S MOTION TO RECONSIDER RULE 59(E) AND RECONSIDER ALLOW PLAINTIF TO AMEND COMPLAINT PER RULE 15(a)

This action is currently before the Court on Defendants' Nationwide Mutual Insurance Company's ("Nationwide") and Defendant Titan Indemnity Company's ("Titan") (hereinafter collectively "the insurers"); Rick Skurko and Tracy Peer Motion to Dismiss Plaintiff's claims against them pursuant Rule 12(b)(6), SCRCP and Motion for Judgment on the Pleadings and Motion to Dismiss per Defendant Matthews; Sherwood Plumbing Service, LLC and Beatrice T. Tidwell. A Motion to Dismiss hearing was conducted on February 12, 2018 before Judge Cooper. Appearing for Nationwide Mutual Insurance Company and Titan Indemnity Company was J.R. Murphy, Esquire; Defendant Eugene Matthews appeared pro se and appearing for Sherwood Tidwell Plumbing Service and Beatrice T. Tidwell is Jescelyn Spitz, Esquire.

As of the May 3, 2018, the date of this Motion to Reconsider the Plaintiff has not been served with a written, signed hard copy of the Judge's Order from Judge Cooper, from the Clerk of Court or the Defendants. As required under Rule 58. Plaintiff contacted the Judge to inform

him that when she was notified of the ruling she was going to file this motion and once response received a Notice of Appeal, however, to ensure timely response I am filing this motion now. And will send to Judge Cooper via email as he requested.

Pro se Plaintiff has ***not*** received a written notice of the Order from Judge Cooper or the Clerk of Court. See *Canal Ins. Co. v. Caldwell,* 338 S.C. 1, 524 S.E.2d 416 (Ct.App. 1999). *Coon v. Coon,* 356 S.C. 342, 588 S.E.2d 624 (Ct.App. 2003), *aff'd on other grounds* 364 S.C. 563, 614 S.E.2d 616 (2005); *Gallagher v. Evert,* 353 S.C. 59, 577 S.E.2d 217 (Ct.App. 2003). *South Carolina Dept. of Social Serv. v. Dowdle,* Op. No. 2015-UP-463 (S.C. Ct.App. filed Sept. 22, 2015). *Overland, Inc. v. Nance*, Op. No. 2016-UP-368 (S.C. Ct.App. filed July 20, 2016).

The pro se is at a complete disadvantage and could be sitting and waiting to hear the decision on a Motion from a judge and time passes thus her right to appeal is denied because she never received a signed, written entry of the order providing the dates necessary to appeal, etc., despite the Judge himself told the pro se to maintain contact via email as provided for under Rule 58 a right freely provide to the defendants

Plaintiff contacted Judge's Law Clerk via email the method Judge Cooper established during the Motion hearing who stated the Clerk of Court was responsible for sending the written Order for service triggering the time for the Motion to Reconsider to be filed. As pro se this Plaintiff has not had a good outcome with the Clerk's Office, there is a great deal of distain toward pro se Litigants in the Courts of South Carolina during the Plaintiff forced need to utilize the legal system as constitutionally given to all citizens.

The pro se has not received Equal Protection as required under the Declaration of Rights for the State of South Carolina Article 3 and under the constitution of United States Fourteenth Amendment; so fears contacting them regarding this matter so she is going to go ahead and file

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this Motion to Reconsider to preserve her rights to file the 59 Motion and to ensure timeliness of the Appeal in the above matter.

1. THE DEFENDANTS NAMED IN INITIAL SUMMONS AND COMPLAINT:

1. Beatrice T Tidwell,
2. Sherwood Tidwell Plumbing Service, LLC,
3. Nationwide Insurance Company,
4. Titan Indemnity and
5. Eugene Matthews

2. DEFENDANTS NAMED IN THE AMENDED COMPLAINT FILED AS A RIGHT UNDER Rule 15(a) — A party may amend his pleading once as a matter of course at any time *before a responsive pleading is served* and prior to entry of an order of dismissal or, if the pleading is one to which no responsive pleading is permitted and the action has not been placed upon the trial calendar, he may so amend it at any time within 30 days after it is served.

1. Beatrice T Tidwell, **not named** in the previous action per court records
2. Sherwood Tidwell Plumbing Service, LLC, **not named** in the previous actions per court records
3. Nationwide Insurance Company, **not named** in the previous action per court records
4. Titan Indemnity, **not named** in the previous action per court records
5. Eugene Matthews, **not named** in the previous actions per court records

3. DEFENDANTS NAMED IN THE AMENDED COMPLAINT - December 4, 2017 REQUIRING COURT APPROVAL OR DEFENDANTS IF THEY PROVIDED IT BY MOTION -- a party may amend his pleading only by leave of court or by written consent of the adverse party; and leave shall be *freely given when justice so requires*:

1. *Beatrice T. Tidwell*
2. Sherwood Tidwell Plumbing Service, LLC
3. Nationwide Insurance Company
4. Titan Indemnity
5. Eugene Matthews
6. Tracy Peer
7. Rick Skurko

Additional Cause of Action Per Rule 15 - Amended Complaint

8. Plaintiff requested to add additional cause of action of Tortious Interference with Employment.

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Under this Motion to Reconsider the Plaintiff realleges all causes of action and realleges the Defendants named in this action because it appears the court has left off defendants named by the Plaintiff and the listed causes of action to preserve her rights for appealing this matter before the higher courts against the named defendants in her complaint and her listed causes of action for a ruling by the trial judge.

4. SOUTH CAROLINA COLLATERAL ESTOPPEL AND RES JUDICATA

Under the doctrine of collateral estoppel, the judgment in the prior suit would preclude relitigation *of issues actually litigated* and necessary to the outcome of the first action. 1B J. Moore, Federal Practice § 0.405[1], pp. 622-624 (2d ed. 1974). "Collateral estoppel/ issue preclusion prohibits the relitigation of issues that have been adjudicated in a prior action."

> Four elements must be proven by the Defendants in order to invoke collateral estoppel: (1) the issue at stake must be **identical** to the one involved in the prior litigation; (2) the issue must have been **actually litigated** in the prior suit; (3) the determination of the issue in the prior litigation must have been a **critical and necessary part of the judgment in that action.**

The defendants in this case has not met that burden this motion to dismiss should have been denied based on Collateral estoppel and res judicata.

The claims in this actions is for intentional infliction of emotional distress and negligent infliction of emotional distress; negligent entrustment and vicarious liability; civil conspiracy; tortious interference with employment by a third party.[1]

Stone v Road Express, (SC Sup Ct 2006) "Res judicata requires three elements be met: 1) a final, valid judgment on the merits; 2) identity of parties; and 3) the second action must involve matters properly included in the first suit. E.g. *Latimer v. Farmer*, 360 S.C. 375, 602 S.E.2d 32 (2004)."

[1] The plaintiff also had a right to make a living that is everyone's right in this country and the defendant took that right away from her and then with intent ensured she was also financially destroyed by placing a wedge and maintaining that wedge between her and employer resulting her termination.

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issues which might have been raised in the former suit." *Id.* at 34, 512 S.E.2d at 109 (citations omitted).

In *Plum Creek*, we also recognized that simply seeking a different remedy in the second lawsuit for the same cause of action does not negate the identical nature of the subjects of the two actions. *Plum Creek Dev. Co.*, 334 S.C. at 35 n. 4, 512 S.E.2d at 109 n. 4. We explained that "[a] claim for damages is a claim for relief rather than an assertion of a different cause of action for purposes of determining the applicability of res judicata." *Id.* at 35, 512 S.E.2d at 109 (quoting 46 Am.Jur.2d *Judgments* § 536 (1994)). Furthermore, we noted that "for purposes of res judicata, `cause of action' is not the form of action in which a claim is asserted but, rather the `cause for action, meaning the underlying facts combined with the law giving the party a right to a remedy of one form or another based thereon.'" *Id.* at 36, 512 S.E.2d at 110 (quoting 50 C.J.S. *Judgment* § 749 (1997)).

Because this conceptual framework is fundamentally sound, we take this opportunity to definitively rule that the four tests previously used by our appellate courts should be considered merely as factors rather than rigid, independent tests.[8] We believe this approach effectuates the fundamental purpose of *res judicata*, which is to ensure that "no one should be twice sued for the same cause of action." *First Nat'l Bank of Greenville v. U.S. Fid. & Guar. Co.*, 207 S.C. 15, 24, 35 S.E.2d 47, 56 (1945).'

However, res judicata and collateral estoppel "have been subjected to exceptions to their application." *Mr. T*, 378 S.C. at 137, 662 S.E.2d at 418. These "preclusive doctrines are `not to be rigidly or mechanically applied and must[,] on occasion, yield to more fundamental concerns.'" *Id.* at 138, 662 S.E.2d at 419 (quoting *People v. Plevy*, 52 N.Y.2d 58, 436 N.Y.S.2d 224, 417 N.E.2d 518, 521 (1980)). Collateral estoppel or res judicata "may be precluded [when] unfairness or injustice results, or public policy requires it." *Carrigg v. Cannon*, 347 S.C. 75, 81, 552 S.E.2d 767, 770 (Ct. App. 2001) (citing *State v. Bacote*, 331 S.C. 328, 331, 503 S.E.2d 161, 163 (1998)).

Res judicata's fundamental purpose is "to ensure that `no one should be twice sued for the same cause of action.'" Judy v. Judy, 393 S.C. 160, 173, 712 S.E.2d 408, 414 (2011) (internal citation omitted). Res judicata bars a second suit where there is (1) identity of parties; (2) identity of subject matter; and (3) adjudication of the issue in the first suit. Judy, at 412, 712 S.E.2d at 167. The evidence supports the Master's conclusion that res judicata settles the title issue as between the State and appellant. See Yelsen Land Company, Inc., v State, (SC Sup Ct 2012).

It is clear in the caption, Plaintiff is not suing the same Defendant, nor is she suing for the same causes of action; nor have any court ruled on these causes of action or injuries. Therefore,

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res judicata nor collateral estoppel is applicable in this matter and the Plaintiff 's claims should not be dismissed. The decision does not apply the correct well established laws of the SC Supreme Court, SC Court of Appeals, sister courts and the US Supreme Court to do so deprived this plaintiff of equal justice, injustice and show prejudice and bias towards this pro se.

5a. OTHER SISTER COURTS - COLLATERAL ESTOPPELL AND RES JUDICATA

Res Judicata does not prevent the plaintiff from bringing claims of intentional infliction of emotional distress, negligent infliction of emotional distress, negligent entrustment and vicariously liability claims against Sherwood Tidwell Plumbing Service and Beatrice Tidwell.

Foreman v. Foreman, 144 N.C.App. 582, 587, 550 S.E.2d 792, 796, *disc. review denied,* 354 N.C. 68, 553 S.E.2d 38 (2001); *see also State ex. rel. Tucker v. Frinzi,* 344 N.C. 411, 413-14, 474 S.E.2d 127, 128 (1996) ("For *res judicata* to apply, a party must show that the previous suit resulted in a final judgment on the merits [and] *that the* ***same cause of action is involved*** [.]" (emphasis added)).

Collateral estoppel is a companion doctrine of *res judicata* and serves to promote judicial efficiency and to protect litigants from having to relitigate issues that were previously decided. *Bockweg,* 333 N.C. at 491, 428 S.E.2d at 161. For purposes of collateral estoppel, "the prior judgment serves as a bar *only as to issues actually litigated* and determined in the original action." *City of Asheville v. State,* 192 N.C.App. 1, 17, 665 S.E.2d 103, 117 (2008) (quotation marks omitted) (emphasis in original), *disc. review denied,* 363 N.C. 123, 672 S.E.2d 685 (2009).

"Under the doctrine of res judicata or 'claim preclusion,' a final judgment on the merits in one action precludes a second suit based on the same cause of action between the same parties or

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Further, the doctrine of collateral estoppel does not apply. "Collateral estoppel prevents a party from relitigating in a subsequent suit an issue actually and necessarily litigated and determined in a prior action." *Jinks v. Richland County*, 355 S.C. 341, 585 S.E.2d 281 (2003). Respondent's entitlement to benefits following Stone's death was neither actually litigated in the first action, nor was the entitlement issue necessary to the resolution of the amount of benefits dispute.

> 'In Judy v Judy, 712 SE, 2d (SC Sup Ct 2011) In order for *res judicata* to operate as a bar to James's lawsuit for waste, the following elements needed to be proven: (1) identity of the parties; (2) identity of the subject matter; and (3) adjudication of the issue in the former suit. *Riedman Corp. v. Greenville Steel Structures, Inc.*, 308 S.C. 467, 419 S.E.2d 217 (1992).
>
> Our courts, however, have found that the doctrine of *res judicata* is not an "ironclad" bar to a later lawsuit. *Garris v. Governing Bd. of the South Carolina Reinsurance Facility*, 333 S.C. 432, 449, 511 S.E.2d 48, 57 (1998).
>
> Significantly, the *Restatement (Second) of Judgments* has recognized exceptions to the application of this doctrine.[5] *See Restatement (Second) of Judgments* § 26 (1982 & Supp.2011); *id.* (noting in commentary that section 26 "presents a set of exceptional cases in which, after judgment that would otherwise extinguish the claim under the rules of merger or bar..., the plaintiff is nevertheless free to maintain a second action on the same claim or part of it.").
>
> Although there is no dispute in our jurisprudence regarding the three elements of *res judicata*, our courts have utilized at least four tests in determining whether a claim should have been raised in a prior suit.[7] Because a determination 172*172 of whether *res judicata* precludes a subsequent suit cannot be reduced to a formulaic process, we decline to adopt or attempt to define a single standard. *See Aliff v. Joy Mfg. Co.*, 914 F.2d 39, 43 (4th Cir.1990) ("There is no simple test to determine what constitutes the same cause of action for res judicata purposes. Each case presents different facts that must be assessed within the conceptual framework of the doctrine.").
>
> Instead, we reiterate and rely on the conceptual framework recognized in *Plum Creek Dev. Co. v. City of Conway*, 334 S.C. 30, 512 S.E.2d 106 (1999), wherein we stated: Res judicata bars subsequent actions by the same parties when the claims arise out of the same transaction or occurrence that was the subject of a prior action between those parties. Under the doctrine of res judicata, "[a] litigant is barred from raising any issues which were adjudicated in the former suit and any

their privies." *Whitacre P'ship v. Biosignia, Inc.*, 358 N.C. 1, 15, 591 S.E.2d 870, 880 (2004) (citations omitted).

"Res judicata, or claim preclusion, prevents relitigation of the same *cause of action in a second suit* between the same parties or parties in privity with them." (*Mycogen Corp. v. Monsanto Co.* (2002) 28 Cal.4th 888, 896 [123 Cal.Rptr.2d 432, 51 P.3d 297].) The doctrine applies when (1) the issues decided in the prior adjudication are identical with those presented in the later action; (2) there was a final judgment on the *merits in the prior action*; and (3) the party against whom the plea is raised *was a party* or was in privity with a party to the prior adjudication. (*Pollock v. University of Southern California* (2003) 112 Cal.App.4th 1416, 1427 [6 Cal.Rptr.3d 122].) The party asserting issue preclusion bears the burden of establishing these requirements. (*Lucido v. Superior Court* (1990) 51 Cal.3d 335, 341 [272 Cal.Rptr. 767, 795 P.2d 1223].)

The defendants' Orders and conclusions, echoed by the court or apply the standard necessary afford a pro se litigant, it does not accept factual allegation a being true which a court must do in determining whether to grant a Motion to Dismiss.

The Defendants also cannot show they were a party to the previous action; they cannot show privity, they cannot show the same causes of action was fully adjudicated on the merits in the previous actions, and they certainly cannot show they were brought before in the previous actions.

This Dismissal based on collateral estoppel and res judicata must be reversed.

6. PRO SE STANDARD

This pro se has been repeatedly denied access to the courts, she have repeatedly been held to a *greater standard so high that superman cannot not fly over and such a high standard not*

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provided for under Rule 8.[2] *Such a high standard* that is condemned by the United States Supreme Court; *such a high standard* that the defendants have decided that she must be denied all constitutional rights and access to the courts for merely seeking justice under Rule 11 and the judges are freely willing to grant or sign these Orders or make implication that the Plaintiff have been making a habit of filing frivolous and unjustifiable complaints that could be sanctionable. A day will come when a judge will simply sign away a pro se's constitutional rights at the hand of a defense attorney who had decided he or she has no rights to the courts, if what has been happening with this pro se is any indication.

See *Elmore v McCammon*, 640 F. Supp. 905 (1986) "the right to file a lawsuit pro se is one of the most important rights under the constitution and laws." "Pro se pleadings are to be considered without regrd to technicality; pro se litigants pleadings are not to be held to the same high standards of perfection as lawyers *Jenkins v McKeithen*, 395 U.S. 411, 421 (1959); *Picking v Pennsylvania R. Co.*, 151 Fed 2nd 240; *Pucket v Cox, 456 2nd 233*;

"Pleadings are intended to serve as a means of arriving at far and just settlements of controversies between litigants. They should not raise barriers which prevent the achievement of that end. Proper pleading is important, but its importance consists in its effectiveness as a means to accomplish the end of a just judgment." "There can be no sanctions or penalty imposed upon one because of his exercise of Constitutional Rights." Sherar v Cullen, 481 F. 2d 946 (1973)

Rule 801, See *Handy v. PPG Indus.*, 154 N.C.App. 311, 571 S.E.2d 853 (2002) (emphasizing the importance of neutrality and impartiality of any tribunal in maintaining the

[2] For example, being denied having her medical records and bills being presented before as jury under Rule 803(6)(8) et.al., were business records *are not* considered hearsay and are allowed before a jury especially when they are from a custodian of record when considering a case for damages and in not allowing the jury access to those records left to *speculate* as to damages which is also against the rules of court. *See Stevens v Allen*, 520 SE. 2d (SC Ct App 1999);*State v Forte*, 629 SE 2d 137 (NC Sup Ct 2006)

As the Plaintiff does not have the Order she will preserve all matters in the Motion to Dismiss that was not ruled by the judge in order to reserve these issues for Appeal

1. Plaintiff's Motion to Amend her Compliant under Rule 15(a) to *add two defendants*, clarify claims *and add additional* cause of action for all Defendants

2. Plaintiff's Cause of Actions of Tortious Interference in Employment and Contract For all Defendants

3. Plaintiff's Motion to add two new Defendants named in the Amended Complaint
4. Plaintiff's cause of Action of Negligent Infliction of Emotional Distress For all Defendants

5. Plaintiff's cause of Action for Intentional Infliction of Emotional Distress For all Defendants

6. Plaintiff's cause of Action for Negligent Entrustment Respondent – Sherwood Tidwell Plumbing Service, LLC and Beatrice Tidwell For all Defendants

7. Plaintiff's cause of Action for Civil Conspiracy with Special Damages. For all Defendants

9. **PLAINTIFF SHOULD BE ALLOWED TO AMENDED COMPLAINT RULE 15(a)**

Rule 15(a), SCRCP, provides in relevant part that "a party may amend his pleading only by leave of court or by written consent of the adverse party; and *leave shall be freely given* when justice so requires and does not prejudice any other party." Rule 15(a), SCRCP. "The prejudice Rule 15 envisions is a *lack of notice that the new issue is going to be tried*, and *a lack of opportunity to refute it.*" *Parker v. Spartanburg Sanitary Sewer Dist.*, 362 S.C. 276, 286, 607 S.E.2d 711, 716-17 (Ct.App.2005).

It is well established that the decision whether to grant or deny a Rule 15(a) motion is within the sound discretion of the trial judge, and that "the party opposing the motion has the burden of establishing prejudice." *Foggie v. CSX Transportation, Inc.*, 313 S.C. 98, 103, 431 S.E.2d 587, 590 (1993); *City of North Myrtle Beach v. Lewis-Davis*, 360 S.C. 225, 232-33, 599

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integrity of our judicial and quasi-judicial processes). See *Wade v Carolina Brush Mfg. Co.*, 652 SE 2d 713 (NC Ct App 2007);

House Healers Restoration, Inc. v Ball, 437 SE 2d 383 (NC Ct Apps 1993) "abuse of discretion to deny leave to amend "without any justifying reason appearing for the denial." *Gladstein v. South Square Assoc.*, 39 N.C.App. 171, 178, 249 S.E.2d 827, 831 (1978), *disc. rev. denied*, 296 N.C. 736, 254 S.E.2d 178 (1979); *Coffey v. Coffey*, 94 N.C.App. 717, 722, 381 S.E.2d 467, 471 (1989), *disc. rev. improvidently allowed*, 326 N.C. 586, 391 S.E.2d 40 (1990); *Coble Cranes & Equip. Co. v. B & W Utilities, Inc.*, Ill N.C.App. 910, 913, 433 S.E.2d 464, 465 (1993). A "justifying reason" must be either declared by the trial court or apparent from the record. *Banner v. Banner*, 86 N.C.App. 397, 400, 358 S.E.2d 110, 111 (1987), *overruled on other grounds by Stachlowski v. Stach*, 328 N.C. 276, 401 S.E.2d 638 (1991). In this case, there is no declared reason for denying the motion to amend the answer. Thus, the question is whether there are any justifying reasons apparent from the record. "Justifying reasons" approved by our courts include "undue delay, bad faith, dilatory motive, repeated failure to cure deficiencies, undue prejudice and futility of the amendment." *Coffey*, 94 N.C.App. at 722, 381 S.E.2d at 471.

While it's understandable that the Plaintiff has to follow the procedures rules and requirements as to filings, court dates, etc., it is another matter when her complaints are not even looked at by the Judges assigned instead the Judges allow defense attorneys to be judge and jury because they do not want to be bothered with a pro se regarding of the merits of her claims and injury/damages imposed on her by defendants who can afford or obtain attorneys. This is a fundamental unfair act that does not ensure substantial justice. This court must deny the Defendants motion to dismiss because the plaintiff has done all that is required at this stage of the proceedings.

7. THE PLEADING REQUIREMENTS IN THE STATE OF SOUTH CAROLINA UNDER RULE 8:

> **(a) Claims for Relief.** A pleading which sets forth a cause of action, whether an original claim, counterclaim, cross-claim, or third-party claim, shall contain (1) a short and plain statement of the grounds including facts and statutes upon which the court's jurisdiction depends, unless the court already has jurisdiction to support it, (2) a short and plain statement of the facts showing that the pleader is entitled to relief, and (3) a prayer or demand for judgment for the relief to which he deems himself entitled.....

Plaintiff under Rule 8 is not required to prove her case at the pleading stage. She is merely required to provide a short and plain statement per South Carolina Pleading standard. This court has required and held this Plaintiff to a *greater pleading standard than its own rules require*; she has been held to a higher *pleading* standard/hurdle than the entire legal community which is the opposite action according to well established law in dealing with a pro se litigant to ensure equal protection and justice and right to be heard in these courts; a higher standard than the entire United States Justices.

It was unjust and unfair to require this pro se write her own Order and then gave the *three attorneys* (Spitz, Murphy, and Matthews (proceeding pro se)) the right to be judge and jury - instead of applying the laws and judicial integrity given to him by the citizens and the courts.

It is also unfair and unjust to require this plaintiff to prove her compliant which is not required of no other in filing a complaint in this court.

8. STANDARD OF REVIEW ON A RULE 59(e) Motion

A Court may grant a motion to alter or amend a final judgment under Fed.R.Civ.P. 59(e) if the movant points to evidence in the record which clearly establishes manifest error of law or fact, or to prevent manifest injustice. Raise all issues you want preserved in the initial post trial motion. If the judge rules on all issues, do not file a Rule 59(e) motion. 2. If the judge does not rule on all issues raised in the initial motion, you must file a Rule 59(e) motion. But only list the issues not originally ruled on.

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S.E.2d 462, 465 (Ct. App. 2004); Pruitt v. Bowers, 330 S.C. 483, 499 S.E.2d 250, 253 (Ct. App. 1998).

Rule 15(a), SCRCP, requires that leave to amend be freely granted in the absence of prejudice to the Defendants. See *Parker*, 362 S.C. at 286, 607 S.E.2d at 716, particular when dealing with pro se litigants.

[T]he general rule is that leave to amend a complaint under Federal Rule of Civil Procedure 15(a) should be freely given, *see Foman v. Davis*, 371 U.S. 178, 182 (1962), unless "the amendment would be prejudicial to the opposing party, there has been bad faith on the part of the moving party, or the amendment would have been futile," *Laber v. Harvey*, 438 F.3d 404, 426 (4th Cir. 2006) (internal quotation marks omitted)."

See *Steinburg v. Chesterfield County Planning Com'n*, 527 F.3d 377, 390 (4th Cir. 2008). "It is this Circuit's policy to liberally allow amendment in keeping with the spirit of [Fed. R. Civ. P.] 15(a)." *Galustian v. Peter*, 591 F.3d 724, 729 (4th Cir. 2010) (*citing Coral v. Gonse*, 330 F.2d 997, 998 (4th Cir. 1964)). "*Motions to amend are typically granted in the absence of an improper motive, such as undue delay, bad faith, or repeated failure to cure a deficiency by amendments previously allowed.*" *Harless v. CSX Hotels, Inc.*, 389 F.3d 444, 447 (4th Cir. 2004) (*citing Ward Elec. Serv., Inc. v. First Commercial Bank*, 819 F.2d 496, 497 (4th Cir. 1987)). This presumption is especially strong where the plaintiff "had not yet amended as of right and the defendant had not filed a responsive pleading." *Galustian*, 591 F.3d at 730 (holding that denial of motion to amend complaint constituted an abuse of discretion).

The proposed amended complaint before the court does not prejudice the Defendants. "Plaintiff[] simply seek[s] to add specificity to [its] allegations in a situation where defendants are aware of the circumstances giving rise to the action." *Matrix Capital Management Fund, LP*

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v. BearingPoint, Inc., 576 F.3d 172, 195 (4th Cir. 2009) (*citing Edwards v. City of Goldsboro*, 178 F.3d 231, 243 (4th Cir.1999) (noting that merely adding specificity to allegations generally does not cause prejudice to the opposing party); *Davis v. Piper Aircraft Corp.*, 615 F.2d 606, 613 (4th Cir.1980) ("Because defendant was from the outset made fully aware of the events giving rise to the action, an allowance of the amendment could not in any way prejudice the preparation of defendant's case.")) (additional citation omitted). The legal claims presented in the proposed First Amended Complaint are virtually identical to those presented in the original Complaint and thus do not prejudice the Defendants.

The proposed amendment is hardly futile. The proposed First Amended Complaint merely pleads facts that cure the facial deficiencies in Plaintiff's original complaint.

In light of the settled Supreme Court and Fourth Circuit precedent liberally applying the dictate of Fed. R. Civ. P. 15(a)(2) that "[t]he court should freely give leave when justice so requires."

Plaintiff respectfully requests that this court reverse its order Dismissing Request to Amend complaint and allow discovery at which time after the defendants can move for summary judgment or directed verdict if in fact this plaintiff cannot prove her claims against each defendant and *allow her freely* to amended as there is no prejudice to the defendants in doing so.

10. PLAINTIFF SHOULD HAVE BEEN ALLOWED TO AMEND THE COMPLAINT TO ADD A CLAIM FOR TORTIOUS INFERENCE WITH EMPLOYMENT RELATIONSHP[3] AND ADD TWO ADDITIONAL DEFENDANTS

Whether or not the defendants were liable under tortious interference with Plaintiff's employment is as Plaintiff understands a *question for a jury* as it is one a novel question not

[3] *Webb Builders, LLC v. Jones,* January 24, 2002 (unpublished), The Court held that this tort does not require a showing of of force, or threat, or intimidation, and also that it does not require independently *tortious conduct*

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heard in the courts of South Carolina the holding a claims adjuster individually liable for failing to settle with a plaintiff they admitted liable for but refused to settle the claim even though they were presented with the medical records and bills resulting from the accident even encouraging the plaintiff to continue treatment until she was 100 percent or as good as she would get given the injuries suffered. They repeatedly contacted the plaintiff employer about a matter that was not related to the employer is also a question that should have been put before a jury. There is a multitude of evidence that the defendants repeatedly contacted the plaintiff's employer up and until she was terminated for cause due to an "anonymous call" on March 7, 2017 that was the "cause" used by the employer to terminate the Plaintiff. Even after termination.

Gecy v South Carolina Bank & Trust (SC Ct App. 2018) - "To establish a cause of action for tortious interference with contractual relations, a plaintiff must show: 1) the existence of a contract; 2) knowledge of the contract; 3) intentional procurement of its breach; 4) the absence of justification; and 5) resulting damages." *Eldeco, Inc. v. Charleston Cty. Sch. Dist.*, 372 S.C. 470, 480, 642 S.E.2d 726, 731 (2007). "[A]n action for tortious interference protects the property rights of the parties to a contract against unlawful interference by third parties." *Dutch Fork Dev. Grp. II, LLC v. SEL Properties, LLC*, 406 S.C. 596, 604, 753 S.E.2d 840, 844 (2012) (quoting *Threlkeld v. Christoph*, 280 S.C. 225, 227, 312 S.E.2d 14, 15 (Ct. App. 1984)).

Plaintiff in her complaint alleged that the defendants named was aware of existing employment 10.8 years with the State of South Carolina/SCDMV (Department); had knowledge of the relationship; that they intentionally procured the breach of the relationship with help of third parties without justification resulting in damages.

The elements to bring the claim of tortious interference in employment relationship are 1) knowledge of the contract employment which defendants had because they contacted the

employer frequently and twice to subpoena the plaintiff's employments records once in 2016 and then in 2017, worked with the attorney for the Department (Matthews), after her termination, they maintained a relationship with the attorney for the employer, Eugene Matthews, who was in the courtroom on the day of the trial – a spur of the moment trial along with the employer's Employees Relations Manager Heather Martin after the plaintiff had been terminated. There is documented evidence of emails, subpoenas and testimony of Heather Martin who testified she knew nothing of the Plaintiff as she had just been employed in January 2017, yet she was present in the courtroom acting outside the scope of her employment along with Matthews abusing power bestowed upon them by the State of South Carolina to harm the Plaintiff physically, mentally and financially.

Each claimed they were present representing SCDMV and the State of South Carolina in a matter that did not involve the Department or the State of South Carolina the action was calculated just to harm the plaintiff physically, mentally and financially.

Plaintiff claims for tortious interference with employment contract should not have been dismissed and allowed to proceed to discovery/trial as it is a question for a jury and enough facts were alleged that should have been taken as true. The court went against well established law when it relied on the Orders and conclusions by the Defendants in granting a Motion to Dismiss.

See, e.g., Camp v. Spring Mortg. Co., 310 S.C. 514, 517, 426 S.E.2d 304, 305 (1993); *Todd v. S.C. Farm Bureau Mut. Ins. Co.*, 287 S.C. 190, 192-93, 336 S.E.2d 472, 473 (1985). Consequently, damages for tortious interference of contract "are not measured by contract rules." *Collins Music Co., Inc. v. Smith*, 332 S.C. 145, 147, 503 S.E.2d 481, 482 (Ct. App. 1998) (quoting *Ross v. Holton*, 640 S.W.2d 166 (Mo. Ct. App. 1982)).

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The plaintiff alleged in her Amended Complaint that her employment for 10 years was damaged by a third party (the defendants) who acted in an improper manner to interfere with the relationship "doubt as to whether an employee was acting within the scope of his employment, the court held, then the issue should be resolved by the jury, not decided by the judge prior to trial. Williams v. Autozone Stores, Inc., Dist. Court, ED Virginia 2009; Todd v. SC Farm Bureau Mutual Ins. Co., 336 SE 2d 472 - SC: Supreme Court 1985.

Allowing the Plaintiff to amend her Complaint to add a claim of Tortious Interference with her employment would not have been futile because the Plaintiff complied with Rule 8 and the defendants would have faced no prejudice in allow the claim Rule 15.

A jury could have determined by the actions of Matthews (Martin was acting outside the scope of her employment as the plaintiff was no longer with the Department); that with the evidence submitted that he had a personal vendetta against the plaintiff and he deliberately interfered with her employment as a third party eliciting the help of Martin and he did so with legal malice to harm the Plaintiff. In a documented letter Martin stated that she outside the normal operating procedure of the State and Department deliberately contacted the "opposing" attorney involving the auto accident to ask about the Plaintiff's use of FMLA, she did not contact the Plaintiff's supervisor or Manger (who had never spoken to the Plaintiff about abuse of FMLA since she had been approved yearly since 2009) and in doing procured the "just cause" that resulted in Plaintiff's termination April 3, 2017. She followed up that abuse of the Plaintiff by showing up for the July trial were no witnesses were expected along with Matthews before Judge Newman who had a relationship with Matthews and the Department and failed to discuss.

Whether or not the defendants' actions precipitated provided the cause to terminated plaintiff interest in her employment is a question of fact to be resolved by the jury. *See* (5th Ed.

1984). Matthews outside court documents has referred to the Plaintiff "as being divorced from reality" a fact that he made to the SC Human Affairs Commission investigator. This is a fact that can be proven by FOIA, discovery and direct testimony – this establishes a name, date, when, where and how.

The court was required to accept the factual allegations of the Plaintiff as true not the conclusions made by the defendants in the "Orders" used by the Judge to dismiss this action and denying the amending of this action. See *Kinard v. Crosby*, 315 S.C. 237, 240, 433 S.E.2d 835, 837 (1993). See *Crandall Corp. v. Navistar Int'l Transp. Corp.*, 302 S.C. 265, 266, 395 S.E.2d 179, 180 (1990).

There is no question the plaintiff had more than a slight chance of succeeding in this claim which would not allow a dismissal and the court should have denied the motion to dismiss. Not only was the Plaintiff prejudice by this ruling. Allowing learned attorneys to do the research and the job of the judge in this matter against a pro se litigant was unjust, prejudicial and against the constitution and express goals of the judiciary to ensure a fair and just hearing on merits instead the court allowed the exact opposite of the court's well established intent. Especially an officer of the Court who lied on record during the Motion hearing and tracked the plaintiff down at vocational rehab after it was disclosed to the court; factually allegations that must be taken as true allowing proving thru discovery.

11. CIVIL CONSPRIACY IS A *NOVEL QUESTION* OF LAW THAT *CANNOT* BE DISMISSED UNDER A 12(6) MOTION PURSUANT TO THIS COURTS OWN HIGHER COURT PURUSANT TO A RECENT RULING IN - *ALLEGRO, INC, V SCULLY*, 418 S.C.24, 791, S.E.2D 140 (2016)

Plaintiff did not fail to *allege special damages* and she did so clearly in the complaint separate and distinct from the other causes of action. She also alleged all elements and factual allegations required to prevent dismissal of the civil conspiracy claims.

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The issue of double jeopardy is the focus of a Civil Conspiracy claim. *See Johnson v Roberts*, (SC Ct App 2018).

"Our supreme court has cautioned that issue preservation "is not a `gotcha' game aimed at embarrassing attorneys or harming litigants." *Atl. Coast Builders & Contractors, LLC v. Lewis*, 398 S.C. 323, 329, 730 S.E.2d 282, 285 (2012).

The appeals court is free to decide this question of law with no particular deference to the lower court. See *S.C. Const. art.* V, §§ 5 and 9; S.C.Code Ann. §§ 14-3-320 and -330 (1976 & Supp.1998); S.C.Code Ann. § 14-8-200 (Supp.1998) (granting Supreme Court and Court of Appeals the jurisdiction to correct errors of law in both law and equity actions). See *Allegro, Inc. v Scully*, 418, SC 2d 791, S.E.2d 140 (2016); a need to revisit this cause of action and to abolish "Todd and its progeny."

Defendants argue that Plaintiff does not allege special damages as required by the law and her claims just repeats what has been alleged in the previous cause of actions that is simply not so. Assuming, *in arguendo*, that there is a "special damages" pleading requirement, the Original and Amended Complaint is properly pled and the Defendants' Motion to Dismiss should be denied.

First and foremost, the Amended Complaint properly alleges a claim for civil conspiracy, including special damages. Plaintiff alleges that the individual defendants, combined, schemed and planned to orchestrate an agenda to blacklist and remove the Plaintiff from her position with the Department leading to her financial ruin because she brought legal action against the defendants.

Plaintiff further alleges" that the damages sustained were special damages and different from other damages, to include legal costs, and other damages which could not have been caused

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without an unlawful civil conspiracy between the individual Defendants named herein, their positions with the Department, their authority over the Plaintiff, which each individually possessed as officers of the court, power entrusted by the State of South Carolina and the Department and they elicited the help of other third parties outside this realm to harm and ruin the plaintiff mentally and financially.

Secondly, plaintiff alleges damages for *retaliation* which is distinct and unique. Plaintiff is seeking award of damages for mental and emotional damages specifically caused by the conspiracy. Plaintiff is no longer employable the defendants used their superior knowledge and status to misapply the law and fraudulently used the court to retaliate against the Plaintiff because she sought the courts to obtain justice.

See *Allegro, Inc. v Synergetic, Inc. et al.*, Op. No. 27662 (S.C. S.Ct., filed August 24, 2016). Although the *Allegro* court found that particular case an improper vehicle for change due to that case's age and procedural posture, it is clear that there is no such pleading requirement. *Id.*

> **In *Allegro* Justice Beatty:** "..... I agree with the dissent's position advocating for this Court to overrule *Todd* and its progeny."
>
> **In *Allegro* Chief Justice Pleicones: A. Civil Conspiracy** – "I would take this opportunity to clarify the law of civil conspiracy. The definition of civil conspiracy is "the conspiring together to do an unlawful act to the detriment of another or the doing of a lawful act in an unlawful way to the detriment of another." *Charles v. Texas Co.*, 192 S.C. 82, 5 S.E.2d 464 (1939). A civil conspiracy is not actionable unless overt acts proximately damage the plaintiff. *Todd v. S.C. Farm Bureau Mut. Ins. Co.*, 276 S.C. 284, 278 S.E.2d 607 (1981) *appeal after remand* 283 S.C. 155, 321 S.E.2d 602 (Ct. App. 1984) *quashed in part on other grounds* 287 S.C. 190, 336 S.E.2d 472 (1985).
>
> After review, I agree with respondent that the *Todd* Court misread and misapplied § 33, which merely states a prohibition on double recovery, not a rule of pleading or proof: Where the particular acts charged as a conspiracy are the same as those relied on as the tortious act or actionable wrong, plaintiff cannot recover damages for such act or wrong, and recover likewise on the conspiracy to do the act or wrong.' 15A C.J.S. *Conspiracy* § 33."

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This would also make this a *Novel* question according the SC Supreme Court ruling in *Allegro, Inc. v Synergetic, Inc. et al.*, Op. No. 27662 (S. Ct., filed August 24, 2016) that makes this matter not subject to the motion to dismiss.

The third element of civil conspiracy, special damages, must be satisfied to prevent a double recovery. *Kuznick v Bess Ferry Asssoc.*, 342 S.C. 570, 610, 538 S.E.2d 15, 31 (Ct. App. 2000) "It is well-settled in South Carolina that the tort of civil conspiracy contains three elements: (1) a combination of two or more persons; (2) for the purpose of injuring the plaintiff; (3) causing plaintiff special damage. See *Future Group, II v. Nationsbank*, 324 S.C. 89, 478 S.E.2d 45 (1996); *LaMotte v. Punch Line of Columbia, Inc.*, 296 S.C. 66, 370 S.E.2d 711 (1988); *Lee v. Chesterfield Gen. Hosp., Inc.*, 289 S.C. 6, 344 S.E.2d 379 (Ct.App.1986). See also *Anthony v Ward*, 336 Fed. Appx. 311, 318 (4th Cir. 2009) (unpublished opinion attached) (interpreting South Carolina civil conspiracy law and recognizing: *"The case law makes clear that the concern is with the plaintiff receiving a double recovery"*.)

See *First Union Nat'l Bank of S.C. v. Soden*, 333 S.C. 554, 575, 511 S.E.2d 372, 383 (Ct.App.1998) (quoting *Island Car Wash, Inc. v. Norris*, 292 S.C. 595, 599, 358 S.E.2d 150, 152 (Ct.App.1987)).

Allegro, Inc. v Scully, 418 S.C. 24, 37, 791 S.E. 2d 140, 147 (2016), reh'g denied (Oct 26, 2016). Instead, Chief Justice Pleicones states that "special damages were created to prevent double recovery by a plaintiff, but were not meant to be a strict pleading burden forced upon plaintiffs. *Id.* At fn. 3. This is also the understanding in the 4th Circuit Court unpublished decision; Anthony v Ward and Sheppard, No. 07-1932 (US Court of Appeals 2009).

12. INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS *AND* NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS A NOVEL QUESTION AS TO DIRECT VICTIM

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First and far most the plaintiff does not bring this cause of action based on the previous action. The defendants named are Nationwide Insurance, Titan Indemnity, Eugene Matthews[4] in his individual capacity, Beatrice T. Tidwell, Sherwood Plumbing Service, LLC, Rick Skuro in his individual and official capacity and Tracy Peer in her individual and official capacity.

Plaintiff alleges a claim of negligent infliction of emotional distress against the defendants as direct victim of the actions of the defendants named not as a result of the car accident in 2015 and it wrong to dismiss based on a matter that is not before the court or within the four corners of the amended complaint rightfully filed pursuant to 15(a) and the amended complaint filed December 4, 2017.[5]

In previous action the Defendant was found to have owned a duty to the plaintiff; that he breached that duty, he was found guilty of causation, but for and proximate cause of the *physical injuries* suffered by the plaintiff.

Was it foreseeable that calling the police in Lexington County stating that he Plaintiff was suicidal would cause her emotional distress intentional or negligently, yes it was. Nationwide had other options available to them yet they chose to embarrass and humiliate the plaintiff with such a call and the subsequent arrival of EMS. Will this make an ordinary person exclaim "outrageous"? It should especially if they are not suicidal which the plaintiff wasn't. (Police and EMS Report).

Will standing outside the courthouse as bullies with the express intent to cause her additional emotional distress after learning that the plaintiff suffered from anxiety, panic attacks, stress and PTSD make an ordinary person exclaim outrageous? It should, especially when

[4] Matthews is not named in this action as an attorney for the State of South Carolina or for SC Department of Motor Vehicles, nor as lawyer but based on the Tort laws that makes each of us individually response for our own torts.
[5] The initial complaint is replaced by the Amended Complaint and the Plaintiff does not refer to that complaint making it completely replaced by the amended complaint

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Matthews and the Defendants knew that the plaintiff was a vocational rehabilitation client, had her medical records from the last ten years of her life, including her mental health records.

Will a defendant with malice tell a third party in authority that you are "divorced from reality" make a person exclaim outrageous? It should when it is made to the employer by the attorney and is a matter of public record not stated in a court setting make to SCHAC Investigator.[6] And then telling the court he was there as an attorney for vocational rehab a fact that was untrue and can be proven, after deliberately looking for the plaintiff make an ordinary person shut "outrageous" for actions of an officer of the court, it should.

Will repeatedly working with the plaintiff admitting liability, encouraging her to seek medical attention until she was 100 percent or close to it and when getting her medical bills and offering her less repeatedly, sending her to different claims adjusters making her believe that settle was imminent -- each agents was supposed to be over the first agent negligent and intentional infliction of emotional distress? And when the Plaintiff believes she will be dealt with fairly finally is given the same settlement offer make a jury shut "outrageous" it should.

The defendants named in this action according Torts and personal injury laws state that each of us are responsible for our own torts/wrongs inflicted on another, just as Tidwell in the previous action was held responsible. The fact that the plaintiff brought a claim against Tidwell does not prevent her bring these actions against the named defendants above for their torts committed against her. The defendants are just as responsible for the injuries and damages THEY inflicted on this Plaintiff just as Tidwell was held accountable for his actions. The laws does not limited the plaintiff right to seek justice to Tidwell alone, the named defendants in this actions caused her harm mentally, physically and mentally and she had everyone right to seek

[6] If the statement was made maliciously -- i.e., if the plaintiff can show that it was not made with a reasonable purpose or with reasonable cause, or that the speaker made the statement knowing it was false, or with a reckless disregard for the truth -- it will not be protected by a qualified privilege

justice for those wrongs inflicted against her be they intentional or negligent. South Carolina Code 15-3-530-535 at. el.,

A claim for negligent infliction of emotional distress the plaintiff suffered injuries from the actions of Tidwell. However, her complaint is not against Tidwell but against his Company, Sherwood Plumbing Service, LLC and Beatrice T. Tidwell for intentional and negligent infliction of emotional distress, negligent entrustment and vicarious liability. Tidwell was found to have be liable for the automobile accident and he was held to have been the "but for" cause of the plaintiff's injuries, direct and proximate cause of those injuries. The plaintiff claims in this action alleges that Beatrice Tidwell was in a position to know that Tidwell was operating a dangerous instrument for their livelihood for Sherwood Plumbing Services without knowing how to operate the brakes as he testified to and that she was in a position to know that he was operating that vehicle without being able to see without corrective lenses and she did nothing to prevent his operation of that dangerous instrument that caused the damages suffered by the plaintiff to this day.

Fact, Tidwell testified to his inability to see, getting prescription glasses after this accident because he was unable to see the traffic in all lanes had come to a complete stop, his failure to know how to operate the brakes of his commercial vehicle used in his business on the roads of South Carolina for Sherwood Plumbing Service, LLC. This testimony alone shows that his actions were intentional and a negligent infliction of emotional distress deliberately inflicted upon the Plaintiff.[7] These actions *were outrageous* and any one could see that fact and rule in the plaintiff's favor as whether the actions were intentional or negligent infliction of emotional distress which can be proven because the plaintiff continues to suffer to this day.

[7] Which goes well beyond the "accident" that occurred on September 15, 2015/

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A court should "consider only the allegations in the complaint, exhibits attached to the complaint, matters of public record, and documents that form the basis of a claim." *Lum v. Bank of Am.*, 361 F.3d 217, 221 n.3 (3d Cir. 2004).

See Baughman v. Am. Tel. & Tel. Co., 306 S.C. 101, 112, 410 S.E.2d 537, 543 (1991) ("[S]ummary judgment must not be granted until the opposing party has had a full and fair opportunity to complete discovery."). *Bowain v. Canal Ins.*, 383 S.C. 100, 105, 678 S.E.2d 422, 424 (2009) ("An appellate court reviews the granting of summary judgment under the same standard applied by the trial court under Rule 56(c), SCRCP."); *Fisher v. Shipyard Vill. Council of Co-Owners, Inc.*, 415 S.C. 256, 270, 781 S.E.2d 903, 910 (2016) ("In determining whether any triable issues of material fact exist, the court must view the evidence and all reasonable inferences that may be drawn from the evidence in the light most favorable to the non-moving party."); *Hancock*, 381 S.C. at 330, 673 S.E.2d at 803.

14. REQUEST FOR SANCTIONS/FRIVOLOUS LEGAL ACTIONS[8] RULE 11

Miller v. US, 230 F 486, 489. "There can be no sanction or penalty imposed upon one because of this exercise of constitutional rights." See *Sherar v. Cullen*, 481 F. 2d 946 (1973) "There can be no sanction or penalty imposed upon one because of his exercise of Constitutional Rights. *Schware v. Board of Examiners, United State Reports* 353 U.S. pages 238, 239. "The practice of law cannot be licensed by any state/State." *Sims v. Aherns*, 271 SW 720 (1925) "*The practice of law is an occupation of common right.*" See "*Elmore v. McCammon* (1986) 640 F. Supp. 905 "... the right to file a lawsuit pro se is one of the most important rights under the constitution and laws." *Puckett v. Cox*, 456 F. 2d 233 (1972) (6th Cir. USCA). It was held that a pro se complaint requires a less stringent reading than one drafted by a lawyer *Conley v. Gibson;*

[8](2) Unless the court finds by a preponderance of the evidence that an attorney, party, or pro se litigant engaged in advancing a frivolous claim or defense, the attorney, party, or pro se litigant shall not be sanctioned.

13. LEGAL STANDARD FOR GRANTING A MOTION TO DISMISS

Defendants have moved to dismiss plaintiffs claims of intentional and negligent infliction of emotional distress, negligent entrustment and veracious liability, civil conspiracy and tortious interference with employment and business relationship claims pursuant to Rule 12(b)(6) of the South Carolina Rules of Civil Procedure. When ruling on a motion to dismiss under Rule 12(b)(6), the court must determine "whether, as a matter of law, the allegations of the complaint.., solely within the four corners of the complaint are sufficient to state a claim upon which relief may be granted." *Harris v. NCNB,* 85 N.C. App. 669, 670, 355 S.E.2d 838, 840 (1987). In ruling on a motion to dismiss, the court must treat the allegations in the complaint as true. *See Hyde v. Abbott Laboratories, Inc.,* 123 N.C. App. 572, 574-75,473 S.E.2d 680, 682 (1996). The court must construe the complaint liberally and must not dismiss the complaint unless it appears to a *legal certainty* that plaintiff is not entitled to relief under any state of facts which could be proved in support of the claim. See *Doe v. Marion,* 373 S.C. 390, 395, 645 S.E.2d 245, 247 (2007) ("In reviewing the dismissal of an action pursuant to Rule 12(b)(6), SCRCP, the appellate court applies the same standard of review as the [circuit] court."); *id.* ("In considering a motion to dismiss a complaint based on a failure to state facts sufficient to constitute a cause of action, *the [circuit] court must base its rulings solely on allegations set forth in the complaint.*" (emphasis added)); *id.* ("If the facts alleged and inferences reasonably deducible therefrom, viewed in the light most favorable to the plaintiff, would entitle the plaintiff to relief on any theory, then dismissal under Rule 12(b)(6) is improper.").

It appears this court granted the defendants a Rule 56 Motion and if that is the case the Plaintiff should have been allowed to conduct discover according to well established law in granting summary judgment motion.

Jenkins v. McKeithen, 395 U.S. 411, 421 (1959); Picking v. Pennsylvania R. Co., 151 Fed 2nd 240; Pucket v. Cox, 456 2nd 233. Pro se pleadings are to be considered without regard to technicality; pro se litigants' pleadings are not to be held to the same high standards of perfection as lawyers.

Plaintiff is **not** an attorney regardless of how *artfully* plead by the Defendants in making their conclusions. Plaintiff has merely researched and investigated case law from courts throughout this state and outside this State including federal complaints filed in that research she had utilized these complaints filed and ruled on by the courts and have used this to file her original and amended complaint including motions in response this does not make her an "old pro" as to the law , what it makes her is someone with a computer and the ability to write her complaints based on complaints filed by learned attorneys and ruled on by Judges.[9]

An attorney's or pro se' signature on a complaint is tantamount to a warranty that the complaint is well grounded in fact and "existing law" (or proposes a good faith extension of the existing law) and that it *is not filed for an improper purpose. In re Kunstler*, 914 F.2d at 518 ("if a complaint is filed to vindicate rights in court, and also some other purpose, a court should not sanction counsel for an intention that the court does not approve, so long as the added purpose is not undertaking in bad faith and is not so excessive as to eliminate a proper purpose. Thus, the purpose to vindicate rights in court must be central and sincere."). See *Townsend v. Holman Consulting Corporation*, 929 F.2d 1358, 1362 (9th Cir. 1990) and *Burkhart v. Kinsley Bank*, 852 F.2d 512, 515 (10th Cir. 1988.) *See, e.g., Hunter*, 281 F.3d at 156-57 (reversing sanction of attorney who **inartfully** argued for reversal of Circuit precedent); *Gibson v. Chrysler Corporation*, 261 F.3d 927, 949 (9th Cir. 2001), *cert. denied sub nom., DaimlerChrysler*

[9] This compliant is composed using a local attorney motions and complaints both of which were settled by the Defendants Attorney.

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Corporation v. Gibson, 534 U.S. 1104 (reversing award of Rule 11 sanctions because "we recognize the difficulties faced by parties who seek to advance **novel legal arguments**"); *Mareno v. Rowe*, 910 F.2d 1043, 1047 (2d Cir. 1990), *cert. denied*, 498 U.S. 1028 (1991) ("[T]o constitute a frivolous legal position for purposes of Rule 11 sanction, it must be clear under existing precedents that there is no chance of success and no reasonable argument to extend, modify or reverse the law as it stands.") (citations omitted). A court imposing sanctions under Rule 11 should, in its order, describe the conduct determined to constitute a violation of the Rule and explain the basis for the sanction imposed. Id., it is an error to make implications of sanctions when there is no proof of wrongdoing.

IN CONCLUSION

Plaintiff asks this court to review this matter with justice in mind to ensure justice. That it not just assume and conclude the Plaintiff cannot prove the factual allegations alleged and they are mere speculation to do so deny this pro se complete access to the courts. This pro se should be allowed to conduct discovery. Plaintiff have stated she have emails, documents, testimony, etc., that would prove her case and to required to provide more than what has already been presented is asking this pro se to go well beyond Rule 8. The court's order should be reversed and the defendants' Motion to Dismiss should be denied and sanctions considered against the defendants.

signature on next page

Respectfully submitted by,

Glenda R. Couram
104 Macaw Lane
Lexington, SC 29073
803 896-7509
grcouram@hotmail.com

Dated this 3rd day of May 2018
Lexington, South Carolina

PS: Plaintiff ask this court to forgive any typos and grammar mistakes

AFFIRMATION

I, Glenda Couram, affirm under penalty of perjury that the information presented in this document is true and correct to the best of knowledge and belief.

Respectfully submitted by,

Glenda R. Couram
104 Macaw Lane
Lexington, SC 29073
803 896-7509
grcouram@hotmail.com

Dated this 3rd day of May 2018
Lexington, South Carolina

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

IN THE COURT OF COMMON PLEAS

CIVIL ACTION NO: 2017-CP-40-04048

Glenda R. Couram,

Plaintiff,

vs.

Nationwide Mutual Insurance Company, Titan Indemnity Company, Eugene Matthews, in his *in his individual capacity, Sherwood Plumbing* SVC, LLC, dba and Beatrice T. Tidwell, Rick Skurko in his official and individual capacity and Tracey Peer, in her official and individual capacity

Defendants.

PLAINTIFF'S MOTION TO RECONSIDER

CERTIFICATE OF SERVICE

This certifies that I, Glenda Couram, caused a true and correct copy of Pro se Plaintiff's timely filed MOTION TO RECONSIDER pursuant to Rule 59(e) Dismissal under Rule 12(b) and Denial of Plaintiff's *first request* to AMEND with leave of court pursuant to Rule 15(a). A signed hard copy of the MOTION has been placed in the USPS mailbox to the Clerk of Court with adequate postage attached and copies of the Motion was emailed to the Judge and copies mailed to each Defendants as addressed below:

Eugene H. Matthews
Pro se Defendant
c/o Richardson, Plowden and Robinson
1900 Barnwell Street
P.O. Drawer 7788
Columbia, South Carolina 29202

Jescelyn T. Spitz, Esquire
Attorney for Sherwood Tidwell Plumbing Svc., LLC and Beatrice Tidwell
Clawson and Staubes, LLC
1612 Marion Street, Suite 200
Columbia, South Carolina 29201-2939

J.R. Murphy, Esquire
Murphy & Grantland, P.A.
P.O. Box 6648
Columbia, South Carolina 29260

Respectfully Submitted by,

Glenda R. Couram
Pro se Plaintiff
104 Macaw Lane
Lexington, South Carolina 29073
(803) 358-0127
grcouram@hotmail.com

Dated this 3rd, day of May 2018
Lexington County, South Carolina

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STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

IN THE COURT OF COMMON PLEAS

CIVIL ACTION NO: 2017-CP-40-4048

Glenda R. Couram,

Plaintiff,

vs.

Nationwide Mutual Insurance Company, Titan Indemnity Company, Eugene Matthews, in his individual capacity, Sherwood Plumbing SVC, LLC, and Sherwood Tidwell,

Defendants.

DEFENDANT NATIONWIDE MUTUAL INSURANCE COMPANY'S AND DEFENDANT TITAN INDEMNITY COMPANY'S ANSWER

[redacted]

Defendants Nationwide Mutual Insurance Company and Titan Indemnity Company (hereinafter collectively "Defendants"), responding to the Complaint of the Plaintiff, answers as follows:

FOR A FIRST DEFENSE

1. Each and every allegation of the Complaint not hereinafter specifically admitted or qualified is hereby denied.

2. Upon information and belief, these Defendants admit the allegations of Paragraph 1 of the Complaint.

3. In response to the allegations contained in Paragraph 2 of the Complaint, these Defendants lack sufficient knowledge or information to form a response and therefore deny the same.

4. In response to the allegations contained in Paragraph 3 of the Complaint, these Defendants would show that Nationwide Mutual Insurance Company did not issue the underwriter for the insurance policy covering the vehicle driven by Mr. Tidwell at the time of the accident at issue. Otherwise, paragraph 3 is admitted.

5. In response to the allegations contained in Paragraph 4 of the Complaint, these Defendants would show that Titan Indemnity Company is a subsidiary of THI Holdings, Inc., which is wholly owned by Nationwide Mutual Insurance, and that Titan is licensed to do business in the State of South Carolina, including selling insurance. Otherwise, paragraph 4 is denied.

6. These Defendants lack sufficient knowledge or information to form a response to the allegations contained in Paragraph 5 of Plaintiff's Complaint and therefore deny the same.

7. Paragraph 6 of Plaintiff's Complaint is denied.

8. Paragraph 7 of Plaintiff's Complaint is denied.

9. Paragraph 8 of Plaintiff's Complaint is denied.

10. In response to the allegations contained in Paragraph 9 of the Complaint, these Defendants are unaware of any South Carolina statutory law codified as "§ 15-70-20, 30", and therefore Paragraph 9 is denied.

11. Paragraph 10 of Plaintiff's Complaint states a legal conclusion to which no response is required. To the extent a response is required, paragraph 10 is denied.

12. In responding to the allegations contained in paragraph 11 of Plaintiff's Complaint, these Defendants re-allege all prior paragraphs of this Answer and incorporate them herein by reference.

13. These Defendants lack sufficient knowledge or information to form a response to the allegations contained in Paragraph 12 and therefore deny the same.

14. Upon information and belief, Paragraph 13 is admitted.

15. In response to the allegations contained in Paragraph 44 of the Complaint, these Defendants admit that on or around September 18, 2015, Plaintiff was involved in a motor vehicle accident with Defendant Tidwell and Brandon Brown. Otherwise, Defendants lack sufficient

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knowledge or information to form a response to the allegations contained in Paragraph 14 and therefore deny the same.

16. In response to the allegations contained in Paragraph 15 of the Complaint, these Defendants admit that on or around September 18, 2015, Plaintiff was involved in a motor vehicle accident with Defendant Tidwell and Brandon Brown. Otherwise, Defendants lack sufficient knowledge or information to form a response to the allegations contained in Paragraph 15 and therefore deny the same.

17. In response to the allegations contained in Paragraph 16 of the Complaint, these Defendants would show that the liability of Mr. Tidwell with regards to the September 18, 2015 accident has been previously litigated in a case before this Court styled as: Glenda R. Couram v. Sherwood Tidwell, Insured, Titan Indemnity Company Subsidiary of Nationwide Mutual Insurance, Civil Action No. 2016-CP-40-02350, and the doctrine of res judicata bars a litigant from raising issues which were adjudicated in the former suit and any issues which might have been raised in the former suit. As for Paragraph 16 of Plaintiff's Complaint, these Defendants admit that Defendant Titan paid for all necessary repairs to Plaintiff's vehicle. Otherwise, paragraph 16 is denied.

18. Paragraph 17 is admitted.

19. Paragraph 18 is denied.

20. In response to the allegations contained in Paragraph 19 of the Complaint, these Defendants would show that the liability of Mr. Tidwell with regards to the September 18, 2015 accident has been previously litigated before this Court, styled as: Glenda R. Couram v. Sherwood Tidwell, Insured, Titan Indemnity Company Subsidiary of Nationwide Mutual Insurance, Civil Action No. 2016-CP-40-02350, and the doctrine of res judicata bars a litigant from raising issues

which were adjudicated in the former suit and any issues which might have been raised in the former suit. In further response to the allegations contained in paragraph 19 of the Complaint, these Defendants admit that Defendant Titan paid for necessary repairs to Plaintiff's vehicle and Brandon Brown's vehicle. Otherwise, paragraph 19 is denied.

21. In response to the allegations contained in Paragraph 20 of the Complaint, these Defendants admit that in the civil action previously litigated before this Court, styled as: Glenda R. Couram v. Sherwood Tidwell, Insured, Titan Indemnity Company Subsidiary of Nationwide Mutual Insurance, Civil Action No. 2016-CP-40-02350, a $1,000 jury verdict was rendered in favor of Ms. Couram. Post-trial motions are currently pending before this Court. Otherwise, paragraph 20 is denied.

22. In response to the allegations contained in Paragraph 21 of the Complaint, these Defendants would show that this Court required the parties in the above-referenced action to enter into mediation. Otherwise, paragraph 21 is denied.

23. As for paragraph 22 of Plaintiff's Complaint, these Defendants would show that Plaintiff claimed damages for personal injuries and lost wages in her prior lawsuit against Mr. Tidwell and his attorney served several lawful subpoenas requesting Plaintiff's medical records and some employment records. Otherwise, paragraph 22 is denied.

24. In response to the allegations contained in Paragraph 23 of the Complaint, these Defendants would show that a $20,000 Offer of Judgment was filed on behalf of Mr. Tidwell in the previously litigated action, and Ms. Couram rejected the offer, which was twenty (20) times greater than the amount of the jury verdict rendered in that action. Otherwise, paragraph 23 is denied.

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25. As for paragraph 24 of Plaintiff's Complaint, these Defendants would show that a $20,000 Offer of Judgment was filed on behalf of Mr. Tidwell in the previously litigated action, and Ms. Couram rejected his offer, which was twenty (20) times greater than the amount of the jury verdict rendered in that action. Otherwise, paragraph 24 is denied.

26. As for paragraph 25 of Plaintiff's Complaint, these Defendants admit that Ms. Couram filed a previously-litigated suit against Mr. Tidwell and made demands greater than Mr. Tidwell's $20,000 Offer of Judgment filed in such suit. Otherwise, paragraph 25 is denied.

27. Paragraph 26 is denied.

28. In response to the allegations contained in Paragraph 27 of the Complaint, these Defendants would show that the South Carolina Department of Motor Vehicles terminated Plaintiff's employment for reasons unrelated to the September 18, 2015 accident. Otherwise, paragraph 27 is denied.

29. As for paragraph 28 of Plaintiff's Complaint, Defendants admit that Mr. Tidwell's attorney received some of Plaintiff's employment records in the previously-litigated suit. Otherwise, paragraph 28 is denied.

30. Paragraph 29 is denied.

31. Paragraph 30 is denied.

32. Paragraph 31 is denied.

33. Paragraph 32 is denied.

34. In responding to the allegations contained in paragraph 33 of Plaintiff's Complaint, these Defendants re-allege all prior paragraphs of this Answer and incorporate them herein by reference.

35. In response to the allegations contained in Paragraph 34 of the Complaint, these Defendants would show that the liability of Mr. Tidwell with regards to the September 18, 2015 accident has been previously litigated before this Court, styled as: Glenda R. Couram v. Sherwood Tidwell, Insured, Titan Indemnity Company Subsidiary of Nationwide Mutual Insurance, Civil Action No. 2016-CP-40-02350, and the doctrine of res judicata bars a litigant from raising issues which were adjudicated in the former suit and any issues which might have been raised in the former suit. Otherwise, paragraph 34 is denied.

36. Paragraphs 35 through 39 are denied.

37. In responding to the allegations contained in paragraph 40 of Plaintiff's Complaint, these Defendants re-allege all prior paragraphs of this Answer and incorporate them herein by reference.

38. Paragraphs 41 through 50 are denied.

39. In responding to the allegations contained in first paragraph 51 of Plaintiff's Complaint, these Defendants re-allege all prior paragraphs of this Answer and incorporate them herein by reference.

40. The second Paragraph 51 of Plaintiff's Complaint is denied.

41. Paragraphs 52 through 54 are denied.

42. Paragraphs 55 and 56 of Plaintiff's Complaint state a legal conclusion or statement of law to which no response is required. To the extent a response is required, paragraphs 55 and 56 are denied.

43. Paragraph 57 is denied.

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44. In response to the allegations contained in paragraph 58 of the Complaint, these Defendants lack sufficient knowledge or information to form a response and therefore deny the same.

45. Paragraphs 59 through 67 are denied.

46. In responding to the allegations contained in Paragraph 68 of the Complaint, these Defendants re-allege all prior paragraphs of this Answer and incorporate them herein by reference.

47. Paragraphs 69 through 72 are denied.

FOR A SECOND DEFENSE

48. The Complaint fails to state facts sufficient to constitute a cause of action and, therefore, pursuant to Rule 12(b)(6), SCRCP, should be dismissed with costs.

FOR A THIRD DEFENSE

49. These Defendants would show, that damages for injuries Plaintiff sustained arising out of the September 18, 2015 accident have been previously litigated before this Court, styled as: Glenda R. Couram v. Sherwood Tidwell, Insured, Titan Indemnity Company Subsidiary of Nationwide Mutual Insurance, Civil Action No. 2016-CP-40-02350, and the doctrine of res judicata bars Plaintiff from raising issues which were adjudicated in the former suit and any issues which might have been raised in the former suit, including damages and injuries. The Defendants would show that, to the extent Plaintiff seeks recovery in this suit for injuries not arising out of the September 18, 2015 accident, upon information and belief, the injuries sustained by the Plaintiff, if any, were the result of the sole negligence of the Plaintiff and therefore, the Plaintiff cannot recover any sum whatsoever from the Defendants.

FOR A FOURTH DEFENSE

50. These Defendants would show, upon information and belief, that any injuries or damages sustained by the Plaintiff, which are specifically denied, were the result of the acts or omissions of others not in the employ or control of these Defendants and, therefore, the Plaintiff cannot recover from these Defendants in any sum whatsoever.

FOR A FIFTH DEFENSE

51. These Defendants would assert that the alleged injuries of the Plaintiff were not proximately caused by the acts of these Defendants alleged herein and, therefore, the Plaintiff cannot recover from these Defendants due to lack of proximate cause and damages.

FOR A SIXTH DEFENSE

52. These Defendants would show, upon information and belief, that the Plaintiff's claim for punitive damages violates the Fifth, Sixth, Seventh, Eighth and Fourteenth Amendments to the Constitution of the United States of America in that it violates the double jeopardy clause in that the Defendant could be subjected to multiple awards of punitive damages for the same set of facts; the self-incrimination clause is being violated because these Defendants can be compelled to give testimony against these Defendants' self in a penalty situation such as punitive damages; the assessment of punitive damages by a burden of proof less than beyond a reasonable doubt is violative of the Sixth and Fourteenth Amendments in that punitive damages are a fine or penalty and are, therefore, quasi-criminal in nature; Plaintiff's claim for punitive damages violates these Defendants' right to access the courts as guaranteed by the Seventh and Fourteenth Amendments because the threat of an award of punitive damages chills these Defendants' exercise of that right; the Plaintiff's claim for punitive damages violates the Eighth Amendment's guarantee that excessive fines shall not be imposed, the Plaintiff's claim for punitive damages violates both the

claims arising out of the September 18, 2015 accident, styled as: Glenda R. Couram v. Sherwood Tidwell, Insured, Titan Indemnity Company Subsidiary of Nationwide Mutual Insurance, Civil Action No. 2016-CP-40-02350.

WHEREFORE, having fully answered the Complaint, the Defendants Nationwide and Titan deny that the Plaintiff is entitled to any relief whatsoever and prays that the Complaint be dismissed with prejudice and for such other and further relief, including sections under SC Code 15-36-101, as the Court deems just and proper.

These Defendants demand a jury trial.

MURPHY & GRANTLAND, P.A.

J.R. Murphy, Esquire
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(803) 782-4100
Attorneys for the Defendants Nationwide Mutual Insurance Company and Titan Indemnity Company

Columbia, South Carolina
August 8, 2017

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

IN THE COURT OF COMMON PLEAS

CIVIL ACTION NO: 2017-CP-40-4048

Glenda R. Couram,

Plaintiff,

vs.

Nationwide Mutual Insurance Company,
Titan Indemnity Company,
Eugene Matthews, in his individual capacity,
Sherwood Plumbing SVC, LLC, and
Sherwood Tidwell,

Defendants.

DEFENDANT NATIONWIDE MUTUAL INSURANCE COMPANY'S AND DEFENDANT TITAN INDEMNITY COMPANY'S MOTION TO DISMISS AND MOTION FOR SANCTIONS AGANINST PLAINTIFF

Pursuant to Rule 12(b)(6), SCRCP, Defendants Nationwide Mutual Insurance Company ("Nationwide") and Titan Indemnity Company ("Titan") hereby respectfully move before this Court to dismiss Plaintiff Glenda R. Couram's Complaint against them with prejudice. In the alternative to dismissing Plaintiff's claims against them, these Defendants move for the following relief: (1) pursuant to Rule 12(f), SCRCP, to strike the Plaintiff's prayer for attorney's fees; (2) pursuant to Rule 20, to severe Plaintiff's claims against these Defendants from her claims against the other Defendant; and (3) and for dismissal of Nationwide as a Defendant. Pursuant to Rule 11, SCRCP, and South Carolina Code § 15-36-10(A)(4), these Defendants also move for sanctions against the Plaintiff. The grounds for this Motion are set forth below and the basis for this Motion will be more fully set forth in a memorandum of law. This Motion will also be supplemented and supported by such affidavits, depositions, discovery responses, and such other documents as appropriate. In sum, the Plaintiff's Complaint should be dismissed as to Nationwide and Titan because:

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(1) The Plaintiff's Complaint – which includes two (2) causes of action against Nationwide and Titan– should be dismissed under Rule 12(b)(6), SCRCP, for failure to state a claim upon which relief can be granted.[1]

(2) The Plaintiff does not have standing to bring her claims against Nationwide or Titan because her claims against them are all allegedly based on one of these third-party insurer's handling of her insurance claim. The South Carolina Supreme Court in *Kleckley v. Nw. Nat. Cas. Co.*, held that third parties who are not named insureds do not have standing to sue for bad faith refusal to pay benefits due under an insurance contract. 338 S.C. 131, 134, 526 S.E.2d 218, 219 (2000). Therefore, Plaintiff does not have standing to sue the insurers for their handling of her claim merely by repackaging her claims under other causes of action.

(3) Plaintiff has failed to state a claim against Nationwide and Titan for negligent or intentional infliction of emotional distress because: (a) the Plaintiff has failed to allege sufficiently outrageous and extreme conduct by Nationwide or Titan to support such claim; and (b) Plaintiff has failed to allege sufficiently severe emotional distress to support such claim. In addition, this cause of action under South Carolina law was not intended to create a new remedy where other causes of action provided the same remedy. The Plaintiff is already seeking the same remedy in her other causes of action.

(4) Plaintiff has failed to state a claim for civil conspiracy against Nationwide and Titan because: (a) Plaintiff has failed to allege additional acts in

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[1]Plaintiff titles her fifth cause of action "Punitive Damages". There is no such cause of action under South Carolina law. Punitive damages are a form of damages and not a cause of action. Plaintiff also alleges a negligence cause of action but only against "Sherwood Plumbing Services, LLC dba Sherwood F. Tidwell, Owner/Operator/Agent and Beatrice Tyree Tidwell." (Am. Compl. ¶¶ 33-39).

furtherance of a conspiracy beyond the acts alleged under her other claims within the Complaint; and (b) Plaintiff has not alleged that the defendants conspired for the primary purpose or objective of injuring the Plaintiff. In addition, Plaintiff has pled special damages that have no causal connection to the alleged acts of defendants, including, but not limited to: "grooming and vet fees", potential default on a student loan, lost medical insurance, loss of pension, and loss of home.

In the alternative, Plaintiff's prayer for attorney's fees should be stricken because attorney's fees are not allowed under the common law of South Carolina for any of the causes of action alleged.

In the alternative, Nationwide should be dismissed as a defendant from this suit because Nationwide did not issue the policy of insurance to Defendant Tidwell. (See Ex. A, Policy Declarations Page).

In the alternative, Plaintiff's claims against Nationwide and Titan should be severed from her claims against the other Defendants because such claims are improperly joined pursuant to Rule 20, SCRCP. Her claims against the insurer Defendants and other Defendants do not arise out of the same transaction or occurrence.

Additionally, Defendants Nationwide and Titan respectfully request that this Court sanction Plaintiff for frivolous civil proceedings pursuant to section 15-36-10(A)(4) of the South Carolina Code and/or Rule 11, SCRCP. Plaintiff respectfully requests that this Court issue against Plaintiff monetary sanctions and/or an *Assa'ad-Faltas* Order[2], given her long history of *pro se*, vexatious litigation.

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[2] In *City of Columbia v. Assa'ad-Faltas*, the South Carolina Supreme Court upheld a circuit court order that restricted the appellant's ability to appear or submit filings in a *pro se* capacity. 420 S.C. 28, 49, 800 S.E.2d 782, 792 (2017). The Court found that the circuit court's order was proportionate to the appellant's behavior in harassing and burdening the courts and in wasting judicial resources by filing multiple frivolous lawsuits, pleadings, and motions as a *pro se* litigant. *Id.* Likewise, Plaintiff has brought at least seven unsuccessful lawsuits in the past eight years against various individuals. *See, e.g. Couram v. S.C. Dep't of Motor Vehicles*, No. CIV. A 3:10-

WHEREFORE, for the reasons above stated, Defendants Nationwide and Titan hereby respectfully request that this Court:

(a) grant their Amended Motion to Dismiss with prejudice against the Plaintiff and at her cost;

(b) in the alternative to dismissing Plaintiff's claims against these Defendants:

i. strike Plaintiff's prayer for attorney's fees;

ii. dismiss Nationwide as a Defendant;

iii. sever Plaintiff's claims against Nationwide and Titan from her claims against the other Defendants; and

(c) sanction Plaintiff for bringing a frivolous proceeding;

(d) and for other relief deemed appropriate by the Court.

MURPHY & GRANTLAND, P.A.

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Attorney for Defendants Nationwide and Titan

Columbia, South Carolina
August 24, 2017

001, 2011 WL 891298 (D.S.C. Mar. 10, 2011); *Couram v. S.C. Dep't of Motor Vehicles*, No. CIV. A 3:10-00001, 2011 WL 6115509 (D.S.C. Dec. 8, 2011); *Couram v. S.C. Dep't of Motor Vehicles (SCDMV)*, No. CV 3:15-4870-MBS-PJG, 2016 WL 4204070 (D.S.C. Aug. 10, 2016); *Couram v. Davis*, No. 2015-UP-065, 2015 WL 477266 (S.C. Ct. App. Feb. 4, 2015); *Couram v. Hooker*, No. 2016-UP-137, 2016 WL 1135211 (S.C. Ct. App. Mar. 23, 2016); *Couram v. Time Warner Cable Commc'ns, Inc.*, No. 2009-UP-604, 2009 WL 9530352 (S.C. Ct. App. Dec. 22, 2009); *Couram v. Rivers*, No. CV 3:17-217-MBS-PJG, 2017 WL 1509242 (D.S.C. Apr. 27, 2017). In addition, Plaintiff has already brought a lawsuit against Defendants Tidwell and Titan arising out of the same September 18, 2015 auto accident that is the basis of this suit. *See Couram v. Tidwell, et al*, 2016-CP-40-2350.

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STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

IN THE COURT OF COMMON PLEAS

CIVIL ACTION NO: 2017-CP-40-4048

Glenda R. Couram,

Plaintiff,

vs.

Nationwide Mutual Insurance Company,
Titan Indemnity Company,
Eugene Matthews, in his individual capacity,
Sherwood Plumbing SVC, LLC, and
Sherwood Tidwell,

Defendants.

CERTIFICATE OF SERVICE

I, the undersigned employee of the law offices of Murphy & Grantland, P.A., Attorneys for Defendant, do hereby certify that on August 25, 2017, I have served a copy of the foregoing Amended Motion to Dismiss in connection with the above-referenced case placing same in the U.S. mail, postage paid to:

Glenda R. Couram
104 Macaw Lane
Lexington, SC 29073

Jescelyn T. Spitz, Esquire
Clawson and Staubes, LLC
1612 Marion St., Suite 200
Columbia, SC 29201-2939

Eugene H. Matthew, Esquire
Richardson, Plowden & Robinson
1600 Marion Street
P.O. Drawer 7788
Columbia, SC 29202

Sandra R. Branson

Columbia, SC

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STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

IN THE COURT OF COMMON PLEAS

CIVIL ACTION NO: 2017-CP-40-4048

Glenda R. Couram,

Plaintiff,

vs.

Nationwide Mutual Insurance Company,
Titan Indemnity Company,
Eugene Matthews, in his individual capacity,
Sherwood Plumbing SVC, LLC, and
Sherwood Tidwell,

Defendants.

DEFENDANT NATIONWIDE MUTUAL INSURANCE COMPANY'S AND DEFENDANT TITAN INDEMNITY COMPANY'S ANSWER TO THE AMENDED COMPLAINT

RICHLAND CO.
FILED
2017 AUG 16 PM 12:26
JEANETTE W. WALKER
C.C.P. & G.S.

Defendants Nationwide Mutual Insurance Company and Titan Indemnity Company (hereinafter collectively "Defendants"), responding to the Amended Complaint of the Plaintiff, answers as follows:

FOR A FIRST DEFENSE

1. Each and every allegation of the Amended Complaint not hereinafter specifically admitted or qualified is hereby denied.

2. Upon information and belief, these Defendants admit the allegations of Paragraph 1 of the Amended Complaint.

3. In response to the allegations contained in Paragraph 2 of the Amended Complaint, these Defendants lack sufficient knowledge or information to form a response and therefore deny the same.

4. In response to the allegations contained in Paragraph 3 of the Amended Complaint, these Defendants would show that Nationwide Mutual Insurance Company did not issue the underwriter for the insurance policy covering the vehicle driven by Mr. Tidwell at the time of the accident at issue. Otherwise, paragraph 3 is admitted.

5. In response to the allegations contained in Paragraph 4 of the Amended Complaint, these Defendants would show that Titan Indemnity Company is a subsidiary of THI Holdings, Inc., which is wholly owned by Nationwide Mutual Insurance, and that Titan is licensed to do business in the State of South Carolina, including selling insurance. Otherwise, paragraph 4 is denied.

6. These Defendants lack sufficient knowledge or information to form a response to the allegations contained in Paragraph 5 of Plaintiff's Amended Complaint and therefore deny the same.

7. Paragraph 6 of Plaintiff's Amended Complaint is denied.

8. Paragraph 7 of Plaintiff's Amended Complaint is denied.

9. Paragraph 8 of Plaintiff's Amended Complaint is denied.

10. In response to the allegations contained in Paragraph 9 of the Amended Complaint, these Defendants are unaware of any South Carolina statutory law codified as "§ 15-70-20, 30", and therefore Paragraph 9 is denied.

11. Paragraph 10 of Plaintiff's Amended Complaint states a legal conclusion to which no response is required. To the extent a response is required, paragraph 10 is denied.

12. In responding to the allegations contained in paragraph 11 of Plaintiff's Amended Complaint, these Defendants re-allege all prior paragraphs of this Answer and incorporate them herein by reference.

13. These Defendants lack sufficient knowledge or information to form a response to the allegations contained in Paragraph 12 and therefore deny the same.

14. Upon information and belief, Paragraph 13 is admitted.

15. In response to the allegations contained in Paragraph 44 of the Amended Complaint, these Defendants admit that on or around September 18, 2015, Plaintiff was involved in a motor vehicle accident with Defendant Tidwell and Brandon Brown. Otherwise, Defendants lack sufficient knowledge or information to form a response to the allegations contained in Paragraph 14 and therefore deny the same.

16. In response to the allegations contained in Paragraph 15 of the Amended Complaint, these Defendants admit that on or around September 18, 2015, Plaintiff was involved in a motor vehicle accident with Defendant Tidwell and Brandon Brown. Otherwise, Defendants lack sufficient knowledge or information to form a response to the allegations contained in Paragraph 15 and therefore deny the same.

17. In response to the allegations contained in Paragraph 16 of the Amended Complaint, these Defendants would show that the liability of Mr. Tidwell with regards to the September 18, 2015 accident has been previously litigated in a case before this Court styled as: Glenda R. Couram v. Sherwood Tidwell, Insured, Titan Indemnity Company Subsidiary of Nationwide Mutual Insurance, Civil Action No. 2016-CP-40-02350, and the doctrine of res judicata bars a litigant from raising issues which were adjudicated in the former suit and any issues which might have been raised in the former suit. As for Paragraph 16 of Plaintiff's Amended Complaint, these Defendants admit that Defendant Titan paid for all necessary repairs to Plaintiff's vehicle. Otherwise, paragraph 16 is denied.

18. Paragraph 17 is admitted.

19. Paragraph 18 is denied.

20. In response to the allegations contained in Paragraph 19 of the Amended Complaint, these Defendants would show that the liability of Mr. Tidwell with regards to the

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September 18, 2015 accident has been previously litigated before this Court, styled as: Glenda R. Couram v. Sherwood Tidwell, Insured, Titan Indemnity Company Subsidiary of Nationwide Mutual Insurance, Civil Action No. 2016-CP-40-02350, and the doctrine of res judicata bars a litigant from raising issues which were adjudicated in the former suit and any issues which might have been raised in the former suit. In further response to the allegations contained in paragraph 19 of the Amended Complaint, these Defendants admit that Defendant Titan paid for necessary repairs to Plaintiff's vehicle and Brandon Brown's vehicle. Otherwise, paragraph 19 is denied.

21. In response to the allegations contained in Paragraph 20 of the Amended Complaint, these Defendants admit that in the civil action previously litigated before this Court, styled as: Glenda R. Couram v. Sherwood Tidwell, Insured, Titan Indemnity Company Subsidiary of Nationwide Mutual Insurance, Civil Action No. 2016-CP-40-02350, a $1,000 jury verdict was rendered in favor of Ms. Couram. Post-trial motions are currently pending before this Court. Otherwise, paragraph 20 is denied.

22. In response to the allegations contained in Paragraph 21 of the Amended Complaint, these Defendants would show that this Court required the parties in the above-referenced action to enter into mediation. Otherwise, paragraph 21 is denied.

23. As for paragraph 22 of Plaintiff's Amended Complaint, these Defendants would show that Plaintiff claimed damages for personal injuries and lost wages in her prior lawsuit against Mr. Tidwell and his attorney served several lawful subpoenas requesting Plaintiff's medical records and some employment records. Otherwise, paragraph 22 is denied.

24. In response to the allegations contained in Paragraph 23 of the Amended Complaint, these Defendants would show that a $20,000 Offer of Judgment was filed on behalf of Mr. Tidwell in the previously litigated action, and Ms. Couram rejected the offer, which was

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twenty (20) times greater than the amount of the jury verdict rendered in that action. Otherwise, paragraph 23 is denied.

25. As for paragraph 24 of Plaintiff's Amended Complaint, these Defendants would show that a $20,000 Offer of Judgment was filed on behalf of Mr. Tidwell in the previously litigated action, and Ms. Couram rejected his offer, which was twenty (20) times greater than the amount of the jury verdict rendered in that action. Otherwise, paragraph 24 is denied.

26. As for paragraph 25 of Plaintiff's Amended Complaint, these Defendants admit that Ms. Couram filed a previously-litigated suit against Mr. Tidwell and made demands greater than Mr. Tidwell's $20,000 Offer of Judgment filed in such suit. Otherwise, paragraph 25 is denied.

27. Paragraph 26 is denied.

28. In response to the allegations contained in Paragraph 27 of the Amended Complaint, these Defendants would show that the South Carolina Department of Motor Vehicles terminated Plaintiff's employment for reasons unrelated to the September 18, 2015 accident. Otherwise, paragraph 27 is denied.

29. As for paragraph 28 of Plaintiff's Amended Complaint, Defendants admit that Mr. Tidwell's attorney received some of Plaintiff's employment records in the previously-litigated suit. Otherwise, paragraph 28 is denied.

30. Paragraph 29 is denied.

31. Paragraph 30 is denied.

32. Paragraph 31 is denied.

33. Paragraph 32 is denied.

34. In responding to the allegations contained in paragraph 33 of Plaintiff's Amended Complaint, these Defendants re-allege all prior paragraphs of this Answer and incorporate them herein by reference.

35. In response to the allegations contained in Paragraph 34 of the Amended Complaint, these Defendants would show that the liability of Mr. Tidwell with regards to the September 18, 2015 accident has been previously litigated before this Court, styled as: Glenda R. Couram v. Sherwood Tidwell, Insured, Titan Indemnity Company Subsidiary of Nationwide Mutual Insurance, Civil Action No. 2016-CP-40-02350, and the doctrine of res judicata bars a litigant from raising issues which were adjudicated in the former suit and any issues which might have been raised in the former suit. Otherwise, paragraph 34 is denied.

36. Paragraphs 35 through 39 are denied.

37. In responding to the allegations contained in paragraph 40 of Plaintiff's Amended Complaint, these Defendants re-allege all prior paragraphs of this Answer and incorporate them herein by reference.

38. Paragraphs 41 through 50 are denied.

39. In responding to the allegations contained in first paragraph 51 of Plaintiff's Amended Complaint, these Defendants re-allege all prior paragraphs of this Answer and incorporate them herein by reference.

40. The second Paragraph 51 of Plaintiff's Amended Complaint is denied.

41. Paragraphs 52 through 54 are denied.

42. Paragraphs 55 and 56 of Plaintiff's Amended Complaint state a legal conclusion or statement of law to which no response is required. To the extent a response is required, paragraphs 55 and 56 are denied.

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43. Paragraph 57 is denied.

44. In response to the allegations contained in paragraph 58 of the Amended Complaint, these Defendants lack sufficient knowledge or information to form a response and therefore deny the same.

45. Paragraphs 59 through 67 are denied.

46. In responding to the allegations contained in Paragraph 68 of the Amended Complaint, these Defendants re-allege all prior paragraphs of this Answer and incorporate them herein by reference.

47. Paragraphs 69 through 72 are denied.

FOR A SECOND DEFENSE

48. The Amended Complaint fails to state facts sufficient to constitute a cause of action and, therefore, pursuant to Rule 12(b)(6), SCRCP, should be dismissed with costs.

FOR A THIRD DEFENSE

49. These Defendants would show, that damages for injuries Plaintiff sustained arising out of the September 18, 2015 accident have been previously litigated before this Court, styled as: Glenda R. Couram v. Sherwood Tidwell, Insured, Titan Indemnity Company Subsidiary of Nationwide Mutual Insurance, Civil Action No. 2016-CP-40-02350, and the doctrine of res judicata bars Plaintiff from raising issues which were adjudicated in the former suit and any issues which might have been raised in the former suit, including damages and injuries. The Defendants would show that, to the extent Plaintiff seeks recovery in this suit for injuries not arising out of the September 18, 2015 accident, upon information and belief, the injuries sustained by the Plaintiff, if any, were the result of the sole negligence of the Plaintiff and therefore, the Plaintiff cannot recover any sum whatsoever from the Defendants.

FOR A FOURTH DEFENSE

50. These Defendants would show, upon information and belief, that any injuries or damages sustained by the Plaintiff, which are specifically denied, were the result of the acts or omissions of others not in the employ or control of these Defendants and, therefore, the Plaintiff cannot recover from these Defendants in any sum whatsoever.

FOR A FIFTH DEFENSE

51. These Defendants would assert that the alleged injuries of the Plaintiff were not proximately caused by the acts of these Defendants alleged herein and, therefore, the Plaintiff cannot recover from these Defendants due to lack of proximate cause and damages.

FOR A SIXTH DEFENSE

52. These Defendants would show, upon information and belief, that the Plaintiff's claim for punitive damages violates the Fifth, Sixth, Seventh, Eighth and Fourteenth Amendments to the Constitution of the United States of America in that it violates the double jeopardy clause in that the Defendant could be subjected to multiple awards of punitive damages for the same set of facts; the self-incrimination clause is being violated because these Defendants can be compelled to give testimony against these Defendants' self in a penalty situation such as punitive damages; the assessment of punitive damages by a burden of proof less than beyond a reasonable doubt is violative of the Sixth and Fourteenth Amendments in that punitive damages are a fine or penalty and are, therefore, quasi-criminal in nature; Plaintiff's claim for punitive damages violates these Defendants' right to access the courts as guaranteed by the Seventh and Fourteenth Amendments because the threat of an award of punitive damages chills these Defendants' exercise of that right; the Plaintiff's claim for punitive damages violates the Eighth Amendment's guarantee that excessive fines shall not be imposed, the Plaintiff's claim for punitive damages violates both the

due process and equal protection clauses of the Fourteenth Amendment in that the standard for awarding either punitive damages is unduly vague and, therefore, violates both procedural and substantive due process safeguards; therefore, the Plaintiff's claim for punitive damages should be dismissed.

FOR A SEVENTH DEFENSE

53. Pursuant to S.C. Code Ann. §15-32-520, any proceeding to determine punitive damages should be bifurcated from any trial to determine liability and compensatory damages.

FOR AN EIGHTH DEFENSE

54. Any award of punitive damages should not exceed the greater of three (3) times the amount of compensatory damages as provided for in S.C. Code Ann. §15-32-530.

FOR A NINTH DEFENSE

55. These Defendants would show that any actions of these Defendants were absolutely privileged because they were done in connection with the defense of Tidwell in the prior case and these Defendants plead absolute privilege or judicial privilege as a complete defense.

FOR A TENTH DEFENSE

56. Reservation of Affirmative Defenses

FOR AN ELEVENTH DEFENSE

57. Pursuant to S.C. Code Ann. § 15-36-10, Plaintiff should be sanctioned filing the Amended Complaint and making the arguments contained therein. A reasonable attorney presented with the same circumstances would believe the initiation of this civil cause was intended merely to harass or injure these Defendants or for other improper purpose, and the Amended Complaint makes frivolous arguments a reasonable attorney would not believe were reasonable supported by the facts or by the law, particularly where, as here, the Plaintiff has previously

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litigated before this Court her claims arising out of the September 18, 2015 accident, styled as: Glenda R. Couram v. Sherwood Tidwell, Insured, Titan Indemnity Company Subsidiary of Nationwide Mutual Insurance, Civil Action No. 2016-CP-40-02350.

WHEREFORE, having fully answered the Amended Complaint, the Defendants Nationwide and Titan deny that the Plaintiff is entitled to any relief whatsoever and prays that the Amended Complaint be dismissed with prejudice and for such other and further relief, including sections under SC Code 15-36-101, as the Court deems just and proper.

These Defendants demand a jury trial.

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Attorneys for the Defendants Nationwide Mutual Insurance Company and Titan Indemnity Company

Columbia, South Carolina
August 15, 2017

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STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

IN THE COURT OF COMMON PLEAS

CIVIL ACTION NO: 2017-CP-40-4048

Glenda R. Couram,

vs. Plaintiff,

Nationwide Mutual Insurance Company,
Titan Indemnity Company,
Eugene Matthews, in his individual capacity,
Sherwood Plumbing SVC, LLC, and
Sherwood Tidwell,

Defendants.

CERTIFICATE OF SERVICE

RICHLAND CO
FILED
2017 AUG 16 PM 12:
JEANNETTE W. McBRIDE
C.C.P. & G.S.

I, the undersigned employee of the law offices of Murphy & Grantland, P.A. Attorneys for Defendant, do hereby certify that on August 15, 2017, I have served a copy of the foregoing Defendants' Answer to Amended Complaint in connection with the above-referenced case placing same in the U.S. mail, postage paid to:

Glenda R. Couram
104 Macaw Lane
Lexington, SC 29073

Jescelyn T. Spitz, Esquire
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Columbia, SC 29201-2939

Eugene H. Matthew, Esquire
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Columbia, SC 29202

Columbia, SC

Sandra R. Branson

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STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

IN THE COURT OF COMMON PLEAS

CIVIL ACTION NO: 2017-CP-40-4048

Glenda R. Couram,

Plaintiff,

vs.

Nationwide Mutual Insurance Company, Titan Indemnity Company, Eugene Matthews, in his individual capacity, Sherwood Plumbing SVC, LLC, and Sherwood Tidwell,

Defendants.

DEFENDANT NATIONWIDE MUTUAL INSURANCE COMPANY'S AND DEFENDANT TITAN INDEMNITY COMPANY'S MEMORANDUM IN SUPPORT OF THEIR MOTION TO DISMISS

Defendants Nationwide Mutual Insurance Company ("Nationwide") and Titan Indemnity Company ("Titan") (hereinafter collectively "the insurers") submit this Memorandum of Law in support of their Motion to Dismiss this matter pursuant to Rule 12(b)(6), SCRCP, for failure to allege facts sufficient to state claim. These Defendants also move to strike, pursuant to Rule 12(f), SCRCP, the Plaintiff's claim for attorney's fees because there is no basis under South Carolina law to recover fees in this case.

SUMMARY

This action arises out of a motor vehicle accident involving Plaintiff and Defendant Tidwell. Plaintiff previously sued Defendant Tidwell for alleged damages arising out of the accident. Titan Indemnity Company issued a policy of insurance to Defendant Tidwell and pursuant to the terms of that contract provided for Mr. Tidwell's defense in that underlying action. After Plaintiff refused a settlement offer from Mr. Tidwell in the amount of $20,000, a jury trial in the underlying suit resulted in a $1,000 verdict for Plaintiff. Thereafter, Plaintiff brought her current suit, wherein she alleges that Tidwell's, Titan's and Nationwide's refusal to settle for more than $20,000 and their actions in defending Mr. Tidwell resulted in damages to her.

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Plaintiff has failed to allege facts sufficient to state a claim under any of the causes of action she alleges. Moreover, although labeled as other causes of action, Plaintiff allegations demonstrate that she is suing the insurers for failure to pay third-party benefits. Under South Carolina law, a third party does not have standing to pursue a tort action for an insurer's bad faith refusal to pay benefits. Additionally, Plaintiff's Complaint is based on allegations of the insurers' actions taken to defend the insured, Tidwell. Acts taken pursuant to an insurer's contractual and legal duty to defend its insured are not a proper basis for liability to a third party. Therefore, Plaintiff's claims against Nationwide and Titan should be dismissed.

FACTUAL AND PROCEDURAL BACKGROUND

On April 12, 2016, Plaintiff filed a separate complaint against Sherwood Tidwell and "Titian [sic] Indemnity Company Subsidiary of Nationwide Insurance" in the Richland County Court of Common Please, styled as: Glenda Couram v. Sherwood Tidwell, et al, Civil Action No. 2016-CP-40-2350. (Exhibit A: Plaintiff's Original Complaint, 2016-CP-40-2350) (hereinafter the "Previous Action"). In that suit, Plaintiff sought damages for a September 18, 2015 automobile accident involving Mr. Tidwell. (*Id.*). By Consent Order dated September 2, 2016, "Titan Indemnity Company, Subsidiary of Nationwide Mutual Insurance Company" was removed as a party to the action. (Ex. B: Consent Order). On February 16, 2017, Mr. Tidwell filed a $20,000 Offer of Judgment, which Ms. Couram declined. (Exhibit C: Offer of Judgment). The case was heard by a jury and on June 16, 2017 a verdict was rendered in the amount of $1,000. (Ex. D: Verdict Form). At this time, post-trial motions are still pending before this Court.

On July 3, 2017, Plaintiff filed the current Complaint before this Court again suing Mr. Tidwell and Titan Indemnity Company, as well as Nationwide Mutual Insurance Company.[1]

[1] On July 19, 2017, Plaintiff filed an Amended Complaint adding Beatrice Tyree Tidwell as a defendant.

1/4/19

Plaintiff's current Complaint arises out of the same September 18, 2015 automobile accident. (Am. Compl. ¶¶ 12-14). In this Complaint, Plaintiff alleges the following causes of action against Nationwide and Titan: (1) intentional infliction of emotional distress and/or negligent infliction of emotional distress, and (2) civil conspiracy.[2] (Am. Compl.). The factual allegations of Plaintiff's Complaint make clear that she is suing Nationwide and Titan for exercising Titan's right to provide a defense for Mr. Tidwell in the Previous Action and for failing to offer her more than $20,000 for the damages she alleges she sustained in the September 18, 2015 accident. (Am. Compl. ¶¶ 20-26).

ARGUMENT

Plaintiff's Complaint alleges the following causes of action against Nationwide and Titan: (1) intentional infliction and/or negligent infliction of emotional distress; and (2) civil conspiracy. Because Plaintiff has not alleged facts sufficient to state an emotional distress claim or civil conspiracy claim against Nationwide or Titan, Plaintiff's claims against the insurers should be dismissed.[3]

To the extent Plaintiff's factual allegations against the insurers allege their failure to pay her benefits under Defendant Tillman's insurance contract, her allegations are nothing more than an attempt to bring a bad faith failure to pay benefits action, which she does not have standing to bring

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[2] Plaintiff also alleges as a cause of action "punitive damage" cause. Punitive damages are a form of damages and not a cause of action. (See Am. Compl. ¶¶ 68-72). Plaintiff alleges a negligence cause of action as well but only against "Sherwood Plumbing Services, LLC dba Sherwood F. Tidwell, Owner/Operator/Agent and Beatrice Tyree Tidwell." (Am. Compl. ¶¶ 33-39).

[3] In the "Jurisdiction and Venue" section of Plaintiff's Amended Complaint, she cites "SC Title 38 §§38-59-10 et.al." – the South Carolina Unfair Claim Practices Act. (Am. Compl. ¶ 10). To the extent Plaintiff is alleging a cause of action under the South Carolina Unfair Claim Practices Act, the Act does not create a private cause of action for third-party claimants. *Swinton v. Chubb & Son, Inc.*, 283 S.C. 11, 14, 320 S.E.2d 495, 496 (Ct. App. 1984) (holding section 38-37-1110, the predecessor statute, recodified by 1987 Act No. 155, § 1 to section 38-59-20, did not allow a private cause of action); *Masterclean, Inc. v. Star Ins. Co.*, 347 S.C. 405, 556 S.E.2d 371 (2001) (holding Claims Practice Act does not create a private cause of action).

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under South Carolina law. To the extent Plaintiff's factual allegations against the insurers relate to their defense of Tillman, an insurer's acts taken pursuant to its contractual and legal duty to defend its insured are not a proper basis for a third-party claim against the insurer. Therefore, Plaintiff's claims against the insurers should also be dismissed for these reasons.

In addition, Plaintiff's prayer for attorney's fees should be stricken because attorney's fees are not available for the common law causes of action Plaintiff has alleged, and pro se litigants are not entitled to attorney's fees under South Carolina law.[4]

A. Plaintiff has failed to allege facts sufficient to state any cause of action against Nationwide or Titan.

A 12(b)(6) motion to dismiss "must be granted if the facts and the inferences reasonably deducible from them show that the plaintiff could not prevail on any theory of the case." *Gray v. State Farm Auto Ins. Co.*, 327 S.C. 646, 651, 491 S.E.2d 272, 275 (Ct. App. 1997). "Although we are aware of the difference between alleging a cause of action and successfully proving it, the legal sufficiency of a pleading must be tested by the facts alleged therein." *Save Charleston Foundation v. Murray*, 286 S.C. 170, 179, 333 S.E.2d 60, 66 (Ct. App. 1985).

1. Plaintiff's Factual Allegations

In Plaintiff's Complaint, her factual allegations are mainly contained in a section of her Complaint entitled "Facts Common To All Causes of Action." (Am. Compl. ¶¶ 11-32). Her emotional distress and conspiracy cause of action sections essentially contain legal conclusions and allegations of damages. (See Am. Compl. ¶¶ 40-67). With regards to Nationwide and Titan, Plaintiff makes the following factual allegations:

a. Tidwell's insurance company paid to fix the damage to Plaintiff's car and Mr. Brown's car (Am. Compl. ¶ 16);

[4]Plaintiff includes reference to South Carolina Code § 15-3-530(5) in the headings for her emotional distress and civil conspiracy causes of action. (Am. Compl. pp. 7, 9). This statute concerns time limitations for bringing an action and does not set forth a statutory cause of action. *See* S.C. Code § 15-3-530(5).

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b. "Nationwide's and or Tidwell's Attorney subpoenaed all of plaintiff medical records...and employment records twice in 2016 and 2017" (Am. Compl. ¶¶ 22, 28);

c. Plaintiff attempted to settle with the insurer's adjusters and the adjusters offered her up to $20,000 but refused to offer any higher amount (Am. Compl. ¶¶ 23-25);

d. Nationwide participated in court-ordered mediation and offered $20,000 in settlement but refused to offer any higher amount (Am. Compl. ¶ 26);

e. Nationwide "influenc[ed] and controll[ed] the outcome of the [previous] trial" (Am. Compl. ¶ 46); and

f. The "Attorney for Nation" and the attorney for the South Carolina Department of Motor Vehicles, Eugene Matthews, "met several times in full view in fact ensured she saw them outside the courthouse, inside the courthouse..." (Am. Compl. ¶ 48).

These allegations against Nationwide and Titan merely allege that the insurers exercised their legal right to provide a defense for an insured and offered a settlement amount which Ms. Couram, a third-party to the insurance contract, did not agree to accept – none of which is tortious conduct.

2. Plaintiff has failed to allege facts sufficient to state a cause of action for emotional distress against Nationwide or Titan.[5]

To allege a claim for intentional infliction of emotional distress, the plaintiff must establish that: (1) the defendant intentionally or recklessly inflicted severe emotional distress, or was certain, or substantially certain, that such distress would result from his conduct; (2) the conduct was so

[5] Plaintiff has also alleged a negligent infliction of emotional distress claim. However, South Carolina does not recognize such cause of action outside the context of bystander recovery. *See Kinard v. Augusta Sash & Door Co.*, 286 S.C. 579, 583, 336 S.E.2d 465, 467 (1985) ("Our adoption of the cause of action [of negligent infliction of emotional distress] is limited to 'by-stander recovery.'"); *Doe v. Greenville Cty. Sch. Dist.*, 375 S.C. 63, 68, 651 S.E.2d 305, 307 (2007) (holding that where plaintiffs alleged a negligent infliction of emotional distress claim outside the context of bystander recovery, they had "not stated a claim which is cognizable under South Carolina law").

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"extreme and outrageous" so as to exceed "all possible bounds of decency" and must be regarded as "atrocious, and utterly intolerable in a civilized community;" (3) the actions of the defendant caused plaintiff's emotional distress; and (4) the emotional distress suffered by the plaintiff was "severe" such that "no reasonable man could be expected to endure it." *Hansson v. Scalise Builders of S.C.*, 374 S.C. 352, 356, 650 S.E.2d 68, 71 (2007) (quoting *Ford v. Hutson*, 276 S.C. 157, 162, 276 S.E.2d 776, 778). As the Supreme Court has stressed, South Carolina requires the plaintiff to meet a heightened burden of proof with regards to the "extreme and outrageous" element of the claim and "extreme or severe distress" element of the claim. *Ford*, 276 S.C. at 166. "[W]here physical harm is lacking, the courts should look initially for more in the way of extreme outrage as an assurance that the mental disturbance claimed is not fictitious." *Id.*[6] "Initially, the trial court determines whether the defendant's conduct was extreme and outrageous enough to permit recovery." *Hainer v. American Med. Int'l, Inc.*, 320 S.C. 316, 324, 465 S.E.2d 112, 117 (Ct. App. 1995), *aff'd as modified*, 328 S.C. 128, 492 S.E.2d 103 (1997). Further, the South Carolina Court of Appeals has recognized that "[t]he tort of outrage was designed not as a replacement for the existing tort actions. Rather, it was conceived as a remedy for tortious conduct where no remedy previously existed." *Todd v. South Carolina Farm Bureau Mut. Ins. Co.*, 283 S.C. 155, 175, 321 S.E.2d 602, 613 (Ct.App.1984), *quashed on other grounds*, 287 S.C. 190, 336 S.E.2d 472 (1985).

(i) Plaintiff has failed to allege sufficiently outrageous conduct by the insurers to support her claim.

In *Hainer v. American Medical Intern, Inc.*, the South Carolina Court of Appeals held stated that "even if [it] had found [the defendants] liable for abuse of process, their actions did not rise to the level of outrage." 320 S.C. 316 at 324, 465 S.E.2d at 117. That court cites *Corder v.*

[6] Physical harm is lacking in this case. To the extent Plaintiff's Complaint alleges physical harm caused by the September 18, 2015 accident, such claims are barred by res judicata as they have already been litigated in the Previous Action.

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Champion Road Mach. Int'l Corp., 283 S.C. 520, 324 S.E.2d 79 (Ct.App.1984), for the proposition that even retaliatory behavior absent claims of verbal assaults or hostile, abusive encounters, does not rise to the level required for the tort of outrage. *Id.* The tort of intentional infliction of emotional distress is not a "panacea for wounded feelings rather than reprehensible conduct." *Todd*, 283 S.C. at 171, 321 S.E.2d at 611. Here, Plaintiff alleges the conduct that was "so extreme and outrageous as to exceed all possible bounds of decency and to be regarded as atrocious and utterly intolerable in a civilized society" was the insurers' provision of an effective defense of their insured in the previous lawsuit and their refusal to offer more than $20,000 in settlement for a case that resulted in a $1,000 jury verdict. (*See* Am. Compl. ¶ 41); *Gattison v. S.C. State Coll.*, 318 S.C. 148, 157, 456 S.E.2d 414, 419 (Ct. App. 1995) (holding that even if factual allegations "demonstrate unprofessional, inappropriate behavior, they fall short of conduct that exceeds all possible bounds of decency and is atrocious and utterly intolerable in a civilized society" necessary for outrage cause of action). Thus, even allegations of abuse of process, retaliatory behavior, unprofessional behavior, or inappropriate behavior are insufficient to state a claim for emotional distress without something more like hostile and abusive encounters. With this standard in mind, Plaintiff's factual allegations against Nationwide and Titan fall woefully short of the outrageous conduct required for an emotional distress claim and such claim should be dismissed.

(ii) Plaintiff has failed to allege sufficiently sever emotional harm or distress to support her claim.

In addition to showing she was the subject of extreme and outrageous conduct, the Plaintiff must also allege she has suffered legally sufficiently severe emotional distress to support her emotional distress claim. The South Carolina Supreme Court has held that:

> Under the heightened standard of proof for emotional distress claims emphasized in *Ford*, a party cannot establish a prima facie claim for damages resulting from a defendant's tortious conduct with mere bald assertions. To permit a plaintiff to legitimately state a cause of action by simply alleging, "I suffered emotional distress" would be irreconcilable

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> with this Court's development of the law in this area. In the words of Justice Littlejohn, the court must look for something "more"-in the form of third party witness testimony and other corroborating evidence-in order to make a prima facie showing of "severe" emotional distress.

Hansson, 374 S.C. at 358–59, 650 S.E.2d at 72. Here Plaintiff's claims are "mere bald assertions" of emotional distress. Plaintiff states in her Complaint, that she suffered "severe emotional distress;" "humiliation, embarrassment, mental anguish, emotional distress..." and that "the emotional distress suffered by Plaintiff was and continues to [be] serious and severe." (Am. Compl. ¶¶ 42-43, 48). According to Plaintiff, the manifestation of her "severe emotional distress" was a "fever blister that remained four days after the trial." (Am. Compl. ¶ 50). Plaintiff also fails to delineate the alleged emotional distress she attributes to the underlying auto accident, for which she has already been compensated, and the alleged emotional distress she attributes to conduct of the insurers. Plaintiff's emotional distress claim should be dismissed because she has failed to allege sufficiently severe emotional distress to support her claim.

(iii) Plaintiff's intentional infliction of emotional distress claim is based on the same allegations for which she is seeking recovery for negligence and conspiracy.

"[T]he tort of outrage was not intended to replace existing causes of action but was intended as a remedy for tortious conduct 'where no remedy previously existed.'" *Doe v. Erskine College*, 8:04-23001RBH, 2006 WL 1473853 at *14 (D.S.C. May 25, 2006) (citing F. PATRICK HUBBARD AND ROBERT L. FELIX, THE SOUTH CAROLINA LAW OF TORTS 438 (3RD ED. 2004)); *see also Todd*, 283 S.C. at 173, 321 S.E.2d at 613 (Ct. App. 1984) ("The tort of outrage was designed not as a replacement for the existing tort actions. Rather, it was conceived as a remedy for tortious conduct where no remedy previously existed."). The court in *Erskine* determined that the basis of the claim of outrage for the most part was the same as another claim filed by the plaintiff, and accordingly dismissed the outrage claim. *Id.* at *14. Likewise here, the acts which Plaintiff claims are outrageous conduct also serve as the basis for and are subsumed by

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her other claims. (Am. Compl. ¶¶ 40-41 ("Plaintiff realleges the allegations set forth in paragraphs 1-39...By the conduct alleged above, each Defendant, acted outrageously...")). As such, the Plaintiff's attempt to generate a separate cause of action for outrage when she is already seeking a remedy for the same conduct under her other causes of action does not state a valid claim and should be dismissed.

3. Plaintiff has failed to allege facts sufficient to state a cause of action for civil conspiracy.

Plaintiff's civil conspiracy claim fails as a matter of law because: (1) Plaintiff failed to allege additional acts in furtherance of the conspiracy beyond the actions alleged under other claims within the Complaint; and (2) from the acts the Complaint alleges the insurers undertook, no reasonable inference can be drawn that the insurers acted with the primary purpose of injuring the Plaintiff. *See Pye v. Estate of Fox*, 369 S.C. 555, 567, 633 S.E.2d 505, 511 (2006) (stating that a conspiracy cause of action requires the plaintiff to establish that the primary purpose or object of defendants was to injure the plaintiff); *Stiles v. Onorato*, 318 S.C. 297, 300, 457 S.E.2d 601, 603 (1995) (affirming dismissal when only reasonable inference to be drawn from face of complaint did not support plaintiff's claim).

(i) Failure to allege independent acts in furtherance of conspiracy

"In a civil conspiracy claim, one must plead additional acts in furtherance of the conspiracy separate and independent from other wrongful acts alleged in the complaint, and the failure to properly plead such acts will merit the dismissal of the claim." *Hackworth v. Greywood at Hammett, LLC*, 385 S.C. 110, 115-16, 682 S.E.2d 871, 875 (Ct. App. 2009). Dismissal is proper where "the civil conspiracy action does no more than incorporate the prior allegations and then allege the existence of a civil conspiracy and pray for damages resulting from the conspiracy [and] [n]o additional acts in furtherance of the conspiracy were plead." *Id.* (quoting *Todd*, 276 S.C. at 293, 278 S.E.2d at 611); *Kuznik v. Bees Ferry Assocs.*, 342 S.C. 579, 611, 538 S.E.2d 15, 31 (Ct.

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App. 2000) ("Because [the third-party plaintiff] ... merely realleged the prior acts complained of in his other causes of action as a conspiracy action but failed to plead additional acts in furtherance of the conspiracy, he was not entitled to maintain his conspiracy cause of action."). Plaintiff states that the Defendants "jointly operated to perpetrate the wrongful acts complained of herein" and "agreed and conspired with each other to engage in the alleged wrongful conduct, including Defendants' interference with plaintiff [sic] employment relationships by coming to an agreement between them to do an unlawful act or to do a lawful act in an unlawful way..." (Am. Compl. ¶¶ 52, 59). Noticeably, nowhere in the civil conspiracy section of her Complaint does Plaintiff set forth what these alleged "wrongful acts" or "unlawful acts" committed by Defendants are. (*See* Am. Compl. ¶¶ 51-67); *see Hackworth*, 385 S.C. at 116, 682 S.E.2d at 875 (stating that complaint must inform the defendants of what acts in furtherance of the alleged conspiracy they are being accused). Therefore, the alleged "wrongful acts complained of herein" must mean those acts previously alleged in the "Facts Common to all Causes of Action" section of Plaintiff's Complaint. (*See* Compl. p. 3). Thus, Plaintiff's civil conspiracy claim fails as a matter of law because she has not plead additional acts in furtherance of the conspiracy separate and independent from other wrongful acts alleged in the complaint.

(ii) No reasonable inference that insurers' alleged acts were undertaken with the primary purpose of injuring the Plaintiff

One element of the civil conspiracy claim is that the defendants combined "for the purpose of injuring the plaintiff." *Allegro, Inc. v. Scully*, 418 S.C. 24, 32, 791 S.E.2d 140, 144 (2016), *reh'g denied* (Oct. 26, 2016). The "essential consideration" in a civil conspiracy is "whether the primary purpose or object of the combination is to injure the plaintiff." *Pye*, 369 S.C. at 567, 633 S.E.2d at 511 (quoting *Lee v. Chesterfield General Hosp., Inc.*, 289 S.C. 6, 13, 344 S.E.2d 379, 383 (Ct. App. 1986)). Plaintiff's own Complaint sets forth this legal standard for this "purpose" element.

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(Am. Compl. ¶ 56).[7] Plaintiff's allegations of the actions the insurers undertook undermine the "purpose" element of her civil conspiracy claim. While civil conspiracy "may be inferred from the very nature of the acts done," it cannot be reasonably inferred from the acts alleged in Plaintiff's Complaint. *See Peoples Fed. Sav. & Loan Ass'n of S.C. v. Res. Planning Corp.*, 358 S.C. 460, 470, 596 S.E.2d 51, 57 (2004).

In light of Plaintiff's allegations that: (1) she requested a settlement amount from the insurer that included an amount for lost wages and medical expenses; (2) she refused to settle for less than $20,000 with regards to the previously litigated auto accident; and (3) she brought the Previous Action – of which she complains – against Titan and Tidwell, the only reasonable inference to be drawn from the alleged responsive acts of the insurer[8] is that its primary purpose was to properly defend its insured, not to injure the Plaintiff. *See First Union Nat. Bank of S.C. v. Soden*, 333 S.C. 554, 575, 511 S.E.2d 372, 383 (Ct. App. 1998) (holding that conspiracy claim failed when it was only supported by mere speculation about motives and not establishment of overt acts pursuant to a common design); *see Ellis v. Davidson*, 358 S.C. 509, 527, 595 S.E.2d 817, 826 (Ct. App. 2004) (holding that plaintiff's civil conspiracy claim failed as a matter of law where plaintiff was able to show that defendant undertook alleged act but not that that he undertook act for purpose of injuring plaintiff). Therefore, as to Titan and Nationwide, Plaintiff's civil conspiracy claim should be dismissed.

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[7] The insurers dispute Plaintiff's allegation that they acted in concert with any Defendant other than the insured during the Previous Action or that they acted in concert with each other. As this is a Motion to Dismiss based solely on the allegations of the Complaint, the insurers are not addressing this issue herein.

[8] As set forth above, the acts Plaintiff alleges the insurer undertook include: (1) paying for the damage to her car; (2) requesting medical records and employment records; (3) offering up to $20,000 in settlement for the car accident; (4) attending court-ordered mediation; (5) meeting with the attorney for the South Carolina DMV; (6) and working to influence and control the outcome of the previous trial against its insured. (Am. Compl. ¶¶ 16, 19, 22-26, 46, 48).

4. South Carolina does not recognize standing for third parties to bring a bad faith refusal to pay action against an insured, which is the essence of Plaintiff's claims against the insurers.

When a party sues an insurer for refusing to pay benefits allegedly owed under an insurance contract, South Carolina labels that action a "bad faith refusal to pay benefits" cause of action. That is essentially the claim Plaintiff makes in her Complaint against Titan and Nationwide. She alleges repeatedly that the insurer refused to offer to settle for the amount she thought her claim was worth. (*See* Am. Compl. ¶¶ 23-26, 70, 71). Plaintiff also states that "Defendants fail[ed] to timely settle this matter that would have resulted in no additional and lasting harm to the plaintiff when they could have settled this matter in 2016." (Am. Compl. ¶ 71); *see Kim v. Progressive N. Ins. Co.*, No. CV 2:16-3397-RMG-BM, 2017 WL 773601 (D.S.C. Feb. 7, 2017), *report and recommendation adopted*, No. CV 2:16-3397-RMG, 2017 WL 773546 (D.S.C. Feb. 27, 2017) (dismissing pro se plaintiff's complaint against insurer as frivolous where her complaint alleged that tortfeasor's insurer refused to settle). As the South Carolina Supreme Court held in *Kleckley v. Northwestern Nat. Cas. Co.*, "a tort action for an insurer's bad faith refusal to pay benefits does not extend to third parties who are not named insureds." 338 S.C. 131, 134, 526 S.E.2d 218, 219 (2000); *see Trancik v. USAA Ins. Co.*, 354 S.C. 549, 554, 581 S.E.2d 858, 861 (Ct. App. 2003) ("Under the common law, no privity of contract exists between an injured person and the tortfeasor's liability insurer, and the injured person has no right of action at law against the insurer."); *Major v. Nat'l Indem. Co.*, 267 S.C. 517, 520, 229 S.E.2d 849, 850 (1976) (same). South Carolina courts have repeatedly denied actions for bad faith refusal to pay claims to third parties who are not named insureds. *See, e.g., Carter v. American Mut. Fire Ins. Co.*, 279 S.C. 368, 307 S.E.2d 227 (1983); *Cook v. Mack's Transfer & Storage*, 291 S.C. 84, 352 S.E.2d 296 (Ct. App. 1986); *Swinton v. Chubb & Son, Inc.*, 283 S.C. 11, 320 S.E.2d 495 (Ct. App. 1984).

In *Kleckley*, the Supreme Court stated that rather than pursuing a bad faith action against the insurer, the appropriate avenue of relief is to bring an action against the first-party beneficiary, which may then pursue an action against the insurer if a judgment is obtained. *Kleckley*, 338 S.C. at 136, 526 S.E.2d at 220. Plaintiff has already exercised this appropriate avenue of relief by bringing her Previous Action against Tidwell. Plaintiff's apparent unhappiness with the result of that remedy does not provide her standing to bring a bad faith claim against the insurer. Thus, as to the insurers, Plaintiffs Complaint should be dismissed as an improper attempt to bring a bad faith action.

5. An insurer does not commit a tortious act simply by fulfilling its duty to defend its insured.

An insurer's duty to defend its insured is separate and distinct from its obligation to pay a judgment rendered against an insured. *City of Hartsville v. S.C. Mun. Ins. & Risk Fin. Fund*, 382 S.C. 535, 544, 677 S.E.2d 574, 578 (2009). "A liability insurer must defend any suit alleging bodily injury or property damage seeking damages payable under the terms of the policy." *B.L.G. Enters., Inc. v. First Fin. Ins. Co.*, 334 S.C. 529, 535, 514 S.E.2d 327, 330 (1999). When the duty to defend is triggered, the insurer is required to employ counsel to defend its insured and to pay the cost of its insured's defense. *See Sloan Const. Co. v. Cent. Nat. Ins. Co. of Omaha*, 269 S.C. 183, 187, 236 S.E.2d 818, 820 (1977). In her Complaint, Plaintiff alleges nothing more, with regards to the insurer (Titan or Nationwide), than acts undertaken to properly defend its insured - (1) paying for the damage to Plaintiff's car; (2) requesting medical records and employment records; (3) offering up to $20,000 in settlement for the car accident; (4) attending court-ordered mediation; (5) meeting with the attorney for the South Carolina DMV; and (6) working to influence and control the outcome of the Previous Action against its insured. (Am. Compl. ¶¶ 16, 19, 22-26, 46, 48). These are acts undertaken pursuant to a contractual and legal duty to defend its insured and are not a

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proper basis for liability against the insurer. Therefore, Plaintiff's claims against the insurers should be dismissed.

B. Plaintiff's prayer for attorney's fees should be stricken because they are not available under South Carolina law in this case.

The Plaintiff has attempted to assert two South Carolina common law causes of action against these Defendants. In addition, the Plaintiff seeks to recover attorney's fees as to these causes of action. (Am. Compl. Prayer for Relief (C)). "Under the common law of South Carolina, a prevailing party has no right to recover attorney's fees." *Prevatte v. Asbury Arms*, 302 S.C. 413, 396 S.E.2d 642, 643 (Ct. App. 1990). "In the absence of a common law right, the plaintiff must plead either a contract or a statute to receive enhanced damages or attorney's fees." *Id.*

In this case, the Plaintiff has no common law right to recover attorney's fees. Neither has the Plaintiff cited to any contract or statute that would allow her to recover attorney's fees. Additionally, a pro se litigant is not entitled to recover attorney's fees in South Carolina because he or she does not become "liable for or subject to fees charged by an attorney." *Hopkins v. Hopkins*, 343 S.C. 301, 306, 540 S.E.2d 454, 457 (2000). As such, the Plaintiff has no valid basis to seek recovery of her attorney's fees in this action, and her prayer for attorney's fees should be stricken.

CONCLUSION

Plaintiff has failed to allege facts sufficient to support any of her claims against Titan or Nationwide. In addition, the factual allegations in her Complaint attempt to state a claim for bad faith refusal to pay insurance benefits for which Plaintiff does not have standing as a third party to the insurance contract. Where Plaintiff's Complaint recounts acts taken by the insurers to properly defend the insured in the Previous Action, Plaintiff does not allege tortious conduct which could be the basis for liability against the insurers. Therefore, Plaintiff's claims against Titan and Nationwide should be dismissed. In the alternative, Plaintiff's prayer for attorney's fee should be stricken because plaintiff

has no right to recover attorney's fees based both on the causes of action alleged in her Complaint and her status as a pro se plaintiff.

MURPHY & GRANTLAND, P.A.

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Attorney for Defendants Nationwide and Titan

Columbia, South Carolina
September 5, 2017

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STATE OF SOUTH CAROLINA)
) IN THE COURT OF COMMON PLEAS
COUNTY OF RICHLAND)

GLENDA COURAM)
Plaintiff(s))

vs.)

SHERWOOD TIDWELL AND TITIAN INDEMNITY COMPANY SUBSIDAIRY OF NATIONWIDE INSURANCE)
Defendant(s))

CIVIL ACTION COVERSHEET

2016 -CP- 40 - 2350

Submitted By: Glenda Couram
Address: 104 Macaw Ln
Lexington, SC 29073

SC Bar #: N/A
Telephone #: 803 358-127
Fax #:
Other:
E-mail: grcouram@hotmail.com

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

2016 APR 12 PM 11:20

DOCKETING INFORMATION (*Check all that apply*)

**If Action is Judgment/Settlement do not complete*

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

NATURE OF ACTION (*Check One Box Below*)

Contracts
- ☐ Constructions (100)
- ☐ Debt Collection (110)
- ☐ General (130)
- ☐ Breach of Contract (140)
- ☐ Fraud/Bad Faith (150)
- ☐ Failure to Deliver/ Warranty (160)
- ☐ Employment Discrim (170)
- ☐ Employment (180)
- ☐ Other (199) _____

Torts - Professional Malpractice
- ☐ Dental Malpractice (200)
- ☐ Legal Malpractice (210)
- ☐ Medical Malpractice (220)

Previous Notice of Intent Case # 20___-NI-_____-_____
- ☐ Notice/ File Med Mal (230)
- ☐ Other (299) _____

Torts – Personal Injury
- ☐ Conversion (310)
- ☒ Motor Vehicle Accident (320)
- ☐ Premises Liability (330)
- ☐ Products Liability (340)
- ☐ Personal Injury (350)
- ☐ Wrongful Death (360)
- ☐ Assault/Battery (370)
- ☐ Slander/Libel (380)
- ☐ Other (399) _____

Real Property
- ☐ Claim & Delivery (400)
- ☐ Condemnation (410)
- ☐ Foreclosure (420)
- ☐ Mechanic's Lien (430)
- ☐ Partition (440)
- ☐ Possession (450)
- ☐ Building Code Violation (460)
- ☐ Other (499) _____

Inmate Petitions
- ☐ PCR (500)
- ☐ Mandamus (520)
- ☐ Habeas Corpus (530)
- ☐ Other (599) _____

Administrative Law/Relief
- ☐ Reinstate Drv. License (800)
- ☐ Judicial Review (810)
- ☐ Relief (820)
- ☐ Permanent Injunction (830)
- ☐ Forfeiture-Petition (840)
- ☐ Forfeiture—Consent Order (850)
- ☐ Other (899) _____

Judgments/Settlements
- ☐ Death Settlement (700)
- ☐ Foreign Judgment (710)
- ☐ Magistrate's Judgment (720)
- ☐ Minor Settlement (730)
- ☐ Transcript Judgment (740)
- ☐ Lis Pendens (750)
- ☐ Transfer of Structured Settlement Payment Rights Application (760)
- ☐ Confession of Judgment (770)
- ☐ Petition for Workers Compensation Settlement Approval (780)
- ☐ Other (799) _____

Appeals
- ☐ Arbitration (900)
- ☐ Magistrate-Civil (910)
- ☐ Magistrate-Criminal (920)
- ☐ Municipal (930)
- ☐ Probate Court (940)
- ☐ SCDOT (950)
- ☐ Worker's Comp (960)
- ☐ Zoning Board (970)
- ☐ Public Service Comm. (990)
- ☐ Employment Security Comm (991)
- ☐ Other (999) _____

Special/Complex /Other
- ☐ Environmental (600)
- ☐ Automobile Arb. (610)
- ☐ Medical (620)
- ☐ Other (699) _____
- ☐ Sexual Predator (510)
- ☐ Pharmaceuticals (630)
- ☐ Unfair Trade Practices (640)
- ☐ Out-of State Depositions (650)
- ☐ Motion to Quash Subpoena in an Out-of-County Action (660)
- ☐ Pre-Suit Discovery (670)

Submitting Party Signature: _____ **Date:** ~~March 24, 2016~~ April 6, 2016

Note: Frivolous civil proceedings may be subject to sanctions pursuant to SCRCP, Rule 11, and the South C

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DEFENDANT'S EXHIBIT A

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOR THE FIFTH JUDICIAL CIRCUIT
COUNTY OF RICHLAND	)	CA NO: 2016-CP-40-_____
Glenda R. Couram Plaintiff	)	
Sherwood Tidwell, Insured Titan Indemnity Company Subsidiary of Nationwide Mutual Insurance Company Defendants	)	JURY TRIAL DEMANDED

2016 APR 12 AM 11:20

SUMMONS

TO THE DEFENDANTS ABOVE NAMED:

YOUR ARE HEREBY SUMMONED and required to answer the complaint herein, copy of which is herewith served upon you, and to serve a copy of your answer to this complaint upon the subscriber, at the address shown below, within thirty (30) days after service hereof, exclusive of the day of such service, and if you fail to answer the complaint, judgement by default will be rendered against you for the relief demanded in the complaint.

Respectfully submitted by,

Glenda R. Couram
104 Macaw Lane
Lexington, SC 29073
803 358-0127
grcouram@hotmail.com
Pro se Plaintiff

Dated this 28th day of March 2016
Columbia, South Carolina

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STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOR THE FIFTH JUDICIAL CIRCUIT
COUNTY OF RICHLAND	)	CA NO: 2016-CP-40-_____
Glenda R. Couram	)	
Plaintiff	)	**COMPLIANT**
	)	
Sherwood Tidwell, Insured	)	
Titan Indemnity Company	)	
Subsidiary of Nationwide Mutual Insurance Company	)	
Defendants	)	
	)	**JURY TRIAL DEMANDED**

2016 APR 12 AM 11:20

The Plaintiff, complaining of the Defendant herein, would respectfully show unto this Honorable Court the following:

1. Plaintiff is a citizen and resident of Lexington County, South Carolina.

2. Upon information and belief, Defendant is a citizen and resident of Richland County, South Carolina.

3. Jurisdiction and venue are proper in this Court because the event that gives rise to this action occurred in Richland County, South Carolina.

4. This action arises from a motor vehicle collision that occurred on September 18, 2015, in Richland, South Carolina.

5. On September 18, 2015, (Friday) at approximately 4:20 pm Plaintiff was lawfully operating a motor vehicle on 1-20 heading West Bound towards (Lexington) Atlanta, Georgia.

6. As Plaintiff was preceding the traffic came to a sudden stand-still, the Plaintiff stopped with sufficient distance from the car in front of her. She watched the car behind her driven by Mr. Brown, and moved up until he stopped successfully, after he came to a complete stop behind, Plaintiff relaxed concentrating on the traffic in front of her the next

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thing Plaintiff knew her car was violently slammed into by Mr. Brown's car a cream colored Crown Victory.

7. Plaintiff was driving a 2012 Honda Fit.

8. Defendant's vehicle was a commercial vehicle whose entire front end had been crushed it appeared to the Plaintiff.

9. Defendant failed to observe traffic conditions during rush hour on a Friday and driving too fast to stop collided into Mr. Brown who collided into Plaintiff causing property damage and injury to the Plaintiff.

10. Plaintiff did not cause or contribute to the collision in any manner as confirmed by the accident report in fact, it was a total shock she had even been hit and further she had no ability to avoid or prevent the collision.

11. As a result of the collision, Plaintiff suffered painful, traumatic, and injuries throughout her body which resulted in significant medical treatment (physical and occupational therapy).

12. Plaintiff has incurred, and will continue to incur in the future, medical expenses, and has suffered, and will continue to suffer general damages such as physical and mental pain and suffering, emotional anguish, loss wages, and a loss of enjoyment of life, along with considerable medical bills and inconvenience, all of which she is entitled to be compensated for as a direct and proximate result of Defendant's actions as described above.

13. Defendant was negligent, negligent *per se*, careless, reckless, and grossly negligent in one or more of the following particulars:

a. In causing his vehicle and Mr. Brown's vehicle to collide into Plaintiff's vehicle;
b. In operating a vehicle in a distracted manner;
c. In failing to observe traffic;
d. In failing to keep a proper outlook;

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e. In operating a vehicle in a manner too fast for conditions;
f. In operating a vehicle in a manner to avoid a collision;
g. In failing to maintain proper control and distance over the vehicle;
j. In failing to properly brake the vehicle to avoid the collision;
k. In failing to take any evasive action by means to keep from causing the collision;
l. In failing to obey the statutory and common laws of the State of South Carolina;
m. In failing to use the degree of caution and care that a reasonable driver would have used under the same or similar circumstances;
n. In operating his motor vehicle in whole or in part in a careless, reckless, willful, and wanton disregard for others; and
o. In otherwise being negligent or reckless as discovery may reveal. All of which were the direct and proximate cause of the injuries and damages suffered by Plaintiff.

14. Plaintiff is entitled to a judgment against the Defendant to compensate her for the damages and injuries sustained.

15. Plaintiff is entitled to an award of punitive damages to the extent Defendant's conduct was in violation of statutory laws or reckless, willful, or wanton.

16. Plaintiff demands a jury trial.

WHEREFORE, Plaintiff prays this Honorable Court for judgment against Defendant for: (a) actual and consequential damages; (b) punitive damages; (c) pre-judgment interest; (d) costs and attorney's fees in instituting this action, if applicable; and (e) for such other and further legal and equitable relief as this Honorable Court may deem just and proper.

Respectfully submitted,

By: _____

Glenda Couram
104 Macaw Lane
Lexington, SC 29073
Columbia, South Carolina 29201
Email: grcouram@hotmail.com
Phone: (803) 358-0127
Pro se Plaintiff

Dated this 25th, day of March 2016
Columbia, South Carolina

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SECTION 38-77-250. Release of coverage information upon written request of claimant's attorney; confidentiality.

(A) Every insurer providing automobile insurance coverage in this State and which is or may be liable to pay all or a part of any claim shall provide, within thirty days of receiving a written request from the claimant's attorney, a statement, under oath, of a corporate officer or the insurer's claims manager stating with regard to each known policy of nonfleet private passenger insurance issued by it, the name of the insurer, the name of each insured, and the limits of coverage. The insurer may provide a copy of the declaration page of each such policy in lieu of providing such information. The request shall set forth under oath the specific nature of the claim asserted and shall be mailed to the insurer *by certified mail* or statutory overnight delivery. The request also must state that the attorney is authorized to make such a request and must be accompanied by a copy of the incident report from which the claim is derived.

(B) If the request provided in subsection (A) contains information insufficient to allow compliance, the insurer upon whom the request was made may so state in writing, stating specifically what additional information is needed and such compliance shall constitute compliance with this section.

(C) The information provided to a claimant or his attorney as required by subsection (A) of this section shall not create a waiver of any defenses to coverage available to the insurer and shall not be admissible in evidence.

(D) The information provided to a claimant or his attorney as required by subsection (A) shall be amended upon the discovery of facts inconsistent with or in addition to the information provided.

(E) The provisions of this section do not require disclosure of limits for fleet policy limits, umbrella coverages, or excess coverages.

(F) The information received pursuant to this section is confidential and must not be disclosed to any outside party. Upon final disposition of the case, the claimant's attorney must destroy all information received pursuant to this section. The court must impose sanctions for a violation of this subsection.

HISTORY: 2011 Act No. 52, Section 4, effective January 1, 2012.

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MEDICAL BILLS AND COST
SUBMITTED ON MARCH 22, 2016

ITEMIZED MEDICAL BILLS TO DATE (SPECIAL/GENERAL DAMAGES):

Lexington Urgent Care	$	1591.00
Lexington Radiology Assoc.		90.00
Palmetto Associates		95.00
Vital Energy PT and OT (ongoing)	$	≈3026.00 as of December 9, 2015
Prescription Costs (3) (not total my share	$	22.00 (2 @ $9 and 1 @ $4
Vital Energy (release)	$	2260.00 Dec. 15 to March 22, 2016
Wage/loss/mileage/gas to date	$	≈ 779.00
Wage/loss/mileage/gas	$	562.00
TOTAL	$	8425.00 x 3 = $26,775

(plus future Medical bills of $1500 (including future loss wages, gas, mileage)

NOTE: Medicals records, release of information, incident report, wage loss letters (2) etc. and other bills sent to

Rick Skurko, Claims Specialist II
Commercial Casualty
Nationwide Non-Standard Claims
PO Box 93863
Cleveland, OH 44101

2016 APR 12 AM 11:21
C.C.P. & G.S.

Respectfully submitted by,

Glenda R. Couram
104 Macaw Lane
Lexington, SC 29073
803 358-0127
grcouram@hotmail.com
Pro se Plaintiff

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C.O. 1388

816

Case Claim #0326373 62

Mail FR-10 to: SC Department of Motor Vehicles
Office of Financial Responsibility (803) 896-5000
PO Box 1498, Blythewood, SC 29016-0050

SOUTH CAROLINA DEPARTMENT OF MOTOR VEHICLES FR-10 (REV. 11/2011)
NOTICE OF REQUIREMENT

Submit Electronically: Agents or Company Representatives can submit your insurance information at WWW.SC-AUR.COM

Date	Time	County	Interstate / US Primary / SC Primary / Secondary / Coun. / PP	Collision Location (Rt. # / Name)	Main line / Connector / Alternate / Business / Spur	Miles	Dir. N E S W	In / Near City or Town of:
09-18-2015	1630	40		520				

To Vehicle Owner/ Operator: Failure to return this form to the Department of Motor Vehicles within 15 days from the date of the collision could result in the suspension of your driver license and registration privileges pursuant to South Carolina Code of Laws 56-9-351 and 56-10-530.

E-966754

Driver/Pedestrian's Full Name: COURAM GLENDA RENEE

Unit # 01 | Sex F | Race B | Street: 104 MACAW LN
#Occ 1 | Birth Date 11-03-1958 | City, State, & Zip: LEXINGTON SC 290737673
State SC | Driver's License # 003814007 D | Insurance Company: LIBERTY MUTUAL
Year 2012 | Body 4S | Vehicle Make HOND | VIN # JHMGE8H57CC010766
State SC | Year 2017 | License Plate # LML574 | Owner's D.L. # 003814007
Home Telephone (803) 3580127 | Owner's Full Name COURAM GLENDA RENEE
Bus. Telephone ( ) | Street: 104 MACAW LN
Contributed To Collision: Yes (No) | City, State, & Zip: LEXINGTON SC 290737673

E-966755

Driver/Pedestrian's Full Name: BROWN BRANDON SENTELL

Unit # 02 | Sex M | Race B | Street: 942 BOULEVARD RD
#Occ 1 | Birth Date 08-09-1986 | City, State, & Zip: SUMTER SC 291537705
State SC | Driver's License # 100435254 D | Insurance Company: PROGRESSIVE
Year 2004 | Body SU | Vehicle Make CADI | VIN # 1GYEE637840164468
State SC | Year 2017 | License Plate # LFN288 | Owner's D.L. #
Home Telephone (803) 2367861 | Owner's Full Name BROWN BRANDON SENTELL
Bus. Telephone ( ) | Street: 942 BOULEVARD RD
Contributed To Collision: Yes (No) | City, State, & Zip: SUMTER SC 291537705

E-966756

Driver/Pedestrian's Full Name: TIDWELL SHERWOOD FROST

Unit # 03 | Sex M | Race W | Street: 1776 MORNINGLO LN
#Occ 1 | Birth Date 01-28-1957 | City, State, & Zip: COLUMBIA SC 292233609
State SC | Driver's License # 008118226 D | Insurance Company: NATIONWIDE
Year 2014 | Body VN | Vehicle Make NISS | VIN # 1N6BF0KL2EN107525
State SC | Year 2018 | License Plate # AVV780 | Owner's D.L. # 008118226
Home Telephone (803) 4791391 | Owner's Full Name TIDWELL SHERWOOD FROST
Bus. Telephone ( ) | Street: 1776 MORNINGLO LN
Contributed To Collision: Yes (No) | City, State, & Zip: COLUMBIA SC 292233609

All Units Insurance Information
(to be completed by Investigating Officer)

Accident Insurance Information for Unit # 01
Company Name: LIBERTY MUTUAL | Area Code/Phone Number: ( )
Agency Name | Policy Number: AOS2582252624051

Accident Insurance Information for Unit # 02
Company Name: PROGRESSIVE | Area Code/Phone Number: ( )
Agency Name | Policy Number: 905416935

Accident Insurance Information for Unit # 03
Company Name: NATIONWIDE | Area Code/Phone Number: ( )
Agency Name | Policy Number: 6623745

Automobile Liability Insurance Information

Notice of Requirement Accepted → Signature | Y N Refused to Affix Signature? | Y N Registration in SC?

To Be Completed Below or Entered at WWW.SC-AUR.COM By Insurance Company representative. This form should not be mailed to DMV if insurance information has been submitted electronically.
Reference to Unit #: _____ I hereby affirm that to the best of my knowledge the vehicle described above was insured by the below stated insurance company on the date of the collision.

The information as contained herein is true and belief as a representative of the ... of liability is imputed into the above ... listed herein. I rely upon my knowledge ... insurance company and no warranty ... ed insurance as I have

Insurance Company | Policy #: | Signature | Title
Beginning Date | Ending Date: | Policy Holder: | NAIC # (Assigned by S.C. Dept. of Ins. | Bus. Telephone ( )

Notice: If liability insurance was not in effect for your vehicle involved in the collision, the Department of Motor Vehicles could suspend your driver license and registration privileges pursuant to South Carolina Code of Laws 56-9-351 and 56-10-530.

If any of the below are applicable, Disregard the above portion.

Form FR-10 Not Issued: Section 56-10-520

- ☐ Check here if a Form SR-23, Fleet policy of 25 or more vehicles is on file with the Department of Motor Vehicles covering the vehicle
- ☐ Check here if a certificate of self-insurance has been issued by the Department of Motor Vehicles covering the vehicle and indicate the certificate number: SI - _____
- ☐ Check here if liability insurance was not in effect to comply with South Carolina statutory requirements | Signature | Date

No FR-10 Issued to Operator/ Owner of Unit #: _____
Summons Issued to:
For operating or allowing the operation of an uninsured vehicle | Summons Number: | Signature

Investigating Officer's Name | Rank | Badge # | Code | Date | Reviewer's Name | Rank | Internal Agency Code

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March 28, 2016

Rick Skurko, Claims Specialist II
Commercial Casualty
Nationwide Non-Standard Claims
PO Box 93863
Cleveland, OH 44101

RE:	**Policyholder:**	**Sherwood Tidwell**
	Insurance Company:	**Titan Indemnity Company**
	Date of Accident/Loss:	**September 18, 2015**
	Claimant/Injured:	**Glenda Couram**
	Claims #:	**144356-GC**

Dear Mr. Skurko:

Please be advised that as you have determined not to negotiate this matter after two attempts by me, your offer has been medicals and two thousand five hundred ($2,500.00 for pain and suffering) based on my waiting too long to seek medical attention and car damage. My offer is no longer viable.

I am submitting to you a copy of the Summons and Complaint, Certificate of Service that has been filed to the Richland County Circuit Court. My client suffered personal injuries from a motor vehicle collision that occurred in Richland County on March 25, 2014.

Your insured, Sherwood Tidwell, was negligent in causing this collision. A copy of the incident report, medicals, two letters from employer of wage lost and medical bills have already been submitted the most recent submission was this month.

Pursuant to S.C. Code Ann. § 38-77-250, we are hereby writing to obtain information concerning automobile insurance coverage of the insured and the insured vehicle, the driver, and the owner of the vehicle. We hereby request within thirty (30) days from the above date, a statement, under oath, of a corporate officer or the insurer's claims manager stating with regard to each known policy issued, the name of the insurer, the name of each insured, and the limits of coverage. In the alternative, you may provide a copy of the declaration page of each such policy in lieu of providing such information. I am hereby authorized to make this request.

I would request this information be provided within the next thirty (30) days. Thank you for your assistance.

Sincerely,

Glenda Couram
104 Macaw Lane
Lexington, SC 29073
Columbia, South Carolina 29201
Email: grcouram@hotmail.com
Phone: (803) 358-0127
Pro se Plaintiff

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STATE OF SOUTH CAROLINA COUNTY OF RICHLAND Glenda R. Couram, Plaintiff, vs. Sherwood Tidwell and Titan Indemnity Company, Subsidiary of Nationwide Mutual Insurance Company, Defendants.	IN THE COURT OF COMMON PLEAS FOR THE FIFTH JUDICIAL CIRCUIT CASE NO.: 2016-CP-40-02350 **CONSENT ORDER REMOVING PARTY**

RICHLAND COUNTY FILED
2016 SEP 20 PM 12:19
JEANNETTE W. MCBRIDE
C.C.P. & G.S.

In this automobile negligence action, the Plaintiff filed suit on April 12, 2016 alleging that Co-Defendant, "Titan Indemnity Company, Subsidiary of Nationwide Mutual Insurance Company," was negligent related to a motor vehicle accident which occurred on September 18, 2015. The specific claims as to Co-Defendant "Titan Indemnity Company, Subsidiary of Nationwide Mutual Insurance Company" are unclear in the Complaint.

Discovery has taken place and the parties have found that there is no evidence under South Carolina Law which shows "Titan Indemnity Company, Subsidiary of Nationwide Mutual Insurance Company" to be liable to the Plaintiff. SCRCP 21 allows parties to be dropped by order of the Court on any motion on such terms as are just.

The Plaintiff has consented to the Defendant's motion to drop Co-Defendant, "Titan Indemnity Company, Subsidiary of Nationwide Mutual Insurance Company," as a named party. If evidence becomes available to the parties which suggest Co-Defendant, "Titan Indemnity Company, Subsidiary of Nationwide Mutual Insurance Company," should be added as a Co-Defendant at a later date, the parties mutually

DEFENDANT'S EXHIBIT B

agree that this issue may be fully developed and the Court may add Co-Defendant, "Titan Indemnity Company, Subsidiary of Nationwide Mutual Insurance Company," as a party in compliance with SCRCP 21.

IT IS SO ORDERED.

Presiding Judge

Columbia, South Carolina

This 2 day of Sept, 2016.

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WE SO MOVE:

CLAWSON and STAUBES, LLC

Jescelyn T. Spitz
Bar No. 101880
Attorney for Defendants

CONSENT:

Glenda R. Couram
Pro Se Plaintiff

RICHLAND COUNTY
FILED
2016 SEP 20 PM 12:19
JEANNETTE W. McBRIDE
C.C.P. & G.S.

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STATE OF SOUTH CAROLINA)	IN THE COURT OF COMMON PLEAS FOR THE FIFTH JUDICIAL CIRCUIT
COUNTY OF RICHLAND)	CASE NO.:2016-CP-40-02350
Glenda R. Couram Plaintiff, vs.)	**MOTION AND ORDER INFORMATION FORM AND COVERSHEET**
Sherwood Tidwell and Titan Indemnity Company, Subsidiary of Nationwide Mutual Insurance Company Defendant.)	

Pro Se Plaintiff: Glenda Couram Bar No. Address: 104 Macaw Ln Lexington, SC 29073-7673 Phone: 803-358-0127 Fax E-mail: Glenda.couram@scdmv.net	Defendant's Attorney: Jescelyn T. Spitz Bar No. 101880 Address: CLAWSON and STAUBES, LLC 1612 Marion Street, Suite 200 Columbia, South Carolina 29201-2939 Phone: (800) 774-8242 Fax: (843) 722-8867 E-mail: jspitz@clawsonandstaubes.com

☐ **MOTION HEARING REQUESTED (attach written motion and complete SECTIONS I and III)**
☐ **FORM MOTION, NO HEARING REQUESTED (complete SECTIONS II and III)**
X **PROPOSED ORDER/CONSENT ORDER (complete SECTIONS II and III)**

2016 SEP 20 AM 12:19
RICHLAND CO.
FILED
CHARLENE W. MCBRIDE
C.C. & C.S.

SECTION I: Hearing Information

Nature of Motion:
Estimated Time Needed: Court Reporter Needed: ☐YES/☐ NO

SECTION II: Motion/Order Type

☐Written motion attached
X Form Motion/Order
I hereby move for relief or action by the court as set forth in the attached proposed order.

Signature of Attorney for ☐ Plaintiff /X Defendant Date submitted

SECTION III: Motion Fee

X PAID – AMOUNT: $25.00
☐ EXEMPT: (check reason)
☐ Rule to Show Cause in Child or Spousal Support
☐ Domestic Abuse or Abuse and Neglect
☐ Indigent Status ☐ State Agency v. Indigent Party
☐ Sexually Violent Predator Act ☐ Post-Conviction Relief
☐ Motion for Stay in Bankruptcy
☐ Motion for Publication ☐ Motion for Execution (Rule 69, SCRCP)
☐ Proposed order submitted at request of the court; or, reduced to writing from motion made in open court per judge's instructions
Name of Court Reporter: _____
☐ Other: _____

JUDGE'S SECTION	
☐ Motion Fee to be paid upon filing of the attached order. ☐ Other:	JUDGE CODE _____ Date: _____

CLERK'S VERIFICATION

Collected by: _____ Date Filed: _____
☐ MOTION FEE COLLECTED: $ _____
☐ CONTESTED – AMOUNT DUE: $ _____

meths ✓ 9/20/16

SCCA 233 (11/2003)

FORM 4

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

JUDGMENT IN A CIVIL CASE

CASE NUMBER: 2016CP4002350

Glenda Couram

PLAINTIFF(S)

Sherwood Tidwell
Nationwide Mutual Insurance Company

DEFENDANT(S)

Submitted by: _____	Attorney for : ☐ Plaintiff ☐ Defendant or ☐ Self-Represented Litigant

DISPOSITION TYPE (CHECK ONE)

☐ **JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.

☐ **DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.

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

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

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

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

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

RICHLAND COUNTY FILED 2016 SEP 21 AM 9:52 CLERK OF COURT

ORDER INFORMATION

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

INFORMATION FOR THE JUDGMENT INDEX

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

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

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

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

Circuit Court Judge _____ **Judge Code** _____ **Date** _____

For Clerk of Court Office Use Only

This judgment was entered on the ____ day of _____, 20 ____ and a copy mailed first class or placed in the appropriate attorney's box on this 22 day of Sept. 20 16 to attorneys of record or to parties (when appearing pro se) as follows:

Glenda Couram

Jescelyn Tillman Spitz

Glenda Couram
ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

Court Reporter _____

Clerk of Court Jeanette W. McBride

SCRCP Form 4C (10/2011)

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STATE OF SOUTH CAROLINA COUNTY OF RICHLAND	IN THE COURT OF COMMON PLEAS FOR THE FIFTH JUDICIAL CIRCUIT CASE NO.: 2016-CP-40-02350
Glenda R. Couram, Plaintiff, vs. Sherwood Tidwell, Defendant.	**OFFER OF JUDGMENT**

RICHLAND COUNTY
FILED
2017 FEB 16 PM 4:21
JEANNETTE W. MCBRIDE
C.C.P. & G.S.

TO: GLENDA R. COURAM, PRO SE PLAINTIFF

PLEASE TAKE NOTICE that the Defendant, by and through his undersigned attorney, without admitting liability and in an attempt to compromise and settle the Plaintiff's claim pursuant to Rule 68 of the South Carolina Rules of Civil Procedure, hereby offers the sum of TWENTY THOUSAND AND 00/100 ($20,000.00) DOLLARS, including all costs, in full compromise and settlement of the Plaintiff's claim against the Defendant and hereby offers to allow judgment to be taken against him for the sum of TWENTY THOUSAND AND 00/100 ($20,000.00) DOLLARS, including all costs. The Plaintiff has twenty (20) days from the date indicated below to accept this offer; if written notice of acceptance is not given by the Plaintiff within the twenty (20) days specified, the offer is withdrawn, cannot be given in evidence and, if the Plaintiff fails to obtain a more favorable judgment than TWENTY THOUSAND AND 00/100 ($20,000.00) DOLLARS, including all costs, the Plaintiff cannot recover costs herein and must pay the Defendant's costs of defense.



SCANNED

Exhibit B

STATE OF SOUTH CAROLINA COUNTY OF RICHLAND Glenda R. Couram, Plaintiff, v. Sherwood Tidwell, Defendant.	IN THE COURT OF COMMON PLEAS FOR THE FIFTH JUDICIAL CIRCUIT Civil Action No. 2016-CP-40-02350 **VERDICT FORM**

1. Do you, the jury, unanimously find that Plaintiff Glenda R. Couram suffered damages?

✓ Yes OR _____ No

If the answer to Question 1 is yes, proceed to Question 2.
If the answer to Question 1 is no, stop and deliberate no further.

2. Do you, the jury, unanimously find that the damages suffered by Plaintiff Glenda R. Couram were proximately caused by the conduct of Defendant Sherwood Tidwell?

✓ Yes OR _____ No

If the answer to Question 2 is yes, proceed to Question 3.
If the answer to Question 2 is no, stop and deliberate no further.

3. We, the jury, unanimously award Plaintiff Glenda R. Couram damages in the amount of $ 1,000.00.

Linda E Wallace
Jury Foreperson

June 16, 2017
Columbia, South Carolina.

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DEFENDANT'S EXHIBIT D

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

IN THE COURT OF COMMON PLEAS

CIVIL ACTION NO: 2017-CP-40-4048

Glenda R. Couram,

Plaintiff,

vs.

Nationwide Mutual Insurance Company,
Titan Indemnity Company,
Eugene Matthews, in his individual capacity,
Sherwood Plumbing SVC, LLC, and
Sherwood Tidwell,

Defendants.

CERTIFICATE OF SERVICE

I, the undersigned employee of the law offices of Murphy & Grantland, P.A., Attorneys for Defendant, do hereby certify that on September 5, 2017, I have served a copy of the foregoing Defendant's Memorandum in Support of their Motion to Dismiss in connection with the above-referenced case placing same in the U.S. mail, postage paid to:

Glenda R. Couram
104 Macaw Lane
Lexington, SC 29073

Jescelyn T. Spitz, Esquire
Clawson and Staubes, LLC
1612 Marion St., Suite 200
Columbia, SC 29201-2939

Eugene H. Matthew, Esquire
Richardson, Plowden & Robinson
1600 Marion Street
P.O. Drawer 7788
Columbia, SC 29202

Sandra R. Branson

Columbia, SC

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STATE OF SOUTH CAROLINA COUNTY OF RICHLAND Glenda Couram, Plaintiff, v. Nationwide Mutual Insurance Company, Titan Indemnity Company, Eugene Matthews, in his individual capacity, Sherwood's Plumbing Services, LLC, Sherwood Tidwell, Owner/Operator/ Agent, and Beatrice Tyree Tidwell, Defendants.	IN THE COURT OF COMMON PLEAS FOR THE FIFTH JUDICIAL CIRCUIT C/A No.: 2017-CP-40-04048 **ANSWER TO PLAINTIFF'S AMENDED COMPLAINT OF DEFENDANT EUGENE MATTHEWS**

NOW COMES the Defendant Eugene Matthews (hereinafter "Matthews" or the "Defendant"), and answers the Plaintiff's Amended Complaint, received by the undersigned on July 19, 2017, denying all allegations not specifically admitted, as follows:

INTRODUCTION

This case involves a frequent *pro se* Plaintiff, who has filed numerous unsuccessful lawsuits in various courts in South Carolina.

Prior to her filing this lawsuit, Plaintiff filed a lawsuit captioned as *Glenda R. Couram v. Sherwood Tidwell*, 2016-CP-40-2350 ("Tidwell I"), also in the Court of Common Pleas in Richland County. (Exhibit "A"). "Tidwell I" involved the same automobile accident that is the subject of the instant case.

Eugene Matthews (the undersigned) is an attorney with Richardson Plowden & Robinson, P.A. He has defended numerous defendants in four (4) separate lawsuits brought by the Plaintiff, including the South Carolina Department of Motor Vehicles ("SCDMV"), her

former supervisors and co-workers, Judiciary officials, and others. Notably, he did not represent any party in "Tidwell I," but assisted SCDMV in responding to subpoenas issued in that case, and accompanied an SCDMV employee who testified at the trial.

In this lawsuit, Plaintiff appears to complain that Mr. Tidwell's insurers did not offer her enough money to settle "Tidwell I." (Amended Complaint, ¶¶ 23-26). While not privy to the exact nature of those negotiations, the record indicates that Plaintiff received an Offer of Judgment under Rule 68, SCRCP in the amount of $20,000.00. (Exhibit "B," Offer of Judgment).

It also appears that, prior to trial, Judge Hood issued an order in which Mr. Tidwell acknowledged fault for the accident. (Exhibit "C," Judge Hood's Order). The Order held that "[w]hile the Plaintiff claims she sustained physical and mental injuries as a result of the accident in question, it is within the province of the jury to determine whether the Plaintiff's alleged damages were caused by the accident in question in the case, meaning a jury must determine whether the Plaintiff's alleged damages would have occurred 'but for' the Defendant's alleged negligence, as well as whether such damages were 'foreseeable' or the natural and probable consequence of the alleged failure to exercise reasonable case." (Exhibit "C," p. 3).[1]

In any event, Plaintiff rejected the Offer of Judgment of $20,000.00 and tried her case to a jury. The jury returned a verdict in her favor, but only awarded $1,000.00. (Exhibit "D," Jury Verdict). Plaintiff has filed a Motion to Amend or Alter Judgment under Rule 59, SCRCP, upon which the Court has not yet ruled.

[1] While Plaintiff alleges at ¶ 20 of her Amended Complaint that Tidwell "was found guilty in a court of law for negligence and liability via court order if Judge Hood dates June 2, 2017," the allegation is not accurate. In any event, Judge Hood's Order speaks for itself.

As set forth below, Plaintiff's instant lawsuit is frivolous and should be dismissed forthwith. Plaintiff should also be sanctioned under the South Carolina Frivolous Civil Proceedings Sanctions Act, or Rule 11, SCRCP, or both.

PLAINTIFF'S ALLEGATIONS

1. In Paragraphs 1 through 10 of her Amended Complaint, Plaintiff attempts to set forth allegations to establish the identity of the parties and the jurisdiction of this Court over Plaintiff's claims. Plaintiff has failed to state any justiciable claims regarding the Defendant, but the Defendant consents to jurisdiction and venue insofar as the Court may hear proper motions. Unless otherwise admitted, the remaining allegations in Paragraphs 1 through 10 of Plaintiff's Amended Complaint are denied.

2. The allegations in Paragraphs 11 through 32 of Plaintiff's Amended Complaint largely recount events from Plaintiff's automobile accident litigated in "Tidwell I." The only allegation referencing the undersigned is in Paragraph 28, is vague, and has no apparent meaning. Unless otherwise admitted or proven by Plaintiff, the allegations in Paragraphs 11 through 32 of Plaintiff's Amended Complaint are denied.

FOR A FIRST CAUSE OF ACTION
(VICARIOUS LIABILITY/RESPONDEAT SUPERIOR)
(NEGLIGENT ENTRUSTMENT AND/OR COMMON LAW NEGLIGENCE IF APPLICABLE)
(SHERWOOD'S PLUMBING SERVICES, LLC DBA SHERWOOD F. TIDWELL, OWNER/OPERATOR/AGENT AND BEATRICE TYREE TIDWELL [*SIC*])

3. The Defendant incorporates his responses to the allegations in Paragraphs 1 through 32 of Plaintiff's Amended Complaint as if fully set forth herein.

4. This cause of action does not appear to pertain to this Defendant, and includes no allegation that references this Defendant. In Paragraph 28, she alleges that the undersigned "entered the picture and a second subpoenaed request for plaintiff's employment records [*sic*]

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causing the plaintiff additional suffering." The undersigned admits that he assisted his client, SCDMV, respond to subpoenas issued to it in "Tidwell I."

5. Unless otherwise admitted, the allegations in Paragraphs 33 through 39 of Plaintiff's Amended Complaint are denied.

FOR A SECOND AND THIRD CAUSE OF ACTION
(INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS)
(NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS)
(NATIONWIDE, TITAN AND MATTHEWS)

6. The Defendant incorporates his responses to the allegations in Paragraphs 1 through 39 of Plaintiff's Amended Complaint as if fully set forth herein.

7. Pertaining to Plaintiff's Second and Third Causes of Action, Plaintiff makes two allegations regarding this Defendant.

8. In Paragraph 46, she makes a conclusory allegation that the undersigned and Nationwide engaged in "malicious and/or oppressive conduct" that "was in reckless disregard of Plaintiff's [*sic*] and therefore warrants imposition of punitive damages, especially in influencing and controlling the outcome of the trial." She makes no allegation as to how the undersigned influenced and controlled the outcome of the trial.

9. In Paragraph 48, she alleges that the "Attorney for Nation [*sic*] and Matthews met several times in full view in fact ensured she saw them outside the courthouse, inside the court housing [*sic*] – even when neither were required to be present on the day of meetings, April 27th etc., the relationship between judge and Matthews and other actions that will be proven at trial." It is certainly true that the undersigned and the attorney for Mr. Tidwell – Jescelyn T. Spitz – communicated regarding the subpoenas issued to SCDMV in "Tidwell I," and that the undersigned attempted to deal with Ms. Spitz in a cordial and professional manner.

10. Unless otherwise admitted, the Defendant denies the allegations set forth in Paragraphs 40 through 50 of Plaintiff's Amended Complaint.

11. Further, Plaintiff fails to state any allegation that would support either claim against the Defendant.

FOR A FOURTH CAUSE OF ACTION
(CIVIL CONSPIRACY)
(AGAINST ALL DEFENDANTS)

12. The Defendant incorporates his responses to the allegations in Paragraphs 1 through 50 of Plaintiff's Amended Complaint as if fully set forth herein.

13. The Defendant denies the allegations set forth in Paragraphs 51 through 67 of Plaintiff's Amended Complaint.

14. Further, Plaintiff fails to state any allegation that would support a claim against the Defendant.

FOR A FIFTH CAUSE OF ACTION
(PUNITIVE DAMAGES)

15. The Defendant incorporates his responses to the allegations in Paragraphs 1 through 67 of Plaintiff's Amended Complaint as if fully set forth herein.

16. The Defendant denies the allegations set forth in Paragraphs 68 through 72 of Plaintiff's Amended Complaint.

17. Further, Plaintiff fails to state any allegation that would support a claim against the Defendant.

18. Further, there is no separate cause of action for "punitive damages."

NOW THEREFORE, having fully answered the allegations in Plaintiff's Amended Complaint, Defendants now set forth their **DEFENSES and AFFIRMATIVE DEFENSES:**

FOR A FIRST DEFENSE

1. Plaintiff's Amended Complaint fails to state facts sufficient to constitute any cause of action or any claim upon which relief may be granted against the Defendant under Rule 12(b)(6) and/or Rule 12(c) of the South Carolina Rules of Civil Procedure.

FOR A SECOND DEFENSE

2. Plaintiff's Amended Complaint fails to state any cause of action under Rule 12(b)(8) of the South Carolina Rules of Civil Procedure.

FOR A THIRD DEFENSE

3. Plaintiff's claims are barred by the doctrines of collateral estoppel, *res judicata*, waiver, or estoppel.

FOR A FOURTH DEFENSE

4. Plaintiff's claims may be barred under the applicable statute of limitations.

FOR A FIFTH DEFENSE

5. Plaintiff is the sole cause of any damage she has suffered.

FOR A SIXTH DEFENSE

6. Defendant denies that he has engaged in any type of wrongful conduct with regard to Plaintiff.

FOR A SEVENTH DEFENSE

7. Plaintiff has failed to allege facts sufficient to sustain her civil conspiracy claim against any Defendant, and it therefore must be dismissed.

FOR AN EIGHTH DEFENSE

8. Defendant hereby gives notice of his intent, under the South Carolina Frivolous Civil Proceedings Sanctions Act (the "Act"), S.C. Code Ann. § 15-36-10, to pursue remedies against the Plaintiff provided under the Act.

FOR A NINTH DEFENSE

9. That to the extent this action is one seeking to collect punitive damages brought against any of the Defendants, such an action for punitive damages is barred as a matter of law for a number of reasons, including, but not limited to: the due process clause of the Fifth Amendment as applied to the states through the Fourteenth Amendment to the United States Constitution; an arguable extension of the prohibition of the excessive fines clause of the Eighth Amendment, as applied to the states through the Fourteenth Amendment; an arguable extension of the provisions of the Sixth Amendment to the United States Constitution, made applicable to the states through the Fourteenth Amendment; relevant provisions of the South Carolina Constitution, including, but not limited to, Article I, Section 3; all of which are asserted as bars to recovery of punitive damages against any of the Defendants.

10. That, moreover, as the present case and statutory law standard to measure and confer power to a jury to award punitive damages under South Carolina law has not been formulated to comport with federal or state constitutional rights and guarantees, lacks objective criteria, lacks a meaningful standard, is void for vagueness, and violates constitutional due process and equal protection procedural protection; an award of punitive damages would violate Defendants' constitutional rights and guarantees.

11. That, further, the Plaintiff has failed as a matter of law to state a claim for which punitive damage relief is available against any of the Defendants.

WHEREFORE, having fully answered Plaintiff's Amended Complaint herein, the Defendant Eugene Matthews requests that:

1. the relief sought by Plaintiff be denied in each and every respect;

2. the claims asserted by Plaintiff be dismissed in their entirety with prejudice; and

3. Defendant be awarded costs and attorneys' fees under applicable case and statutory laws and such other and further relief as this Court may deem just and proper.

Dated this the 21st day of July, 2017.

Respectfully submitted,

RICHARDSON PLOWDEN & ROBINSON, P.A.

Eugene H. Matthews
Post Office Drawer 7788
Columbia, South Carolina 29202
T: (803) 771-4400
F: (803) 779-0016
Email: gmatthews@RichardsonPlowden.com

APPEARING AS COUNSEL AND AS AN INDIVIDUALLY NAMED DEFENDANT

STATE OF SOUTH CAROLINA)
)
COUNTY OF RICHLAND)

IN THE COURT OF COMMON PLEAS

CIVIL ACTION COVERSHEET

2016 -CP - 40 - 2350

GLENDA COURAM
Plaintiff(s)

vs.

SHERWOOD TIDWELL AND TITIAN INDEMNITY COMPANY SUBSIDAIRY OF NATIONWIDE INSURANCE
Defendant(s)

Submitted By: Glenda Couram
Address: 104 Macaw Ln
Lexington, SC 29073

SC Bar #: N/A
Telephone #: 803 358-127
Fax #:
Other:
E-mail: grcouram@hotmail.com

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

2016 APR 12 AM 11:20

DOCKETING INFORMATION (*Check all that apply*)

**If Action is Judgment/Settlement do not complete*

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

NATURE OF ACTION (*Check One Box Below*)

Contracts
- ☐ Constructions (100)
- ☐ Debt Collection (110)
- ☐ General (130)
- ☐ Breach of Contract (140)
- ☐ Fraud/Bad Faith (150)
- ☐ Failure to Deliver/ Warranty (160)
- ☐ Employment Discrim (170)
- ☐ Employment (180)
- ☐ Other (199) _____

Torts - Professional Malpractice
- ☐ Dental Malpractice (200)
- ☐ Legal Malpractice (210)
- ☐ Medical Malpractice (220)
- Previous Notice of Intent Case # 20___-NI-_____
- ☐ Notice/ File Med Mal (230)
- ☐ Other (299) _____

Torts - Personal Injury
- ☐ Conversion (310)
- ☒ Motor Vehicle Accident (320)
- ☐ Premises Liability (330)
- ☐ Products Liability (340)
- ☐ Personal Injury (350)
- ☐ Wrongful Death (360)
- ☐ Assault/Battery (370)
- ☐ Slander/Libel (380)
- ☐ Other (399) _____

Real Property
- ☐ Claim & Delivery (400)
- ☐ Condemnation (410)
- ☐ Foreclosure (420)
- ☐ Mechanic's Lien (430)
- ☐ Partition (440)
- ☐ Possession (450)
- ☐ Building Code Violation (460)
- ☐ Other (499) _____

Inmate Petitions
- ☐ PCR (500)
- ☐ Mandamus (520)
- ☐ Habeas Corpus (530)
- ☐ Other (599) _____

Administrative Law/Relief
- ☐ Reinstate Drv. License (800)
- ☐ Judicial Review (810)
- ☐ Relief (820)
- ☐ Permanent Injunction (830)
- ☐ Forfeiture-Petition (840)
- ☐ Forfeiture—Consent Order (850)
- ☐ Other (899) _____

Judgments/Settlements
- ☐ Death Settlement (700)
- ☐ Foreign Judgment (710)
- ☐ Magistrate's Judgment (720)
- ☐ Minor Settlement (730)
- ☐ Transcript Judgment (740)
- ☐ Lis Pendens (750)
- ☐ Transfer of Structured Settlement Payment Rights Application (760)
- ☐ Confession of Judgment (770)
- ☐ Petition for Workers Compensation Settlement Approval (780)
- ☐ Other (799) _____

Appeals
- ☐ Arbitration (900)
- ☐ Magistrate-Civil (910)
- ☐ Magistrate-Criminal (920)
- ☐ Municipal (930)
- ☐ Probate Court (940)
- ☐ SCDOT (950)
- ☐ Worker's Comp (960)
- ☐ Zoning Board (970)
- ☐ Public Service Comm. (990)
- ☐ Employment Security Comm (991)
- ☐ Other (999) _____

Special/Complex /Other
- ☐ Environmental (600)
- ☐ Automobile Arb. (610)
- ☐ Medical (620)
- ☐ Other (699) _____
- ☐ Sexual Predator (510)
- ☐ Pharmaceuticals (630)
- ☐ Unfair Trade Practices (640)
- ☐ Out-of State Depositions (650)
- ☐ Motion to Quash Subpoena in an Out-of-County Action (660)
- ☐ Pre-Suit Discovery (670)

Submitting Party Signature: _____ Date: April 6, 2016 March 24, 2

Note: Frivolous civil proceedings may be subject to sanctions pursuant to SCRCP, Rule 11, and the South Ca

EXHIBIT A 1/8

STATE OF SOUTH CAROLINA)
) IN THE COURT OF COMMON PLEAS
COUNTY OF RICHLAND) FOR THE FIFTH JUDICIAL CIRCUIT
CA NO: 2016-CP-40-_____

Glenda R. Couram
Plaintiff

Sherwood Tidwell, Insured
Titan Indemnity Company
Subsidiary of Nationwide Mutual Insurance
Company
Defendants

JURY TRIAL DEMANDED

2016 APR 12 AM 11:20

SUMMONS

TO THE DEFENDANTS ABOVE NAMED:

YOUR ARE HEREBY SUMMONED and required to answer the complaint herein, copy of which is herewith served upon you, and to serve a copy of your answer to this complaint upon the subscriber, at the address shown below, within thirty (30) days after service hereof, exclusive of the day of such service, and if you fail to answer the complaint, judgement by default will be rendered against you for the relief demanded in the complaint.

Respectfully submitted by,

Glenda R. Couram
104 Macaw Lane
Lexington, SC 29073
803 358-0127
grcouram@hotmail.com
Pro se Plaintiff

Dated this 28th day of March 2016
Columbia, South Carolina

STATE OF SOUTH CAROLINA)
) IN THE COURT OF COMMON PLEAS
COUNTY OF RICHLAND) FOR THE FIFTH JUDICIAL CIRCUIT
CA NO: 2016-CP-40-_____

Glenda R. Couram
Plaintiff

Sherwood Tidwell, Insured
Titan Indemnity Company
Subsidiary of Nationwide Mutual Insurance Company
Defendants

COMPLIANT

2016 APR 12 AM 11:20
C.C.P. & G.S.

JURY TRIAL DEMANDED

The Plaintiff, complaining of the Defendant herein, would respectfully show unto this Honorable Court the following:

1. Plaintiff is a citizen and resident of Lexington County, South Carolina.

2. Upon information and belief, Defendant is a citizen and resident of Richland County, South Carolina.

3. Jurisdiction and venue are proper in this Court because the event that gives rise to this action occurred in Richland County, South Carolina.

4. This action arises from a motor vehicle collision that occurred on September 18, 2015, in Richland, South Carolina.

5. On September 18, 2015, (Friday) at approximately 4:20 pm Plaintiff was lawfully operating a motor vehicle on 1-20 heading West Bound towards (Lexington) Atlanta, Georgia.

6. As Plaintiff was preceding the traffic came to a sudden stand-still, the Plaintiff stopped with sufficient distance from the car in front of her. She watched the car behind her driven by Mr. Brown, and moved up until he stopped successfully, after he came to a complete stop behind, Plaintiff relaxed concentrating on the traffic in front of her the next

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thing Plaintiff knew her car was violently slammed into by Mr. Brown's car a cream colored Crown Victory.

7. Plaintiff was driving a 2012 Honda Fit.

8. Defendant's vehicle was a commercial vehicle whose entire front end had been crushed it appeared to the Plaintiff.

9. Defendant failed to observe traffic conditions during rush hour on a Friday and driving too fast to stop collided into Mr. Brown who collided into Plaintiff causing property damage and injury to the Plaintiff.

10. Plaintiff did not cause or contribute to the collision in any manner as confirmed by the accident report in fact, it was a total shock she had even been hit and further she had no ability to avoid or prevent the collision.

11. As a result of the collision, Plaintiff suffered painful, traumatic, and injuries throughout her body which resulted in significant medical treatment (physical and occupational therapy).

12. Plaintiff has incurred, and will continue to incur in the future, medical expenses, and has suffered, and will continue to suffer general damages such as physical and mental pain and suffering, emotional anguish, loss wages, and a loss of enjoyment of life, along with considerable medical bills and inconvenience, all of which she is entitled to be compensated for as a direct and proximate result of Defendant's actions as described above.

13. Defendant was negligent, negligent *per se*, careless, reckless, and grossly negligent in one or more of the following particulars:

a. In causing his vehicle and Mr. Brown's vehicle to collide into Plaintiff's vehicle;
b. In operating a vehicle in a distracted manner;
c. In failing to observe traffic;
d. In failing to keep a proper outlook;

e. In operating a vehicle in a manner too fast for conditions;
f. In operating a vehicle in a manner to avoid a collision;
g. In failing to maintain proper control and distance over the vehicle;
j. In failing to properly brake the vehicle to avoid the collision;
k. In failing to take any evasive action by means to keep from causing the collision;
l. In failing to obey the statutory and common laws of the State of South Carolina;
m. In failing to use the degree of caution and care that a reasonable driver would have used under the same or similar circumstances;
n. In operating his motor vehicle in whole or in part in a careless, reckless, willful, and wanton disregard for others; and
o. In otherwise being negligent or reckless as discovery may reveal. All of which were the direct and proximate cause of the injuries and damages suffered by Plaintiff.

14. Plaintiff is entitled to a judgment against the Defendant to compensate her for the damages and injuries sustained.

15. Plaintiff is entitled to an award of punitive damages to the extent Defendant's conduct was in violation of statutory laws or reckless, willful, or wanton.

16. Plaintiff demands a jury trial.

WHEREFORE, Plaintiff prays this Honorable Court for judgment against Defendant for: (a) actual and consequential damages; (b) punitive damages; (c) pre-judgment interest; (d) costs and attorney's fees in instituting this action, if applicable; and (e) for such other and further legal and equitable relief as this Honorable Court may deem just and proper.

Respectfully submitted,

By: _____

Glenda Couram
104 Macaw Lane
Lexington, SC 29073
Columbia, South Carolina 29201
Email: grcouram@hotmail.com
Phone: (803) 358-0127
Pro se Plaintiff

Dated this 25th, day of March 2016
Columbia, South Carolina

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DECLARATION PAGE

"I hereby declare that the above statement and information in this document is true to the best of my knowledge and belief, and that I understand it is made for use as evidence in court and subject to penalty for perjury."

Respectfully submitted,

By:

Glenda Couram
104 Macaw Lane
Lexington, SC 29073
Columbia, South Carolina 29201
Email: grcouram@hotmail.com
Phone: (803) 358-0127
Pro se Plaintiff

RICHLAND CO.
FILED
2016 APR 12 AM 11:21
CLERK OF COURT
S.C.C.P. & G.S.

Dated this 28th, day of March 2016
Columbia, South Carolina

SECTION 38-77-250. Release of coverage information upon written request of claimant's attorney; confidentiality.

(A) Every insurer providing automobile insurance coverage in this State and which is or may be liable to pay all or a part of any claim shall provide, within thirty days of receiving a written request from the claimant's attorney, a statement, under oath, of a corporate officer or the insurer's claims manager stating with regard to each known policy of nonfleet private passenger insurance issued by it, the name of the insurer, the name of each insured, and the limits of coverage. The insurer may provide a copy of the declaration page of each such policy in lieu of providing such information. The request shall set forth under oath the specific nature of the claim asserted and shall be mailed to the insurer *by certified mail* or statutory overnight delivery. The request also must state that the attorney is authorized to make such a request and must be accompanied by a copy of the incident report from which the claim is derived.

(B) If the request provided in subsection (A) contains information insufficient to allow compliance, the insurer upon whom the request was made may so state in writing, stating specifically what additional information is needed and such compliance shall constitute compliance with this section.

(C) The information provided to a claimant or his attorney as required by subsection (A) of this section shall not create a waiver of any defenses to coverage available to the insurer and shall not be admissible in evidence.

(D) The information provided to a claimant or his attorney as required by subsection (A) shall be amended upon the discovery of facts inconsistent with or in addition to the information provided.

(E) The provisions of this section do not require disclosure of limits for fleet policy limits, umbrella coverages, or excess coverages.

(F) The information received pursuant to this section is confidential and must not be disclosed to any outside party. Upon final disposition of the case, the claimant's attorney must destroy all information received pursuant to this section. The court must impose sanctions for a violation of this subsection.

HISTORY: 2011 Act No. 52, Section 4, effective January 1, 2012.

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MEDICAL BILLS AND COST
SUBMITTED ON MARCH 22, 2016

ITEMIZED MEDICAL BILLS TO DATE (SPECIAL/GENERAL DAMAGES):

Lexington Urgent Care	$	1591.00	
Lexington Radiology Assoc.		90.00	
Palmetto Associates		95.00	
Vital Energy PT and OT (ongoing)	$	≈ 3026.00	as of December 9, 2015
Prescription Costs (3) (not total my share	$	22.00	(2 @ $9 and 1 @ $4
Vital Energy (release)	$	2260.00	Dec. 15 to March 22, 2016
Wage/loss/mileage/gas to date	$	≈ 779.00	
Wage/loss/mileage/gas	$	562.00	
TOTAL	$	8425.00 x 3 = $26,775	

(plus future Medical bills of $1500 (including future loss wages, gas, mileage)

NOTE: Medicals records, release of information, incident report, wage loss letters (2) etc. and other bills sent to

Rick Skurko, Claims Specialist II
Commercial Casualty
Nationwide Non-Standard Claims
PO Box 93863
Cleveland, OH 44101

2016 APR 12 AM 11:21
C.C.P. & G.S.

Respectfully submitted by,

Glenda R. Couram
104 Macaw Lane
Lexington, SC 29073
803 358-0127
grcouram@hotmail.com
Pro se Plaintiff

C.O.N.00 1385
816

Case Claim #0326373628

Mail FR-10 to: SC Department of Motor Vehicles
Office of Financial Responsibility (803) 896-5000
PO Box 1498, Blythewood, SC 29016-0050

SOUTH CAROLINA DEPARTMENT OF MOTOR VEHICLES FR-10 (REV. 11/2011)
NOTICE OF REQUIREMENT

Submit Electronically: Agents or Company Representatives can submit your insurance information at WWW.SC-ALIR.COM

Date	Time	County	Collision Location (Rt. # / Name)	Miles:	Dir.	In / Near City or Town of:
09-18-2015	1630	40	1-Interstate 2-US Primary 3-SC Primary 4-Secondary 5-County 6-Mainline 7-Connection 8-Alternate 9-Business 0-Spur I-20		N E S W	

To Vehicle Owner/ Operator: Failure to return this form to the Department of Motor Vehicles within 15 days from the date of the collision could result in the suspension of your driver license and registration privileges pursuant to South Carolina Code of Laws 56-9-351 and 56-10-530.

E-966754 — Driver/Pedestrian's Full Name: COURAM GLENDA RENEE

Unit #	Sex	Race	Street
01	F	B	104 MACAW LN

#Occ	Birth Date	City, State, & Zip
1	11-03-1958	LEXINGTON SC 290737673

State	Driver's License #		Insurance Company:
SC	003814007	D	LIBERTY MUTUAL

Year	Body	Vehicle Make	VIN #
2012	4S	HOND	JHMGE8H57CC010766

State	Year	License Plate #	Owner's D.L. #
SC	2017	LML574	003814007

Home Telephone	Owner's Full Name		
(803) 3580127	COURAM	GLENDA	RENEE

Bus. Telephone	Street:
( )	104 MACAW LN

Contributed To Collision	City, State, & Zip
Yes (No)	LEXINGTON SC 290737673

E-966755 — Driver/Pedestrian's Full Name: BROWN BRANDON SENTELL

Unit #	Sex	Race	Street
02	M	B	942 BOULEVARD RD

#Occ	Birth Date	City, State, & Zip
1	08-09-1986	SUMTER SC 291537705

State	Driver's License #		Insurance Company:
SC	100435254	D	PROGRESSIVE

Year	Body	Vehicle Make	VIN #
2004	SU	CADI	1GYEE63784014468

State	Year	License Plate #	Owner's D.L. #
SC	2017	LFN288	

Home Telephone	Owner's Full Name		
(803) 2367851	BROWN	BRANDON	SENTELL

Bus. Telephone	Street
( )	942 BOULEVARD RD

Contributed To Collision	City, State, & Zip
Yes (No)	SUMTER SC 291537705

E-966756 — Driver/Pedestrian's Full Name: TIDWELL SHERWOOD FROST

Unit #	Sex	Race	Street
03	M	W	1776 MORNINGLO LN

#Occ	Birth Date	City, State, & Zip
1	01-28-1957	COLUMBIA SC 292233609

State	Driver's License #		Insurance Company:
SC	008118226	D	NATIONWIDE

Year	Body	Vehicle Make	VIN #
2014	VN	NISS	1N6BF0KL2EN107525

State	Year	License Plate #	Owner's D.L. #
SC	2015	AVV780	008118226

Home Telephone	Owner's Full Name		
(803) 4791391	TIDWELL	SHERWOOD	FROST

Bus. Telephone	Street
( )	1776 MORNINGLO LN

Contributed To Collision	City, State, & Zip
Yes (No)	COLUMBIA SC 292233609

All Units Insurance Information
(to be completed by Investigating Officer)

Accident Insurance Information for Unit # 01

Company Name	Area Code/Phone Number
LIBERTY MUTUAL	( )

Agency Name	Policy Number
	AOS2582252624051

Accident Insurance Information for Unit # 03

Company Name	Area Code/Phone Number
NATIONWIDE	( )

Agency Name	Policy Number
	6623745

Accident Insurance Information for Unit # 02

Company Name	Area Code/Phone Number
PROGRESSIVE	( )

Agency Name	Policy Number
	906416935

Automobile Liability Insurance Information

Notice of Requirement Accepted → Signature | Y N Refused to Affix Signature? | Y N Registration in SC?

To Be Completed Below or Entered at WWW.SC-ALIR.COM By Insurance Company representative. This form should not be mailed to DMV if insurance information has been submitted electronically.
Reference to Unit #: ____. I hereby affirm that to the best of my knowledge the vehicle described above was insured by the below stated insurance company on the date of the collision.

The information as contained herein is true and belief as a representative of the insurance company and no warranty of liability is imputed into the above insurance as I have listed herein.

Insurance Company	Policy #:	Signature	Title

Beginning Date	Ending Date	Policy Holder	NAIC # Assigned by S.C. Dept. of Ins.	Bus. Telephone
				( )

Notice: If liability insurance was not in effect for your vehicle involved in the collision, the Department of Motor Vehicles could suspend your driver license and registration privileges pursuant to South Carolina Code of Laws 56-9-351 and 56-10-530.

If any of the below are applicable, Disregard the above portion.

- ☐ Check here if a Form SR-23, Fleet policy of 15 or more vehicles is on file with the Department of Motor Vehicles covering the vehicle
- ☐ Check here if a certificate of self-insurance has been issued by the Department of Motor Vehicles covering the vehicle and indicate the certificate number: SI-_____
- ☐ Check here if liability insurance was not in effect to comply with South Carolina statutory requirements

Signature _____ Date _____

Form FR-10 Not Issued: Section 56-10-520

No FR-10 issued to Operator/ Owner of Unit #: _____
Summons issued to:

For operating or allowing the operation of an uninsured vehicle — Summons Number: _____ Signature _____

Investigating Officer's Name	Rank	Badge #	Code	Date	Reviewer's Name	Rank	Internal Agency Code

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March 28, 2016

Rick Skurko, Claims Specialist II
Commercial Casualty
Nationwide Non-Standard Claims
PO Box 93863
Cleveland, OH 44101

RE:	**Policyholder:**	**Sherwood Tidwell**
	Insurance Company:	**Titan Indemnity Company**
	Date of Accident/Loss:	**September 18, 2015**
	Claimant/Injured:	**Glenda Couram**
	Claims #:	**144356-GC**

Dear Mr. Skurko:

Please be advised that as you have determined not to negotiate this matter after two attempts by me, your offer has been medicals and two thousand five hundred ($2,500.00 for pain and suffering) based on my waiting too long to seek medical attention and car damage. My offer is no longer viable.

I am submitting to you a copy of the Summons and Complaint, Certificate of Service that has been filed to the Richland County Circuit Court. My client suffered personal injuries from a motor vehicle collision that occurred in Richland County on March 25, 2014.

Your insured, Sherwood Tidwell, was negligent in causing this collision. A copy of the incident report, medicals, two letters from employer of wage lost and medical bills have already been submitted the most recent submission was this month.

Pursuant to S.C. Code Ann. § 38-77-250, we are hereby writing to obtain information concerning automobile insurance coverage of the insured and the insured vehicle, the driver, and the owner of the vehicle. We hereby request within thirty (30) days from the above date, a statement, under oath, of a corporate officer or the insurer's claims manager stating with regard to each known policy issued, the name of the insurer, the name of each insured, and the limits of coverage. In the alternative, you may provide a copy of the declaration page of each such policy in lieu of providing such information. I am hereby authorized to make this request.

I would request this information be provided within the next thirty (30) days. Thank you for your assistance.

Sincerely,

Glenda Couram
104 Macaw Lane
Lexington, SC 29073
Columbia, South Carolina 29201
Email: grcouram@hotmail.com
Phone: (803) 358-0127
Pro se Plaintiff

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

IN THE COURT OF COMMON PLEAS
FOR THE FIFTH JUDICIAL CIRCUIT

CASE NO.: 2016-CP-40-02350

Glenda R. Couram,

Plaintiff,

vs.

Sherwood Tidwell,

Defendant.

OFFER OF JUDGMENT

RICHLAND COUNTY
FILED
2017 FEB 16 PM 4:21
JEANNETTE W. MCBRIDE
C.C.P. & G.S.

TO: GLENDA R. COURAM, PRO SE PLAINTIFF

PLEASE TAKE NOTICE that the Defendant, by and through his undersigned attorney, without admitting liability and in an attempt to compromise and settle the Plaintiff's claim pursuant to Rule 68 of the South Carolina Rules of Civil Procedure, hereby offers the sum of TWENTY THOUSAND AND 00/100 ($20,000.00) DOLLARS, including all costs, in full compromise and settlement of the Plaintiff's claim against the Defendant and hereby offers to allow judgment to be taken against him for the sum of TWENTY THOUSAND AND 00/100 ($20,000.00) DOLLARS, including all costs. The Plaintiff has twenty (20) days from the date indicated below to accept this offer; if written notice of acceptance is not given by the Plaintiff within the twenty (20) days specified, the offer is withdrawn, cannot be given in evidence and, if the Plaintiff fails to obtain a more favorable judgment than TWENTY THOUSAND AND 00/100 ($20,000.00) DOLLARS, including all costs, the Plaintiff cannot recover costs herein and must pay the Defendant's costs of defense.

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EXHIBIT B

CLAWSON and STAUBES, LLC

Jescelyn T. Spitz
Bar No.: 101880
1612 Marion Street, Suite 200
Columbia, South Carolina 29201-2939
Phone: (800) 774-8242
Fax: (843) 722-2867
Email: jspitz@clawsonandstaubes.com
Attorney for Sherwood Tidwell

Columbia, South Carolina

February 16, 2017

I, _____ accept the offer of judgment as stated above:

WITNESSES:

_____ _____

_____

I, _____, decline the offer of judgment as stated above:

WITNESSES:

_____ _____

_____

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STATE OF SOUTH CAROLINA COUNTY OF RICHLAND Glenda R. Couram, Plaintiff, vs. Sherwood Tidwell, Defendant.	IN THE COURT OF COMMON PLEAS FOR THE FIFTH JUDICIAL CIRCUIT CASE NO.: 2016-CP-40-02350 **ORDER GRANTING PLAINTIFF'S MOTION FOR PARTIAL SUMMARY JUDGMENT ON THE ISSUE OF LIABILITY**

2017 JUN -1 AM 11:09

This matter is before the Court on Plaintiff's Motion for Full and/or Partial Summary Judgment. A hearing was conducted before me on April 27, 2017.

INTRODUCTION

This case involves a motor vehicle accident that occurred on September 18, 2015, on I-20 in or near Columbia, South Carolina. The accident involved three vehicles. The Defendant, Sherwood Tidwell, was operating a vehicle that came into contact with the rear of a vehicle being operated by Brandon Brown. Mr. Brown's vehicle then came into contact with the rear of the vehicle being operated by the Plaintiff, Glenda Couram.

SUMMARY JUDGMENT STANDARD

Pursuant to South Carolina Rule of Civil Procedure 56(c), summary judgment is proper when there is no genuine issue as to any material fact and the moving party is entitled to judgment as a matter of law. E.g., Burriss v. Anderson County Bd. of Educ.,

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EXHIBIT C

369 S.C. 443, 633 S.E.2d 482 (2006); Dawkins v. Fields, 354 S.C. 58, 580 S.E.2d 433 (2003). When determining if any triable issues of fact exist, the evidence and all inferences which can be reasonably drawn from the evidence must be viewed in the light most favorable to the non-moving party. Wilson v. Style Crest Products, Inc., 367 S.C. 653, 656, 627 S.E.2d 733, 735 (2006). Moreover, even if there is no dispute regarding the evidentiary facts, but only as to the conclusions or inferences to be drawn from them, summary judgment should be denied. Id.

APPLICABLE LAW

In order to prevail on a claim for negligence, the Plaintiff must prove that the Defendant owed her a duty of reasonable care, that the duty was breached and that the breach was the proximate cause of the Plaintiff's injuries. "Negligence is not actionable unless it is a proximate cause of the injury." Hanselmann v. McCardle, 275 S.C. 46, 48 (1980). "Proximate cause requires proof of both causation in fact and legal cause." "Causation in fact is proved by establishing the injury would not have occurred "but for" the defendant's negligence. Legal cause is proved by establishing foreseeability." Madison v. Babcock Ctr., Inc., 371 S.C. 123, 147 (2006). "The question of proximate cause ordinarily is one of fact for the jury . . . ." Id.

ANALYSIS

The Defendant has admitted liability in regard to the accident in question in this case; however, the Defendant disputes both causation and damages. The Defendant argues that the Plaintiff was not injured in the accident and further argued that the

Plaintiff is claiming injuries that are unrelated to the accident.

While the Plaintiff claims she sustained physical and mental injuries as a result of the accident in question, it is within the province of the jury to determine whether the Plaintiff's alleged damages were caused by the accident in question in this case, meaning a jury must determine whether the Plaintiff's alleged damages would have occurred "but for" the Defendant's alleged negligence, as well as whether such damages were "foreseeable" or the natural and probable consequence of the alleged failure to exercise reasonable care.

CONCLUSION

NOW THEREFORE, the Plaintiff's Motion for Partial Summary Judgment on the Issue of Liability is GRANTED and the Plaintiff's Motion for Full Summary Judgment is DENIED.

AND IT IS SO ORDERED this 1 day of June, 2017.

Robert E. Hood

The Honorable Robert E. Hood
Court of Common Pleas
Fifth Judicial Circuit

FORM 4

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

JUDGMENT IN A CIVIL CASE

CASE NUMBER: 2016CP4002350

Glenda Couram

PLAINTIFF(S)

Sherwood Tidwell
Nationwide Mutual Insurance Company

DEFENDANT(S)

Submitted by: _____ | Attorney for : ☐ Plaintiff ☐ Defendant or ☐ Self-Represented Litigant

FILED
2017 JUN -1 P 5:11
RICHLAND COUNTY
CLERK OF COURT

DISPOSITION TYPE (CHECK ONE)

☐ **JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.

☐ **DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.

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

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

☐ **STAYED DUE TO BANKRUPTCY**

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

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

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

_____

_____

_____

ORDER INFORMATION

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

INFORMATION FOR THE JUDGMENT INDEX

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

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled
		$
		$
		$
If applicable, describe the property, including tax map information and address, referenced in the order:		

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

Circuit Court Judge _____ Judge Code _____ Date _____

For Clerk of Court Office Use Only

This judgment was entered on the _____ day of _____, 20 _____ and a copy mailed first class or placed in the appropriate attorney's box on this 2nd day of June, 2017 to attorneys of record or to parties (when appearing pro se) as follows:

Glenda Couram

Jescelyn Tillman Spitz

Lora Stuart Shortt

Glenda Couram
ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

Court Reporter _____

Clerk of Court Jeanette W. McBride

SCRCP Form 4C (10/2011)

Exhibit B

STATE OF SOUTH CAROLINA COUNTY OF RICHLAND Glenda R. Couram, Plaintiff, v. Sherwood Tidwell, Defendant.	IN THE COURT OF COMMON PLEAS FOR THE FIFTH JUDICIAL CIRCUIT Civil Action No. 2016-CP-40-02350 **VERDICT FORM**

1. Do you, the jury, unanimously find that Plaintiff Glenda R. Couram suffered damages?

✓ Yes OR _____ No

If the answer to Question 1 is yes, proceed to Question 2.
If the answer to Question 1 is no, stop and deliberate no further.

2. Do you, the jury, unanimously find that the damages suffered by Plaintiff Glenda R. Couram were proximately caused by the conduct of Defendant Sherwood Tidwell?

✓ Yes OR _____ No

If the answer to Question 2 is yes, proceed to Question 3.
If the answer to Question 2 is no, stop and deliberate no further.

3. We, the jury, unanimously award Plaintiff Glenda R. Couram damages in the amount of $ 1,000.00.

Linda E Wallace
Jury Foreperson

June 16, 2017
Columbia, South Carolina.

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EXHIBIT
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D

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

Glenda Couram,

Plaintiff,

v.

Nationwide Mutual Insurance Company, Titan Indemnity Company, Eugene Matthews, in his individual capacity, Sherwood's Plumbing Services, LLC, Sherwood Tidwell, Owner/Operator/ Agent, and Beatrice Tyree Tidwell,

Defendants.

IN THE COURT OF COMMON PLEAS
FOR THE FIFTH JUDICIAL CIRCUIT

C/A No.: 2017-CP-40-04048

CERTIFICATE OF SERVICE

I, the undersigned employee of Richardson Plowden & Robinson, counsel for the Defendant Eugene Matthews, do hereby certify that I have served a copy of the *ANSWER TO PLAINTIFF'S AMENDED COMPLAINT OF DEFENDANT EUGENE MATTHEWS* by causing a copy of the same to be personally deposited in the United States Postal Service mail, postage prepaid, with the return address clearly visible, addressed to the *pro se* Plaintiff and parties of record as indicated below on this 21st day of July, 2017:

Glenda R. Couram
104 Macaw Lane
Lexington, SC 29073

Nationwide Mutual Insurance Company
ATTN: Legal Department
1000 Yard Street
Grandview Heights, OH 43212

Titan Idemnity Insurance
ATTN: Legal Department
1 West Nationwide Boulevard
Columbus, OH 42215

Sherwood Tidwell
Sherwood Plumbing Services
1776 Morninglo Lane
Columbia, SC 29223

JENNIFER L. MILES
Paralegal

July 21, 2017
Columbia, South Carolina.

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STATE OF SOUTH CAROLINA COUNTY OF RICHLAND Glenda Couram, Plaintiff, v. Nationwide Mutual Insurance Company, Titan Indemnity Company, Eugene Matthews, in his individual capacity, Sherwood's Plumbing Svc., LLC, Sherwood Tidwell, Owner, Defendants.	IN THE COURT OF COMMON PLEAS FOR THE FIFTH JUDICIAL CIRCUIT C/A No.: 2017-CP-40-04048 **MOTION FOR JUDGMENT ON THE PLEADINGS OF DEFENDANT EUGENE MATTHEWS AND FOR SANCTIONS**

FILED
2017 JUL 17 PM 4:35
RICHLAND COUNTY
C.C.P. & G.S.

NOW COMES the Defendant Eugene Matthews (hereinafter "Matthews" or the "Defendant"), the undersigned, and files this Motion for Judgment on the Pleadings under Rule 12(c), SCRCP. Defendant respectfully requests that the Court dismiss all claims against him with prejudice, and to sanction Plaintiff under the South Carolina Frivolous Civil Proceedings Sanctions Act, or Rule 11, SCRCP, or both.

In support of this motion, Defendant presents the following:

INTRODUCTION[1]

This case involves a frequent *pro se* Plaintiff, who has filed numerous unsuccessful lawsuits in various courts in South Carolina. Plaintiff filed the lawsuit *Glenda R. Couram v. Sherwood Tidwell*, 2016-CP-40-02350 ("Tidwell I"), also in the Court of Common Pleas in Richland County, involving the same automobile accident that is the subject of the instant case. (Exhibit "A").

[1] This "Introduction" is also presented in Defendant's Answer.

Defendant Matthews (the undersigned) is an attorney with Richardson Plowden & Robinson, P.A. He has defended numerous defendants in four (4) separate lawsuits brought by the Plaintiff, including the South Carolina Department of Motor Vehicles ("SCDMV"), her former supervisors and co-workers, Judiciary officials, and others. Notably, he did not represent any party in "Tidwell I," but assisted SCDMV in responding to subpoenas issued in that case, and accompanied an SCDMV employee who testified at the trial.

In this lawsuit, Plaintiff appears to complain that Mr. Tidwell's insurers did not offer her enough money to settle her previous lawsuit against Mr. Tidwell. While not privy to the exact nature of those negotiations, the record indicates that Plaintiff received an Offer of Judgment under Rule 68, SCRCP in the amount of $20,000.00. (Exhibit "B," Offer of Judgment).

It also appears that, prior to trial, Judge Hood issued an order in which Mr. Tidwell acknowledged fault for the accident. (Exhibit "C," Judge Hood's Order). The Order held that "[w]hile the Plaintiff claims she sustained physical and mental injuries as a result of the accident in question, it is within the province of the jury to determine whether the Plaintiff's alleged damages were caused by the accident in question in the case, meaning a jury must determine whether the Plaintiff's alleged damages would have occurred 'but for' the Defendant's alleged negligence, as well as whether such damages were 'foreseeable' or the natural and probable consequence of the alleged failure to exercise reasonable case." (Exhibit "C," p. 3).

In any event, Plaintiff rejected the Offer of Judgment of $20,000.00 and tried her case to a jury. The jury returned a verdict in her favor, but only awarded $1,000.00. (Exhibit "D," Jury Verdict). Plaintiff has filed a Motion to Amend or Alter Judgment under Rule 59, SCRCP, upon which the Court has not yet ruled.

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PLAINTIFF'S CURRENT LAWSUIT

Plaintiff attempts to bring the following causes of action[2] against the undersigned:

1. Second Cause of Action – Intentional Infliction of Emotional Distress, alleged against Defendants Nationwide, Titan, and Matthews.

2. Third Cause of Action – Negligent Infliction of Emotional Distress alleged against Defendants Nationwide, Titan, and Matthews.

3. Fourth Cause of Action – Civil Conspiracy, alleged against Defendants Nationwide, Titan, and Matthews.

Plaintiff's Complaint does not include separate factual allegations pertaining to the separate causes of action. Instead, Plaintiff's factual allegations as grouped together under the heading "Facts Common to All Causes of Action." (Plaintiff's Complaint, ¶¶ 11-32). They can be categorized as follows:

- Paragraphs 11 through 19 describe the car accident in which she was involved on September 18, 2015, Mr. Tidwell's admission of fault for the accident, and her allegations concerning damages related to the accident.

- Paragraph 20 references but misrepresents Judge Hood's Order (Exhibit "C").

- Paragraphs 21 through 26 describe Plaintiff's allegations of the course of settlement negotiations between the parties. Plaintiff does not reference the Offer of Judgment that was tendered in the amount of $20,000.00. (Exhibit "B").

- Paragraph 27 alleges that Plaintiff lost her employment on April 2, 2017.

- Paragraph 28 alleges that "Defendant Eugene Matthews entered the picture and a second subpoenaed request for plaintiff's employment records causing the plaintiff additional suffering [*sic*]."

- Paragraphs 29 through 32 names the Defendants as parties to this lawsuit.

Further, the allegations specific to the separate causes of action recite only legal conclusions. (Plaintiff's Complaint, ¶¶ 40-67).

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[2] Plaintiff's First Cause of Action is not stated against this Defendant. Plaintiff's Fifth Cause of Action – stated simply as "Punitive Damages" – is not a separate cause of action, but a type of damage Plaintiff apparently wishes to seek relative to other causes of action.

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I. Collateral Estoppel and Rule 12(b)(6).

This lawsuit is an effort by Plaintiff to reassert and expand allegations she made in "Tidwell I," which resulted in a jury verdict in her favor, albeit an apparently disappointing jury verdict of only $1,000.00.[3] Because each of Plaintiff's claims relies on a common set of factual allegations, and because those allegations have already been tried to a jury, Plaintiff is estopped from relitigating them at this point.

Under South Carolina state law, the party asserting collateral estoppel must show "that the issue in the present lawsuit was: (1) actually litigated in the prior action; (2) directly determined in the prior action; and (3) necessary to support the prior judgment." *Carolina Renewal, Inc. v. S.C. Dep't of Transp.*, 385 S.C. 550, 554 (S.C. App. 2009). Each of these elements is present. Plaintiff's claims for injuries and damages related to the accident were (1) actually litigated in the prior action, (2) determined by a jury in the prior action, and (3) were necessary – indeed central – to the judgment in the prior action.

Each of the Plaintiff's causes of action rely on the "Facts Common to All Causes of Action" alleged in Paragraphs 11-32 of her Complaint, which refer to the accident, alleged damages caused by the accident, and the settlement negotiations concerning the accident. These matters were conclusively litigated in "Tidwell I." For that reason, Plaintiff's claims are barred and must be dismissed with prejudice.

II. Intentional Infliction of Emotional Distress.

In support of her claim for intentional infliction of emotional distress ("IIED"), Plaintiff relies on the "conduct alleged above" (Plaintiff's Complaint, ¶ 41), presumably a reference to the

[3] Plaintiff's disappointment with the jury award of $1,000.00 is understandable, in light of her apparently ill-considered decision to refuse Tidwell's Offer of Judgment of $20,000.00.

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allegations in the "Facts Common to All Causes of Action" section of her Complaint. This section only includes one factual allegation reference to the undersigned, set forth at Paragraph 28 of Plaintiff's Complaint: "Defendant Eugene Matthews entered the picture and a second subpoenaed request for plaintiff employment records causing the plaintiff additional suffering [*sic*]."

In order to state an IIED claim, Plaintiff must show that the alleged conduct is so "extreme and outrageous" as to exceed "all possible bounds of decency" and be regarded as "atrocious, and utterly intolerable in a civilized community." *Gattison v. South Carolina State College*, 318 S.C. 148, 151, 456 S.E.2d 414, 416 (S.C. App. 1995) (stating elements of IIED claim). Given the sparse nature of Plaintiff's allegation – that the undersigned was involved in responding to Tidwell's subpoena to SCDMV for her employment records – her allegations fail miserably to state such a claim.

More generally, for the past thirty years, South Carolina appellate courts have ruled in an overwhelming number of cases – even those describing conduct far more extreme than that forecast by Plaintiff – that plaintiffs have failed to establish an IIED claim sufficient to state a claim and/or reach a jury. For instance, the South Carolina Court of Appeals affirmed summary judgment for the defendant where management continually denied plaintiff's medical excuses and willfully engaged him in verbal arguments over his absences, knowing of his inability to talk because of vocal chord surgery. *Butts v. AVX Corp.*, 292 S.C. 256, 355 S.E.2d 876 (S.C. App. 1987). In *Wright v. Sparrow*, 298 S.C. 469, 381 S.E.2d 503 (S.C. App. 1989), the Court held that allegations that a public employee's supervisor deliberately set out to "build a case" for firing her, "loaded her with responsibility while stripping her of authority," and "change[d] the manner of performing certain duties and then accused her of not following instructions" were

insufficient as a matter of law to constitute the tort of outrage. *Id.* at 505-06. In *Shipman v. Glenn*, 314 S.C. 327, 443 S.E.2d 921 (S.C. App. 1994), the Court of Appeals ruled that a supervisor's conduct in ridiculing the speech impediment of, and threatening to fire, an employee who had cerebral palsy did not provide a sufficient basis for intentional infliction of emotional distress. In *Gattison*, the Court of Appeals reversed judgment for the plaintiff where the plaintiff, the Director of Internal Audit, was deprived of his office and staff, was told his job was unimportant, and was given short notice of meetings in which he was required to sit in a small chair and forbidden from taking notes. Notably, the Court stated that while "the facts alleged by Gattison may demonstrate unprofessional, inappropriate behavior, they fall short of conduct that exceeds all possible bounds of decency and is atrocious and utterly intolerable in a civilized society." 318 S.C. at 157, 456 S.E.2d at 419; *see also Hainer v. American Medical International, Inc.*, 320 S.C. 316, 324, 465 S.E2d 112, 117 (S.C. App. 1995), *aff'd*, 328 S.C. 128, 492 S.E.2d 103 (1997) (no IIED claim where registered nurse alleged that her employer wrongfully reported alleged professional misconduct to the State Board of Nursing, and abused process by filing the report for ulterior purposes, reversing a $75,000 compensatory damage and $225,000 punitive damage award); *Johnson v. Dailey*, 318 S.C. 318, 322-323, 457 S.E.2d 613, 614-15 (1995) (no IIED claim where public school teacher alleged that her principal harassed her and retaliated against her over the course of several years, to the point of ultimately firing her, because she had reported the principal's unlawful activities).

More recently, in *Fleming v. Rose*, 338 S.C. 524, 526 S.E.2d 732 (S.C. App. 2000), *rev'd on other grounds*, 350 S.C. 488, 567 S.E.2d 857 (2002), the Court of Appeals affirmed dismissal of an IIED claim made by a former S.C. Highway Patrol Trooper, who alleged that his employer issued a libelous press release incorrectly grouping him with other Troopers who had been

indicted. Although the contents of the press release were reprinted throughout the state, the Court found summary judgment appropriate because the alleged conduct fell "short of conduct that exceeds all possible bounds of decency." 338 S.C. at 538, 526 S.E2d at 740. And, in *Hansson v. Scalise Builders of South Carolina*, 374 S.C. 352, 650 S.E.2d 68 (2007), our Supreme Court reinstated summary judgment for the defendant-employer, where the plaintiff alleged that, during his three years of employment, his coworkers and supervisor constantly derided him with vulgar remarks and gestures related to homosexuality. In reinstating summary judgment for the employer, the Court emphasized that:

> In order to prevent claims for intentional infliction of emotional distress from becoming "a panacea for wounded feelings rather than reprehensible conduct," the court plays a significant gatekeeping role in analyzing a defendant's motion for summary judgment... Under the heightened standard of proof for emotional distress claims emphasized in *Ford,* a party cannot establish a *prima facie* claim for damages resulting from a defendant's tortious conduct with mere bald assertions.

374 S.C. at 358, 650 S.E.2d at 72 (citations omitted).

Here, Plaintiff's allegation against the undersigned, even if taken as true, is wholly insufficient to meet the demanding standards set by South Carolina law in stating an IIED claim. For this reason alone, her IIED claim must be dismissed with prejudice.

III. <u>Negligent Infliction of Emotional Distress</u>.

Plaintiff has failed to allege a claim of "Negligent Infliction of Emotional Distress." The elements of such a claim are as follows:

(a) the negligence of the defendant must cause death or serious physical injury to another;
(b) the plaintiff bystander must be in close proximity to the accident;
(c) the plaintiff and the victim must be closely related;
(d) the plaintiff must contemporaneously perceive the accident; and
(e) the emotional distress must both manifest itself by physical symptoms capable of objective diagnosis and be established by expert testimony.

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Kinard v. Augusta Sash & Door Co., 286 S.C. 579, 582–83, 336 S.E.2d 465, 467 (1985). As would be obvious from a cursory review of the elements, negligent infliction of emotional distress is limited to "bystander recovery." *Doe v. N. Greenville Hosp.*, 318 S.C. 459, 465, 458 S.E.2d 439, 442 (S.C. App. 1995). There are no allegations in Plaintiff's Complaint that remotely meet these elements. In short, the claim must be dismissed with prejudice.

IV. **Civil Conspiracy.**

As an initial matter, Plaintiff has failed to allege sufficiently a claim for civil conspiracy. South Carolina courts have held that "[t]he tort of civil conspiracy has three elements: (1) a combination of two or more persons, (2) for the purpose of injuring the plaintiff, and (3) causing plaintiff special damage." *Hackworth v. Greywood at Hammett, LLC*, 385 S.C. 110, 115, 682 S.E.2d 871, 874 (S.C. App. 2009) (citations omitted). Also, "[a] claim for civil conspiracy must **allege additional acts in furtherance of a conspiracy rather than reallege other claims within the complaint**," and "because the quiddity of a civil conspiracy claim is the special damage resulting to the plaintiff, the damages alleged must go beyond the damages alleged in other cause of action." *Id.* (internal citations omitted) (emphasis added).

In this case, Plaintiff's makes no factual allegations regarding the civil conspiracy claim that differ from her other claims. In fact, she relies on her allegations in the "Facts Common to All Causes of Action" section of her Complaint to support all of her claims, including the civil conspiracy claim. Paragraphs 51 through 54 of Plaintiff's Complaint specifically state that Plaintiff is suing "Nationwide, Titan, and Matthews" for the "wrongful acts complained on herein." In Paragraph 64, Plaintiff alleges that the "Defendants worked in harmony to the detriment of the plaintiff to prevent their loss to a pro se litigant." The remaining allegations pertaining to civil conspiracy are purported statements of law or allegations purporting to set

forth special damages. Thus, for this reason alone, Plaintiff's civil conspiracy claim must be dismissed.

Further, these allegations all pertain to the acts of the Defendants that are part of the judicial process. As such, these acts are absolutely privilege and cannot form the basis of an action against the Defendants. *Crowell v. Herring*, 301 S.C. 424, 430, 392 S.E.2d 464, 467 (Ct. App. 1990) ("We hold the absolute privilege exists as to any utterance arising out of the judicial proceeding and having any reasonable relation to it, including preliminary steps leading to judicial action of any official nature provided those steps bear reasonable relation to it."); *see also Kovach v. Whitley*, C/A No. 2015-CP-08-02380, at *18, Court of Common Pleas of Charleston County (slip op. attached) (Chief Justice Toal found acts that are "part of the judicial process are absolutely privileged and cannot be the basis for a civil conspiracy claim."). For this reason alone, Plaintiff's civil conspiracy claim must be dismissed.

V. Sanctions under Rule 11 and the South Carolina Frivolous Civil Proceedings Sanctions Act.

The Defendant gave notice of his intent, under the South Carolina Frivolous Civil Proceedings Sanctions Act (the "Act" or "FCPSA"), S.C. Code Ann. § 15-36-10, to pursue remedies against the Plaintiff provided under the Act. The Defendant also seeks sanctions under Rule 11, SCRCP.

Under Rule 11(a), SCRCP, a party may be sanctioned for filing a frivolous pleading, motion, or other paper, or for making frivolous arguments. *Ex Parte Gregory*, 378 S.C. 430, 438, 663 S.E.2d 46, 541 (2008). For instance, in Gregory, an attorney was sanctioned for fling a frivolous suit without first conducting a reasonable investigation into the facs undying the claim. *Id.*

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Similarly, the FCPSA also provides for sanctions of frivolous lawsuits. S.C. Code Ann. § 15-36-10. Under the FCPSA, sanctions are appropriate where "a reasonable attorney in the same circumstances would believe the case or defense was frivolous as not reasonably founded in fact." *Id.* Proceedings under this Act are determined under a "reasonable attorney" standard. *Southeastern Site Prep, LLC v. Atlantic Coast Builders and Contractors, LLC*, 394 S.C. 97, 107, 713 S.E.2d 650, 655 (S.C. App. 2011).

As an initial matter, Plaintiff cannot rely on her *pro se* status to claim unfamiliarity with the Court and its rules. In fact, because of the breathtaking number of lawsuits she has filed, she undoubtedly has more experience in litigation than many lawyers. Below is a list of the lawsuits she has filed, as a *pro se* litigant, against SCDMV and her co-workers and supervisors that the undersigned has defended:

- Plaintiff filed a lawsuit in U.S. District Court for the District of South Carolina on January 4, 2010, against SCDMV and many of her supervisors and co-workers. In her lawsuit, she alleged claims under Title VII, the Age Discrimination in Employment Act, the Equal Pay Act, and various state law claims (hereinafter "**Couram I**"). In March 2011, U.S. District Judge Matthew Perry granted summary judgment to the Defendants on all federal claims in "Couram I," and declined to exercise jurisdiction over the state law claims. *Couram v. South Carolina Dept. of Motor Vehicles*, 2011 WL 891298 (D.S.C. March 10, 2011). Plaintiff appealed this decision to the U.S. Court of Appeals for the Fourth Circuit. Her appeal was dismissed on August 30, 2011, and her request to reinstate the appeal was denied on November 30, 2011.

- Plaintiff filed another lawsuit in the South Carolina Court of Common Pleas in Richland County on October 25, 2011 (hereinafter "**Couram II**"). In her Complaint, she alleged many of the federal causes of action that had earlier been dismissed in "Couram I." The case was removed to U.S. District Court. Following an extensive number of motions, U.S. Magistrate Judge Paige Gossett recommended that the case be remanded to state court if Plaintiff removed the federal causes of action from her Complaint. *Couram v. Davis*, 2012 WL 2428581 (D.S.C. March 14, 2012). U.S. District Court Judge Barbara Seymour adopted the recommendation. *Couram v. Davis*, 2012 WL 2428567 (D.S.C. June 27, 2012). Upon Plaintiff's removal of federal claims from her Complaint in "Couram II," Judge Seymour remanded the case back to state court on August 21, 2012.

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- On November 15, 2012, Circuit Court Judge L. Casey Manning granted the Defendants' Motion to Dismiss the remaining claims in "Couram II" with prejudice. Plaintiff's Motion to Reconsider was denied on January 8, 2013.

- The South Carolina Court of Appeals affirmed dismissal of "Couram II" in *Couram v. Davis*, No. 2015-UP-065, 2015 WL 477266, at *2 (S.C. App. Feb. 4, 2015), and the South Carolina Supreme Court rejected Plaintiff's Petition for Certiorari.

- In 2015, Plaintiff brought this lawsuit against SCDMV defendants, various Judges and court officials, and the undersigned – the current lawsuit before this Court – based on her allegations from earlier cases. ("**Couram III**"). Following removal, the U.S. District Court dismissed all claims over which it could exercise jurisdiction in "Couram III," and remanded a single claim to state court for disposition. *Couram v. S. Carolina Dep't of Motor Vehicles (SCDMV)*, No. 3:15-cv-04870-MBS-PJG, 2016 WL 4204070, at *5 (D.S.C. Aug. 10, 2016). Plaintiff has appealed this ruling to the Fourth Circuit Court of Appeals, which is still pending. The single claim remanded to state court has also been dismissed.

- In 2017, Plaintiff brought yet another lawsuit against SCDMV and two of her supervisors, which is primarily based on her allegations from earlier cases. ("**Couram IV**"). It was removed to U.S. District Court, C/A No.: 3:17-cv-00217-MBS-PJG (formerly 2017-CP-40-00251). The case is still pending in federal court.

In addition, a short review of case databases indicates that Plaintiff has sued, or is suing, a host of other parties unfortunate enough to cross her path:

- In *Couram v. Hooker*, 2016 WL 1135211 (S.C. App. Mar. 23, 2016), she unsuccessfully sued a number of persons and parties concerning a property line, including:

  - Mr. & Mrs. Christopher Hooker;
  - Mr. & Mrs. Carl Reibold;
  - Cox & Dinkins, Inc.;
  - Fair Builders/Developers, Inc.;
  - Donald "Don" Rawls and Steve Fair in their official and individual capacities;
  - Carolina Water Svc. ("CWS");
  - Carolina Trace Utilities, Inc.; and,
  - Utilities, Inc., Corporate Offices.

- In *Couram v. Time Warner Cable Commc'ns, Inc.*, 2009 WL 9530352, at *1 (S.C. App. Dec. 22, 2009), she brought numerous claims against the following parties that were dismissed by directed verdict:

  - Time Warner Communications, Inc.;
  - James Bowers; and,

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- Jim Mosley.

Other state court records yield the following suits in which Complainant was (or is) involved as a *pro se* litigant:

- In addition to the four cases brought by Plaintiff against some or all of the SCDMV Defendants, she has also brought the following civil cases in Richland County.
  - *Couram v. South Carolina Dental Center Inc.*, 2006-CP-40-02160 (dismissed); and,
  - *Couram v. Sherwood Tidwell*, 2016-CP-40-02350 ("Tidwell I").
- Plaintiff was either a Plaintiff or Defendant in the following civil cases filed in Lexington County.
  - *Glenda Couram v. South Carolina Dept. of Social Services*, 2000-CP-32-00367 (directed verdict for Defendant);
  - *Greenwood Trust, et al v. Glenda Couram*, 2001-CP-32-03162 (uncontested default);
  - *S.C. Housing Finance & Dev v. Glenda Couram*, 2002-CP-32-03634 (judgment for plaintiff);
  - *Couram v. Time Warner Cable Commc'ns, Inc.*, 2006-CP-32-03508 (appeal referenced above); and,
  - *Couram v. Hooker, et al.*, 2010-CP-32-05382 and 2010-CP-32-01010 (appeal referenced above).

In short, Plaintiff has been in continuous litigation for over 10 years. She should not be able to rely on her status as a *pro se* litigant to evade the consequences of the Act or Rule 11.

The undersigned seeks to sanction Plaintiff under Rule 11, SCRCP, because the Complaint is frivolous, and in light of her previous conduct, abusive.

- Generally regarding this lawsuit, Plaintiff is attempting to relitigate a prior claim that she tried to a jury verdict, as set forth above. There is absolutely no legitimate ground for her to bring this claim, and certainly none against the undersigned.
- With regard to Plaintiff's claim for Intentional Infliction of Emotional Distress ("IIED"), Plaintiff was already well aware that this claim has no reasonable basis.

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Plaintiff has brought several IIED claims in the past against parties defended by the undersigned in "Couram I" through "Couram IV," and had even brought such a claim previously against the undersigned. She is completely aware of the standards that have been set for such a claim, and disregarded them completely.

- Plaintiff's claim for Negligent Infliction of Emotional Distress is simply inapplicable to any theory relevant to this case, which would be apparent to Plaintiff in the space of the most cursory investigation into the elements of this tort.

- Plaintiff's claim for Civil Conspiracy fails not only because of its pleading defects, but also because Plaintiff is absolutely barred from suing the Defendants for civil conspiracy because she complains about acts that were part of the judicial process. Again, Plaintiff has brought several of these types of claims in the past against parties defended by the undersigned in "Couram I" through "Couram IV," and has brought such a claim previously against the undersigned.

In short, Plaintiff was fully aware of the frivolous nature of this Complaint when it was filed, and deserves to be sanctioned for this frivolous filing. Similarly, in her trial court Order affirming sanctions in *Kovach v. Whitley*, 2015-CP-08-02380, former Chief Justice Toal sanctioned both an attorney and her client for filing a frivolous civil conspiracy claim where they attempted "to re-litigate the factual basis for her indictment and re-litigate the question of her guilt or innocence." *Kovach* slip op., p. 19. Indeed, in the instant case, Plaintiff is just as – if not more – culpable than the attorney and plaintiff in *Kovach*, as Plaintiff has been a direct *pro se* party in her numerous prior proceedings, and was a direct and knowing participant in Tidwell I. Given Plaintiff's egregious conduct, the Court should find itself constrained to sanction her for her conduct.

Sanctions under Rule 11 or the Act may take many forms, including a monetary sanction. They may also include non-monetary sanctions designed to deter the party from bringing any future frivolous action or action in bad faith. *Ex parte Gregory*, 378 S.C. at 437-38, 663 S.E.2d at 50. In that light, the undersigned respectfully suggests that the Court issue one, or both, of the following sanctions:

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1. A monetary penalty equal to the time the undersigned has spent responding to this frivolous lawsuit multiplied by the normal hourly rate of an experienced lawyer in this locality who is certified as a Specialist in Employment and Labor Law by the South Carolina Supreme Court; and,

2. In light of Plaintiff's long and storied record as a vexatious and abusive *pro se* litigant, the undersigned requests that this Court issue an *Assa'ad-Faltas* Order[5] forbidding Plaintiff from filing any civil lawsuit in the Richland County unless it is signed and filed by an attorney with an active license to practice law in South Carolina.

CONCLUSION

For the reasons stated above, the undersigned respectfully requests that the Court find each of Plaintiff's claims to be entirely without merit, and that this Court GRANT this Motion for Judgment of the Pleadings and DISMISS WITH PREJUDICE each and every one of Plaintiff's claims, to SANCTION Plaintiff as requested, and to grant the undersigned any other such relief as the Court deems just and proper.

In filing this motion, the undersigned requests a hearing on the matter no earlier than ten (10) days prior to the filing of this Amended Motion, or as the Court otherwise directs. If

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[5]An "*Assa'ad-Faltas* Order" refers to the restrictions placed on another vexatious and abusive *pro se* litigant in South Carolina by both the South Carolina Supreme Court and the United States Supreme Court. *See City of Columbia v. Assa'ad-Faltas*, 2017 WL 2665155, at *3 (S.C. June 21, 2017) ("In an effort to restrict Appellant from engaging in such inappropriate conduct, this Court issued an order on December 23, 2009, prohibiting Appellant from filing anything with this Court unless it is signed and filed by an attorney. Thereafter, in April 2011, the Court expanded that prohibition to preclude Appellant from filing anything in *any* court of this state in a *pro se* capacity based on Appellant's persistent disregard for and abuse of the judicial process. In response to Appellant's repeated attempts to circumvent this Court's orders, including a series of emails Appellant sent to judges and law clerks about pending litigation, on October 24, 2012, then-Chief Justice Toal issued an order expressly prohibiting Appellant from contacting 'any judge, justice, law clerk, clerk of court or any other officer or employee of the Judicial System by telephone, e-mail or any other form of electronic communication.'") *Assa'ad-Faltas v. Richland Cty. Sheriff's Dep't*, 135 S. Ct. 1418, 191 L.Ed.2d 354 (2015) ("As petitioner has repeatedly abused this Court's process, the Clerk is directed not to accept any further petitions in noncriminal matters from petitioner unless the docketing fee required by Rule 38(a) is paid and petition submitted in compliance with Rule 33.1.").

sanctions are granted, the undersigned further requests leave to file an affidavit of attorney costs and fees.

Dated this the 21st day of July, 2017.

Respectfully submitted,

RICHARDSON PLOWDEN & ROBINSON, P.A.

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APPEARING AS COUNSEL AND AS AN INDIVIDUALLY NAMED DEFENDANT

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ORIGINAL

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

Glenda Couram,

Plaintiff,

v.

Nationwide Mutual Insurance Company, Titan Indemnity Company, Eugene Matthews, in his individual capacity, Sherwood's Plumbing Services, LLC, Sherwood Tidwell, Owner/Operator/ Agent, and Beatrice Tyree Tidwell,

Defendants.

IN THE COURT OF COMMON PLEAS
FOR THE FIFTH JUDICIAL CIRCUIT

C/A No.: 2017-CP-40-04048

SUPPLEMENT TO MOTION FOR JUDGMENT ON THE PLEADINGS OF DEFENDANT EUGENE MATTHEWS AND FOR SANCTIONS

2017 JUL 21 AM 11:13
JEANNETTE W. McBRIDE
C.C.P. & G.S.
RICHLAND CO. S.C.
FILED

NOW COMES the Defendant Eugene Matthews (hereinafter "Matthews" or the "Defendant"), the undersigned, and files this Supplement to the Amended Motion for Judgment on the Pleadings under Rule 12(c), SCRCP. Defendant respectfully requests that the Court dismiss all claims against him with prejudice, and to sanction Plaintiff under the South Carolina Frivolous Civil Proceedings Sanctions Act, or Rule 11, SCRCP, or both.

Plaintiff originally filed her Complaint on July 3, 2017. The undersigned filed an Answer on July 14, 2017 and a Motion for Judgment on the Pleadings and for Sanctions on July 17, 2017.

Shortly thereafter, on July 19, 2017, Plaintiff filed her Amended Complaint. The undersigned filed his Answer to the Amended Complaint on July 21, 2017, and now also files his Supplement to the Motion for Judgment on the Pleadings and for Sanctions.

In support of this supplement, the undersigned presents the following:

INTRODUCTION[1]

This case involves a frequent *pro se* Plaintiff, who has filed numerous unsuccessful lawsuits in various courts in South Carolina.

Prior to her filing this lawsuit, Plaintiff filed a lawsuit captioned as *Glenda R. Couram v. Sherwood Tidwell*, 2016-CP-40-2350 ("Tidwell I"), also in the Court of Common Pleas in Richland County. (Exhibit "A"). "Tidwell I" involved the same automobile accident that is the subject of the instant case.

Defendant Eugene Matthews (the undersigned) is an attorney with Richardson Plowden & Robinson, P.A. He has defended numerous defendants in four (4) separate lawsuits brought by the Plaintiff, including the South Carolina Department of Motor Vehicles ("SCDMV"), her former supervisors and co-workers, Judiciary officials, and others. Notably, he did not represent any party in "Tidwell I," but assisted SCDMV in responding to subpoenas issued in that case, and accompanied an SCDMV employee who testified at the trial.

In this lawsuit, Plaintiff appears to complain that Mr. Tidwell's insurers did not offer her enough money to settle "Tidwell I." (Amended Complaint, ¶¶ 23-26). While not privy to the exact nature of those negotiations, the record indicates that Plaintiff received an Offer of Judgment under Rule 68, SCRCP in the amount of $20,000.00. (Exhibit "B," Offer of Judgment).

It also appears that, prior to trial, Judge Hood issued an order in which Mr. Tidwell acknowledged fault for the accident. (Exhibit "C," Judge Hood's Order). The Order held that "[w]hile the Plaintiff claims she sustained physical and mental injuries as a result of the accident in question, it is within the province of the jury to determine whether the Plaintiff's alleged

[1] This "Introduction" is also presented in Defendant's Answer.

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damages were caused by the accident in question in the case, meaning a jury must determine whether the Plaintiff's alleged damages would have occurred 'but for' the Defendant's alleged negligence, as well as whether such damages were 'foreseeable' or the natural and probable consequence of the alleged failure to exercise reasonable case." (Exhibit "C," p. 3).[2]

In any event, Plaintiff rejected the Offer of Judgment of $20,000.00 and tried her case to a jury. The jury returned a verdict in her favor, but only awarded $1,000.00. (Exhibit "D," Jury Verdict). Plaintiff has filed a Motion to Amend or Alter Judgment under Rule 59, SCRCP, upon which the Court has not yet ruled.

As set forth below, Plaintiff's instant lawsuit is frivolous and should be dismissed forthwith. Plaintiff should also be sanctioned under the South Carolina Frivolous Civil Proceedings Sanctions Act, or Rule 11, SCRCP, or both.

PLAINTIFF'S CURRENT LAWSUIT

Plaintiff attempts to bring the following causes of action[3] against the undersigned:

1. Second Cause of Action – Intentional Infliction of Emotional Distress, alleged against Defendants Nationwide, Titan, and Matthews.

2. Third Cause of Action – Negligent Infliction of Emotional Distress alleged against Defendants Nationwide, Titan, and Matthews.

3. Fourth Cause of Action – Civil Conspiracy, alleged against Defendants Nationwide, Titan, and Matthews.

[2] While Plaintiff alleges at ¶ 20 of her Amended Complaint that Tidwell "was found guilty in a court of law for negligence and liability via court order of Judge Hood dated June 2, 2017," the allegation is not accurate. In any event, Judge Hood's Order speaks for itself.

[3] Plaintiff's First Cause of Action is not stated against this Defendant. Plaintiff's Fifth Cause of Action – stated simply as "Punitive Damages" – is not a separate cause of action, but a type of damage Plaintiff apparently wishes to seek relative to other causes of action.

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Plaintiff's Amended Complaint does not include separate factual allegations pertaining to the separate causes of action. Instead, Plaintiff's factual allegations are grouped together under the heading "Facts Common to All Causes of Action." (Plaintiff's Amended Complaint, ¶¶ 11-32). They can be categorized as follows:

- Paragraphs 11 through 19 describe the car accident in which she was involved on September 18, 2015, Mr. Tidwell's admission of fault for the accident, and her allegations concerning damages related to the accident.
- Paragraph 20 references but misrepresents Judge Hood's Order (Exhibit "C").
- Paragraphs 21 through 26 describe Plaintiff's allegations of the course of settlement negotiations between the parties. Plaintiff does not reference the Offer of Judgment that was tendered in the amount of $20,000.00. (Exhibit "B").
- Paragraph 27 alleges that Plaintiff lost her employment on April 2, 2017.
- Paragraph 28 alleges that "Defendant Eugene Matthews entered the picture and a second subpoenaed request for plaintiff's employment records causing the plaintiff additional suffering [*sic*]."
- Paragraphs 29 through 32 names some of the Defendants as parties to this lawsuit.
- Further, the allegations specific to the separate causes of action recite only legal conclusions. (See, e.g., Plaintiff's Amended Complaint, ¶¶ 40-67).

I. Collateral Estoppel and Rule 12(b)(8).

This lawsuit is an effort by Plaintiff to reassert and expand allegations she made in "Tidwell I," which resulted in a jury verdict in her favor, albeit an apparently disappointing jury verdict of only $1,000.00.[4] Because each of Plaintiff's claims relies on a common set of factual allegations, and because those allegations have already been tried to a jury, Plaintiff is estopped from relitigating them at this point.

[4] Plaintiff's disappointment with the jury award of $1,000.00 is understandable, in light of her apparently ill-considered decision to refuse Tidwell's Offer of Judgment of $20,000.00.

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Under South Carolina state law, the party asserting collateral estoppel must show "that the issue in the present lawsuit was: (1) actually litigated in the prior action; (2) directly determined in the prior action; and (3) necessary to support the prior judgment." *Carolina Renewal, Inc. v. S.C. Dep't of Transp.*, 385 S.C. 550, 554 (S.C. App. 2009). Each of these elements is present. Plaintiff's claims for injuries and damages related to the accident were (1) actually litigated in the prior action, (2) determined by a jury in the prior action, and (3) were necessary – indeed central – to the judgment in the prior action.

Each of the Plaintiff's causes of action rely on the "Facts Common to All Causes of Action" alleged in Paragraphs 11-32 of her Amended Complaint, which refer to the accident, alleged damages caused by the accident, and the settlement negotiations concerning the accident. These matters were conclusively litigated in "Tidwell I." For that reason, Plaintiff's claims are barred and must be dismissed with prejudice.

II. Intentional Infliction of Emotional Distress.

In support of her claim for intentional infliction of emotional distress ("IIED"), Plaintiff relies on the "conduct alleged above" (Plaintiff's Amended Complaint, ¶ 41), presumably a reference to the allegations in the "Facts Common to All Causes of Action" section of her Amended Complaint. In fact, the entire Amended Complaint contains only cryptic and fleeting references to the undersigned, as follows:

- In Paragraph 28, she alleges that "Defendant Eugene Matthews entered the picture and a second subpoenaed request for plaintiff employment records causing the plaintiff additional suffering [*sic*]." The meaning of this vague allegation is not apparent. In any event, the undersigned certainly assisted SCDMV in its response to subpoenas issued in "Tidwell I."

- In Paragraph 46, she makes a conclusory allegation that the undersigned and Nationwide engaged in "malicious and/or oppressive conduct" that "was in reckless disregard of Plaintiff's [*sic*] and therefore warrants imposition of punitive damages, especially in influencing and controlling the outcome of the trial." She

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makes no allegation as to *how* the undersigned influenced and controlled the outcome of the trial.

- In Paragraph 48, she alleges that the "Attorney for Nation [*sic*] and Matthews met several times in full view in fact ensured she saw them outside the courthouse, inside the court housing [*sic*] – even when neither were required to be present on the day of meetings, April 27th etc., the relationship between judge and Matthews and other actions that will be proven at trial." It is certainly true that the undersigned and the attorney for Mr. Tidwell – Jescelyn T. Spitz – communicated regarding the subpoenas issued to SCDMV in "Tidwell I," and that the undersigned attempted to deal with Ms. Spitz in a cordial and professional manner.

In order to state an IIED claim, Plaintiff must show that the alleged conduct is so "extreme and outrageous" as to exceed "all possible bounds of decency" and be regarded as "atrocious, and utterly intolerable in a civilized community." *Gattison v. South Carolina State College*, 318 S.C. 148, 151, 456 S.E.2d 414, 416 (S.C. App. 1995) (stating elements of IIED claim). Given the sparse nature of Plaintiff's allegation – that the undersigned was involved in responding to Tidwell's subpoena to SCDMV for her employment records – her allegations fail miserably to state such a claim.

More generally, for the past thirty years, South Carolina appellate courts have ruled in an overwhelming number of cases – even those describing conduct far more extreme than that forecast by Plaintiff – that plaintiffs have failed to establish an IIED claim sufficient to state a claim and/or reach a jury. For instance, the South Carolina Court of Appeals affirmed summary judgment for the defendant where management continually denied plaintiff's medical excuses and willfully engaged him in verbal arguments over his absences, knowing of his inability to talk because of vocal chord surgery. *Butts v. AVX Corp.*, 292 S.C. 256, 355 S.E.2d 876 (S.C. App. 1987). In *Wright v. Sparrow*, 298 S.C. 469, 381 S.E.2d 503 (S.C. App. 1989), the Court held that allegations that a public employee's supervisor deliberately set out to "build a case" for firing her, "loaded her with responsibility while stripping her of authority," and "change[d] the

manner of performing certain duties and then accused her of not following instructions" were insufficient as a matter of law to constitute the tort of outrage. *Id.* at 505-06. In *Shipman v. Glenn*, 314 S.C. 327, 443 S.E.2d 921 (S.C. App. 1994), the Court of Appeals ruled that a supervisor's conduct in ridiculing the speech impediment of, and threatening to fire, an employee who had cerebral palsy did not provide a sufficient basis for intentional infliction of emotional distress. In *Gattison*, the Court of Appeals reversed judgment for the plaintiff where the plaintiff, the Director of Internal Audit, was deprived of his office and staff, was told his job was unimportant, and was given short notice of meetings in which he was required to sit in a small chair and forbidden from taking notes. Notably, the Court stated that while "the facts alleged by Gattison may demonstrate unprofessional, inappropriate behavior, they fall short of conduct that exceeds all possible bounds of decency and is atrocious and utterly intolerable in a civilized society." 318 S.C. at 157, 456 S.E.2d at 419; *see also Hainer v. American Medical International, Inc.*, 320 S.C. 316, 324, 465 S.E2d 112, 117 (S.C. App. 1995), *aff'd*, 328 S.C. 128, 492 S.E.2d 103 (1997) (no IIED claim where registered nurse alleged that her employer wrongfully reported alleged professional misconduct to the State Board of Nursing, and abused process by filing the report for ulterior purposes, reversing a $75,000 compensatory damage and $225,000 punitive damage award); *Johnson v. Dailey*, 318 S.C. 318, 322-323, 457 S.E.2d 613, 614-15 (1995) (no IIED claim where public school teacher alleged that her principal harassed her and retaliated against her over the course of several years, to the point of ultimately firing her, because she had reported the principal's unlawful activities).

More recently, in *Fleming v. Rose*, 338 S.C. 524, 526 S.E.2d 732 (S.C. App. 2000), *rev'd on other grounds*, 350 S.C. 488, 567 S.E.2d 857 (2002), the Court of Appeals affirmed dismissal of an IIED claim made by a former S.C. Highway Patrol Trooper, who alleged that his employer

issued a libelous press release incorrectly grouping him with other Troopers who had been indicted. Although the contents of the press release were reprinted throughout the state, the Court found summary judgment appropriate because the alleged conduct fell "short of conduct that exceeds all possible bounds of decency." 338 S.C. at 538, 526 S.E.2d at 740. And, in *Hansson v. Scalise Builders of South Carolina*, 374 S.C. 352, 650 S.E.2d 68 (2007), our Supreme Court reinstated summary judgment for the defendant-employer, where the plaintiff alleged that, during his three years of employment, his coworkers and supervisor constantly derided him with vulgar remarks and gestures related to homosexuality. In reinstating summary judgment for the employer, the Court emphasized that:

> In order to prevent claims for intentional infliction of emotional distress from becoming "a panacea for wounded feelings rather than reprehensible conduct," the court plays a significant gatekeeping role in analyzing a defendant's motion for summary judgment... Under the heightened standard of proof for emotional distress claims emphasized in *Ford*, a party cannot establish a *prima facie* claim for damages resulting from a defendant's tortious conduct with mere bald assertions.

374 S.C. at 358, 650 S.E.2d at 72 (citations omitted).

Here, Plaintiff's allegations against the undersigned, even if taken as true, are wholly insufficient to meet the demanding standards set by South Carolina law in stating an IIED claim. For this reason alone, her IIED claim must be dismissed with prejudice.

III. Negligent Infliction of Emotional Distress.

Plaintiff has failed to allege a claim of "Negligent Infliction of Emotional Distress." The elements of such a claim are as follows:

(a) the negligence of the defendant must cause death or serious physical injury to another;
(b) the plaintiff bystander must be in close proximity to the accident;
(c) the plaintiff and the victim must be closely related;
(d) the plaintiff must contemporaneously perceive the accident; and

(e) the emotional distress must both manifest itself by physical symptoms capable of objective diagnosis and be established by expert testimony.

Kinard v. Augusta Sash & Door Co., 286 S.C. 579, 582–83, 336 S.E.2d 465, 467 (1985). As would be obvious from a cursory review of the elements, negligent infliction of emotional distress is limited to "bystander recovery." *Doe v. N. Greenville Hosp.*, 318 S.C. 459, 465, 458 S.E.2d 439, 442 (S.C. App. 1995). There are no allegations in Plaintiff's Amended Complaint that remotely meet these elements. In short, the claim must be dismissed with prejudice.

IV. Civil Conspiracy.

As an initial matter, Plaintiff has failed to allege sufficiently a claim for civil conspiracy. South Carolina courts have held that "[t]he tort of civil conspiracy has three elements: (1) a combination of two or more persons, (2) for the purpose of injuring the plaintiff, and (3) causing plaintiff special damage." *Hackworth v. Greywood at Hammett, LLC,* 385 S.C. 110, 115, 682 S.E.2d 871, 874 (S.C. App. 2009) (citations omitted). Also, "[a] claim for civil conspiracy must **allege additional acts in furtherance of a conspiracy rather than reallege other claims within the Amended Complaint**," and "because the quiddity of a civil conspiracy claim is the special damage resulting to the plaintiff, the damages alleged must go beyond the damages alleged in other cause of action." *Id.* (internal citations omitted) (emphasis added).

In this case, Plaintiff's makes no factual allegations regarding the civil conspiracy claim that differ from her other claims. In fact, she relies on her allegations in the "Facts Common to All Causes of Action" section of her Amended Complaint to support all of her claims, including the civil conspiracy claim. Paragraphs 51 through 54 of Plaintiff's Amended Complaint specifically state that Plaintiff is suing the Defendants for the "wrongful acts complained on herein." In Paragraph 64, Plaintiff alleges that the "Defendants worked in harmony to the detriment of the plaintiff to prevent their loss to a pro se litigant." The remaining allegations

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pertaining to civil conspiracy are purported statements of law or allegations purporting to set forth special damages. Thus, for this reason alone, Plaintiff's civil conspiracy claim must be dismissed.

Further, these allegations all pertain to the acts of the undersigned that are part of the judicial process. As such, these acts are absolutely privilege and cannot form the basis of an action. *Crowell v. Herring*, 301 S.C. 424, 430, 392 S.E.2d 464, 467 (Ct. App. 1990) ("We hold the absolute privilege exists as to any utterance arising out of the judicial proceeding and having any reasonable relation to it, including preliminary steps leading to judicial action of any official nature provided those steps bear reasonable relation to it."); *see also Kovach v. Whitley*, C/A No. 2015-CP-08-02380, at *18, Court of Common Pleas of Charleston County (slip op. attached) (Chief Justice Toal found acts that are "part of the judicial process are absolutely privileged and cannot be the basis for a civil conspiracy claim."). For this reason alone, Plaintiff's civil conspiracy claim must be dismissed.

V. Sanctions under Rule 11 and the South Carolina Frivolous Civil Proceedings Sanctions Act.

The Defendant gave notice of his intent, under the South Carolina Frivolous Civil Proceedings Sanctions Act (the "Act" or "FCPSA"), S.C. Code Ann. § 15-36-10, to pursue remedies against the Plaintiff provided under the Act. The Defendant also seeks sanctions under Rule 11, SCRCP.

Under Rule 11(a), SCRCP, a party may be sanctioned for filing a frivolous pleading, motion, or other paper, or for making frivolous arguments. *Ex Parte Gregory*, 378 S.C. 430, 438, 663 S.E.2d 46, 541 (2008). For instance, in *Gregory*, an attorney was sanctioned for fling a frivolous suit without first conducting a reasonable investigation into the facts undying the claim. *Id.*

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Similarly, the FCPSA also provides for sanctions of frivolous lawsuits. S.C. Code Ann. § 15-36-10. Under the FCPSA, sanctions are appropriate where "a reasonable attorney in the same circumstances would believe the case or defense was frivolous as not reasonably founded in fact." *Id.* Proceedings under this Act are determined under a "reasonable attorney" standard. *Southeastern Site Prep, LLC v. Atlantic Coast Builders and Contractors, LLC*, 394 S.C. 97, 107, 713 S.E.2d 650, 655 (S.C. App. 2011).

As an initial matter, Plaintiff cannot rely on her *pro se* status to claim unfamiliarity with the Court and its rules. In fact, because of the breathtaking number of lawsuits she has filed, she undoubtedly has more experience in litigation than many lawyers. Below is a list of the lawsuits she has filed, as a *pro se* litigant, against SCDMV and her co-workers and supervisors that the undersigned has defended:

- Plaintiff filed a lawsuit in U.S. District Court for the District of South Carolina on January 4, 2010, against SCDMV and many of her supervisors and co-workers. In her lawsuit, she alleged claims under Title VII, the Age Discrimination in Employment Act, the Equal Pay Act, and various state law claims (hereinafter "**Couram I**"). In March 2011, U.S. District Judge Matthew Perry granted summary judgment to the Defendants on all federal claims in "Couram I," and declined to exercise jurisdiction over the state law claims. *Couram v. South Carolina Dept. of Motor Vehicles*, 2011 WL 891298 (D.S.C. March 10, 2011). Plaintiff appealed this decision to the U.S. Court of Appeals for the Fourth Circuit. Her appeal was dismissed on August 30, 2011, and her request to reinstate the appeal was denied on November 30, 2011.

- Plaintiff filed another lawsuit in the South Carolina Court of Common Pleas in Richland County on October 25, 2011 (hereinafter "**Couram II**"). In her Amended Amended Complaint, she alleged many of the federal causes of action that had earlier been dismissed in "Couram I." The case was removed to U.S. District Court. Following an extensive number of motions, U.S. Magistrate Judge Paige Gossett recommended that the case be remanded to state court if Plaintiff removed the federal causes of action from her Amended Complaint. *Couram v. Davis*, 2012 WL 2428581 (D.S.C. March 14, 2012). U.S. District Court Judge Barbara Seymour adopted the recommendation. *Couram v. Davis*, 2012 WL 2428567 (D.S.C. June 27, 2012). Upon Plaintiff's removal of federal claims from her Amended Complaint in "Couram II," Judge Seymour remanded the case back to state court on August 21, 2012.

- On November 15, 2012, Circuit Court Judge L. Casey Manning granted the Defendants' Motion to Dismiss the remaining claims in "Couram II" with prejudice. Plaintiff's Motion to Reconsider was denied on January 8, 2013.

- The South Carolina Court of Appeals affirmed dismissal of "Couram II" in *Couram v. Davis*, No. 2015-UP-065, 2015 WL 477266, at *2 (S.C. App. Feb. 4, 2015), and the South Carolina Supreme Court rejected Plaintiff's Petition for Certiorari.

- In 2015, Plaintiff brought this lawsuit against SCDMV defendants, various Judges and court officials, and the undersigned – the current lawsuit before this Court – based on her allegations from earlier cases. ("**Couram III**"). Following removal, the U.S. District Court dismissed all claims over which it could exercise jurisdiction in "Couram III," and remanded a single claim to state court for disposition. *Couram v. S. Carolina Dep't of Motor Vehicles (SCDMV)*, No. 3:15-cv-04870-MBS-PJG, 2016 WL 4204070, at *5 (D.S.C. Aug. 10, 2016). Plaintiff has appealed this ruling to the Fourth Circuit Court of Appeals, which is still pending. The single claim remanded to state court has also been dismissed.

- In 2017, Plaintiff brought yet another lawsuit against SCDMV and two of her supervisors, which is primarily based on her allegations from earlier cases. ("**Couram IV**"). It was removed to U.S. District Court, C/A No.: 3:17-cv-00217-MBS-PJG (formerly 2017-CP-40-00251). The case is still pending in federal court.

In addition, a short review of case databases indicates that Plaintiff has sued, or is suing, a host of other parties unfortunate enough to cross her path:

- In *Couram v. Hooker*, 2016 WL 1135211 (S.C. App. Mar. 23, 2016), she unsuccessfully sued a number of persons and parties concerning a property line, including:

  - Mr. & Mrs. Christopher Hooker;
  - Mr. & Mrs. Carl Reibold;
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  - Donald "Don" Rawls and Steve Fair in their official and individual capacities;
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  - Utilities, Inc., Corporate Offices.

- In *Couram v. Time Warner Cable Commc'ns, Inc.*, 2009 WL 9530352, at *1 (S.C. App. Dec. 22, 2009), she brought numerous claims against the following parties that were dismissed by directed verdict:

  - Time Warner Communications, Inc.;
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- Jim Mosley.

Other state court records yield the following suits in which Plaintiff was (or is) involved as a *pro se* litigant:

- In addition to the four cases brought by Plaintiff against some or all of the SCDMV Defendants, she has also brought the following civil cases in Richland County.
  - *Couram v. South Carolina Dental Center Inc.*, 2006-CP-40-02160 (dismissed); and,
  - *Couram v. Sherwood Tidwell*, 2016-CP-40-02350 ("Tidwell I").
- Plaintiff was either a Plaintiff or Defendant in the following civil cases filed in Lexington County.
  - *Glenda Couram v. South Carolina Dept. of Social Services*, 2000-CP-32-00367 (directed verdict for Defendant);
  - *Greenwood Trust, et al v. Glenda Couram*, 2001-CP-32-03162 (uncontested default);
  - *S.C. Housing Finance & Dev v. Glenda Couram*, 2002-CP-32-03634 (judgment for plaintiff);
  - *Couram v. Time Warner Cable Commc'ns, Inc.*, 2006-CP-32-03508 (appeal referenced above); and,
  - *Couram v. Hooker, et al.*, 2010-CP-32-05382 and 2010-CP-32-01010 (appeal referenced above).

In short, Plaintiff has been in continuous litigation for over 10 years. She should not be able to rely on her status as a *pro se* litigant to evade the consequences of the Act or Rule 11.

The undersigned seeks to sanction Plaintiff under the FCPSA and Rule 11, SCRCP, because the Amended Complaint is frivolous, and in light of her previous conduct, abusive.

- Generally regarding this lawsuit, Plaintiff is attempting to relitigate a prior claim that she tried to a jury verdict, as set forth above. There is absolutely no legitimate ground for her to bring this claim, and certainly none against the undersigned.
- With regard to Plaintiff's claim for Intentional Infliction of Emotional Distress ("IIED"), Plaintiff was already well aware that this claim has no reasonable basis.

Plaintiff has brought several IIED claims in the past against parties defended by the undersigned in "Couram I" through "Couram IV," and had even brought such a claim previously against the undersigned. She is completely aware of the standards that have been set for such a claim, and disregarded them completely.

- Plaintiff's claim for Negligent Infliction of Emotional Distress is simply inapplicable to any theory relevant to this case, which would be apparent to Plaintiff in the space of the most cursory investigation into the elements of this tort.

- Plaintiff's claim for Civil Conspiracy fails not only because of its pleading defects, but also because Plaintiff is absolutely barred from suing the Defendants for civil conspiracy because she complains about acts that were part of the judicial process. Again, Plaintiff has brought several of these types of claims in the past against parties defended by the undersigned in "Couram I" through "Couram IV," and has brought such a claim previously against the undersigned.

In short, Plaintiff was fully aware of the frivolous nature of this Amended Complaint when it was filed, and deserves to be sanctioned for this frivolous filing. Similarly, in her trial court order affirming sanctions in *Kovach v. Whitley*, 2015-CP-08-02380, former Chief Justice Toal sanctioned both an attorney and her client for filing a frivolous civil conspiracy claim where they attempted "to re-litigate the factual basis for her indictment and re-litigate the question of her guilt or innocence." *Kovach* slip op., p. 19. Indeed, in the instant case, Plaintiff is just as – if not more – culpable than the attorney and plaintiff in *Kovach*, as Plaintiff has been a direct *pro se* party in her numerous prior proceedings, and was a direct and knowing participant in "Tidwell I." Given Plaintiff's egregious conduct, the Court should find itself constrained to sanction her for her conduct.

Sanctions under Rule 11 or the Act may take many forms, including a monetary sanction. They may also include non-monetary sanctions designed to deter the party from bringing any future frivolous action or action in bad faith. *Gregory*, 378 S.C. at 437-38, 663 S.E.2d at 50. In that light, the undersigned respectfully suggests that the Court issue one, or both, of the following sanctions:

1. A monetary penalty equal to the time the undersigned has spent responding to this frivolous lawsuit multiplied by the normal hourly rate of an experienced lawyer in this locality who is certified as a Specialist in Employment and Labor Law by the South Carolina Supreme Court; and,

2. In light of Plaintiff's long and storied record as a vexatious and abusive *pro se* litigant, the undersigned requests that this Court issue an *Assa'ad-Faltas* Order[5] forbidding Plaintiff from filing any civil lawsuit in the Richland County unless it is signed and filed by an attorney with an active license to practice law in South Carolina.

CONCLUSION

For the reasons stated above, the undersigned respectfully requests that the Court find each of Plaintiff's claims to be entirely without merit, and that this Court GRANT this Motion for Judgment of the Pleadings and DISMISS WITH PREJUDICE each and every one of Plaintiff's claims, to SANCTION Plaintiff as requested, and to grant the undersigned any other such relief as the Court deems just and proper.

In filing this motion, the undersigned requests a hearing on the matter no earlier than ten (10) days prior to the filing of this Amended Motion, or as the Court otherwise directs. If

[5]An "*Assa'ad-Faltas* Order" refers to the restrictions placed on another vexatious and abusive *pro se* litigant in South Carolina by both the South Carolina Supreme Court and the United States Supreme Court. *See City of Columbia v. Assa'ad-Faltas*, 2017 WL 2665155, at *3 (S.C. June 21, 2017) ("In an effort to restrict Appellant from engaging in such inappropriate conduct, this Court issued an order on December 23, 2009, prohibiting Appellant from filing anything with this Court unless it is signed and filed by an attorney. Thereafter, in April 2011, the Court expanded that prohibition to preclude Appellant from filing anything in *any* court of this state in a *pro se* capacity based on Appellant's persistent disregard for and abuse of the judicial process. In response to Appellant's repeated attempts to circumvent this Court's orders, including a series of emails Appellant sent to judges and law clerks about pending litigation, on October 24, 2012, then-Chief Justice Toal issued an order expressly prohibiting Appellant from contacting 'any judge, justice, law clerk, clerk of court or any other officer or employee of the Judicial System by telephone, e-mail or any other form of electronic communication.'") *Assa'ad-Faltas v. Richland Cty. Sheriff's Dep't*, 135 S. Ct. 1418, 191 L.Ed.2d 354 (2015) ("As petitioner has repeatedly abused this Court's process, the Clerk is directed not to accept any further petitions in noncriminal matters from petitioner unless the docketing fee required by Rule 38(a) is paid and petition submitted in compliance with Rule 33.1.").

sanctions are granted, the undersigned further requests leave to file an affidavit of attorney costs and fees.

Dated this the 21st day of July, 2017.

Respectfully submitted,

RICHARDSON PLOWDEN & ROBINSON, P.A.

Eugene H. Matthews
Post Office Drawer 7788
Columbia, South Carolina 29202
T: (803) 771-4400
F: (803) 779-0016
Email: gmatthews@RichardsonPlowden.com

APPEARING AS COUNSEL AND AS AN INDIVIDUALLY NAMED DEFENDANT

Exhibit A

Glenda R. Couram v. Sherwood Tidwell
C/A No.: 2016-CP-40-02350
"Tidwell I"

STATE OF SOUTH CAROLINA)
) IN THE COURT OF COMMON PLEAS
COUNTY OF RICHLAND)

GLENDA COURAM)
Plaintiff(s))

vs.)

SHERWOOD TIDWELL AND TITIAN INDEMNITY COMPANY SUBSIDAIRY OF NATIONWIDE INSURANCE)
Defendant(s))

CIVIL ACTION COVERSHEET

2016 -CP - 40 - 2350

Submitted By: Glenda Couram
Address: 104 Macaw Ln
Lexington, SC 29073

SC Bar #: N/A
Telephone #: 803 358-127
Fax #:
Other:
E-mail: grcouram@hotmail.com

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

DOCKETING INFORMATION (*Check all that apply*)

**If Action is Judgment/Settlement do not complete*

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

NATURE OF ACTION (*Check One Box Below*)

Contracts
- ☐ Constructions (100)
- ☐ Debt Collection (110)
- ☐ General (130)
- ☐ Breach of Contract (140)
- ☐ Fraud/Bad Faith (150)
- ☐ Failure to Deliver/ Warranty (160)
- ☐ Employment Discrim (170)
- ☐ Employment (180)
- ☐ Other (199) _____

Torts - Professional Malpractice
- ☐ Dental Malpractice (200)
- ☐ Legal Malpractice (210)
- ☐ Medical Malpractice (220)
- Previous Notice of Intent Case # 20___-NI-_____-_____
- ☐ Notice/ File Med Mal (230)
- ☐ Other (299) _____

Torts – Personal Injury
- ☐ Conversion (310)
- ☒ Motor Vehicle Accident (320)
- ☐ Premises Liability (330)
- ☐ Products Liability (340)
- ☐ Personal Injury (350)
- ☐ Wrongful Death (360)
- ☐ Assault/Battery (370)
- ☐ Slander/Libel (380)
- ☐ Other (399) _____

Real Property
- ☐ Claim & Delivery (400)
- ☐ Condemnation (410)
- ☐ Foreclosure (420)
- ☐ Mechanic's Lien (430)
- ☐ Partition (440)
- ☐ Possession (450)
- ☐ Building Code Violation (460)
- ☐ Other (499) _____

Inmate Petitions
- ☐ PCR (500)
- ☐ Mandamus (520)
- ☐ Habeas Corpus (530)
- ☐ Other (599) _____

Administrative Law/Relief
- ☐ Reinstate Drv. License (800)
- ☐ Judicial Review (810)
- ☐ Relief (820)
- ☐ Permanent Injunction (830)
- ☐ Forfeiture-Petition (840)
- ☐ Forfeiture—Consent Order (850)
- ☐ Other (899) _____

Judgments/Settlements
- ☐ Death Settlement (700)
- ☐ Foreign Judgment (710)
- ☐ Magistrate's Judgment (720)
- ☐ Minor Settlement (730)
- ☐ Transcript Judgment (740)
- ☐ Lis Pendens (750)
- ☐ Transfer of Structured Settlement Payment Rights Application (760)
- ☐ Confession of Judgment (770)
- ☐ Petition for Workers Compensation Settlement Approval (780)
- ☐ Other (799) _____

Appeals
- ☐ Arbitration (900)
- ☐ Magistrate-Civil (910)
- ☐ Magistrate-Criminal (920)
- ☐ Municipal (930)
- ☐ Probate Court (940)
- ☐ SCDOT (950)
- ☐ Worker's Comp (960)
- ☐ Zoning Board (970)
- ☐ Public Service Comm. (990)
- ☐ Employment Security Comm (991)
- ☐ Other (999) _____

Special/Complex /Other
- ☐ Environmental (600)
- ☐ Automobile Arb. (610)
- ☐ Medical (620)
- ☐ Other (699) _____
- ☐ Sexual Predator (510)
- ☐ Pharmaceuticals (630)
- ☐ Unfair Trade Practices (640)
- ☐ Out-of State Depositions (650)
- ☐ Motion to Quash Subpoena in an Out-of-County Action (660)
- ☐ Pre-Suit Discovery (670)

Submitting Party Signature: _____ Date: ~~March 24, 2016~~ April 6, 2016

Note: Frivolous civil proceedings may be subject to sanctions pursuant to SCRCP, Rule 11, and the South Carolina Frivolous

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STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOR THE FIFTH JUDICIAL CIRCUIT
COUNTY OF RICHLAND	)	CA NO: 2016-CP-40-_____
Glenda R. Couram Plaintiff	)	
Sherwood Tidwell, Insured Titan Indemnity Company Subsidiary of Nationwide Mutual Insurance Company Defendants	)	JURY TRIAL DEMANDED

2016 APR 12 AM 11:20

SUMMONS

TO THE DEFENDANTS ABOVE NAMED:

YOUR ARE HEREBY SUMMONED and required to answer the complaint herein, copy of which is herewith served upon you, and to serve a copy of your answer to this complaint upon the subscriber, at the address shown below, within thirty (30) days after service hereof, exclusive of the day of such service, and if you fail to answer the complaint, judgement by default will be rendered against you for the relief demanded in the complaint.

Respectfully submitted by,

Glenda R. Couram
104 Macaw Lane
Lexington, SC 29073
803 358-0127
grcouram@hotmail.com
Pro se Plaintiff

Dated this 28th day of March 2016
Columbia, South Carolina

STATE OF SOUTH CAROLINA COUNTY OF RICHLAND	)	IN THE COURT OF COMMON PLEAS FOR THE FIFTH JUDICIAL CIRCUIT CA NO: 2016-CP-40-_____
Glenda R. Couram Plaintiff Sherwood Tidwell, Insured Titan Indemnity Company Subsidiary of Nationwide Mutual Insurance Company Defendants	)	**COMPLIANT** **JURY TRIAL DEMANDED**

2016 APR 12 AM 11:20

The Plaintiff, complaining of the Defendant herein, would respectfully show unto this Honorable Court the following:

1. Plaintiff is a citizen and resident of Lexington County, South Carolina.

2. Upon information and belief, Defendant is a citizen and resident of Richland County, South Carolina.

3. Jurisdiction and venue are proper in this Court because the event that gives rise to this action occurred in Richland County, South Carolina.

4. This action arises from a motor vehicle collision that occurred on September 18, 2015, in Richland, South Carolina.

5. On September 18, 2015, (Friday) at approximately 4:20 pm Plaintiff was lawfully operating a motor vehicle on 1-20 heading West Bound towards (Lexington) Atlanta, Georgia.

6. As Plaintiff was preceding the traffic came to a sudden stand-still, the Plaintiff stopped with sufficient distance from the car in front of her. She watched the car behind her driven by Mr. Brown, and moved up until he stopped successfully, after he came to a complete stop behind, Plaintiff relaxed concentrating on the traffic in front of her the next

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thing Plaintiff knew her car was violently slammed into by Mr. Brown's car a cream colored Crown Victory.

7. Plaintiff was driving a 2012 Honda Fit.

8. Defendant's vehicle was a commercial vehicle whose entire front end had been crushed it appeared to the Plaintiff.

9. Defendant failed to observe traffic conditions during rush hour on a Friday and driving too fast to stop collided into Mr. Brown who collided into Plaintiff causing property damage and injury to the Plaintiff.

10. Plaintiff did not cause or contribute to the collision in any manner as confirmed by the accident report in fact, it was a total shock she had even been hit and further she had no ability to avoid or prevent the collision.

11. As a result of the collision, Plaintiff suffered painful, traumatic, and injuries throughout her body which resulted in significant medical treatment (physical and occupational therapy).

12. Plaintiff has incurred, and will continue to incur in the future, medical expenses, and has suffered, and will continue to suffer general damages such as physical and mental pain and suffering, emotional anguish, loss wages, and a loss of enjoyment of life, along with considerable medical bills and inconvenience, all of which she is entitled to be compensated for as a direct and proximate result of Defendant's actions as described above.

13. Defendant was negligent, negligent *per se*, careless, reckless, and grossly negligent in one or more of the following particulars:

a. In causing his vehicle and Mr. Brown's vehicle to collide into Plaintiff's vehicle;
b. In operating a vehicle in a distracted manner;
c. In failing to observe traffic;
d. In failing to keep a proper outlook;

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e. In operating a vehicle in a manner too fast for conditions;
f. In operating a vehicle in a manner to avoid a collision;
g. In failing to maintain proper control and distance over the vehicle;
j. In failing to properly brake the vehicle to avoid the collision;
k. In failing to take any evasive action by means to keep from causing the collision;
l. In failing to obey the statutory and common laws of the State of South Carolina;
m. In failing to use the degree of caution and care that a reasonable driver would have used under the same or similar circumstances;
n. In operating his motor vehicle in whole or in part in a careless, reckless, willful, and wanton disregard for others; and
o. In otherwise being negligent or reckless as discovery may reveal. All of which were the direct and proximate cause of the injuries and damages suffered by Plaintiff.

14. Plaintiff is entitled to a judgment against the Defendant to compensate her for the damages and injuries sustained.

15. Plaintiff is entitled to an award of punitive damages to the extent Defendant's conduct was in violation of statutory laws or reckless, willful, or wanton.

16. Plaintiff demands a jury trial.

WHEREFORE, Plaintiff prays this Honorable Court for judgment against Defendant for: (a) actual and consequential damages; (b) punitive damages; (c) pre-judgment interest; (d) costs and attorney's fees in instituting this action, if applicable; and (e) for such other and further legal and equitable relief as this Honorable Court may deem just and proper.

Respectfully submitted,

By: _____

Glenda Couram
104 Macaw Lane
Lexington, SC 29073
Columbia, South Carolina 29201
Email: grcouram@hotmail.com
Phone: (803) 358-0127
Pro se Plaintiff

Dated this 25th, day of March 2016
Columbia, South Carolina

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DECLARATION PAGE

"I hereby declare that the above statement and information in this document is true to the best of my knowledge and belief, and that I understand it is made for use as evidence in court and subject to penalty for perjury."

Respectfully submitted,

By:

Glenda Couram
104 Macaw Lane
Lexington, SC 29073
Columbia, South Carolina 29201
Email: grcouram@hotmail.com
Phone: (803) 358-0127
Pro se Plaintiff

2016 APR 12 AM 11:21

Dated this 28th, day of March 2016
Columbia, South Carolina

MEDICAL BILLS AND COST
SUBMITTED ON MARCH 22, 2016

ITEMIZED MEDICAL BILLS TO DATE (SPECIAL/GENERAL DAMAGES):

Lexington Urgent Care	$	1591.00	
Lexington Radiology Assoc.		90.00	
Palmetto Associates		95.00	
Vital Energy PT and OT (ongoing)	$	≈ 3026.00	as of December 9, 2015
Prescription Costs (3) (not total my share	$	22.00	(2 @ $9 and 1 @ $4
Vital Energy (release)	$	2260.00	Dec. 15 to March 22, 2016
Wage/loss/mileage/gas to date	$	≈ 779.00	
Wage/loss/mileage/gas	$	562.00	
TOTAL	$	8425.00 x 3 = $26,775	

(plus future Medical bills of $1500 (including future loss wages, gas, mileage)

NOTE: Medicals records, release of information, incident report, wage loss letters (2) etc. and other bills sent to

Rick Skurko, Claims Specialist II
Commercial Casualty
Nationwide Non-Standard Claims
PO Box 93863
Cleveland, OH 44101

2016 APR 12 AM 11:21
C.C.P. & G.S.

Respectfully submitted by,

Glenda R. Couram
104 Macaw Lane
Lexington, SC 29073
803 358-0127
grcouram@hotmail.com
Pro se Plaintiff

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March 28, 2016

Rick Skurko, Claims Specialist II
Commercial Casualty
Nationwide Non-Standard Claims
PO Box 93863
Cleveland, OH 44101

RE:		
	Policyholder:	**Sherwood Tidwell**
	Insurance Company:	**Titan Indemnity Company**
	Date of Accident/Loss:	**September 18, 2015**
	Claimant/Injured:	**Glenda Couram**
	Claims #:	**144356-GC**

Dear Mr. Skurko:

Please be advised that as you have determined not to negotiate this matter after two attempts by me, your offer has been medicals and two thousand five hundred ($2,500.00 for pain and suffering) based on my waiting too long to seek medical attention and car damage. My offer is no longer viable.

I am submitting to you a copy of the Summons and Complaint, Certificate of Service that has been filed to the Richland County Circuit Court. My client suffered personal injuries from a motor vehicle collision that occurred in Richland County on March 25, 2014.

Your insured, Sherwood Tidwell, was negligent in causing this collision. A copy of the incident report, medicals, two letters from employer of wage lost and medical bills have already been submitted the most recent submission was this month.

Pursuant to S.C. Code Ann. § 38-77-250, we are hereby writing to obtain information concerning automobile insurance coverage of the insured and the insured vehicle, the driver, and the owner of the vehicle. We hereby request within thirty (30) days from the above date, a statement, under oath, of a corporate officer or the insurer's claims manager stating with regard to each known policy issued, the name of the insurer, the name of each insured, and the limits of coverage. In the alternative, you may provide a copy of the declaration page of each such policy in lieu of providing such information. I am hereby authorized to make this request.

I would request this information be provided within the next thirty (30) days. Thank you for your assistance.

Sincerely,

Glenda Couram
104 Macaw Lane
Lexington, SC 29073
Columbia, South Carolina 29201
Email: grcouram@hotmail.com
Phone: (803) 358-0127
Pro se Plaintiff

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SECTION 38-77-250. Release of coverage information upon written request of claimant's attorney; confidentiality.

(A) Every insurer providing automobile insurance coverage in this State and which is or may be liable to pay all or a part of any claim shall provide, within thirty days of receiving a written request from the claimant's attorney, a statement, under oath, of a corporate officer or the insurer's claims manager stating with regard to each known policy of nonfleet private passenger insurance issued by it, the name of the insurer, the name of each insured, and the limits of coverage. The insurer may provide a copy of the declaration page of each such policy in lieu of providing such information. The request shall set forth under oath the specific nature of the claim asserted and shall be mailed to the insurer *by certified mail* or statutory overnight delivery. The request also must state that the attorney is authorized to make such a request and must be accompanied by a copy of the incident report from which the claim is derived.

(B) If the request provided in subsection (A) contains information insufficient to allow compliance, the insurer upon whom the request was made may so state in writing, stating specifically what additional information is needed and such compliance shall constitute compliance with this section.

(C) The information provided to a claimant or his attorney as required by subsection (A) of this section shall not create a waiver of any defenses to coverage available to the insurer and shall not be admissible in evidence.

(D) The information provided to a claimant or his attorney as required by subsection (A) shall be amended upon the discovery of facts inconsistent with or in addition to the information provided.

(E) The provisions of this section do not require disclosure of limits for fleet policy limits, umbrella coverages, or excess coverages.

(F) The information received pursuant to this section is confidential and must not be disclosed to any outside party. Upon final disposition of the case, the claimant's attorney must destroy all information received pursuant to this section. The court must impose sanctions for a violation of this subsection.

HISTORY: 2011 Act No. 52, Section 4, effective January 1, 2012.

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C.O. 1000 1385

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Case Claim #0326037362

Mail FR-10 to: SC Department of Motor Vehicles
Office of Financial Responsibility (803) 896-5000
PO Box 1498, Blythewood, SC 29016-0050

SOUTH CAROLINA DEPARTMENT OF MOTOR VEHICLES FR-10 (REV. 11/2011)
NOTICE OF REQUIREMENT

Submit Electronically: Agents or Company Representatives can submit your insurance information at WWW.SC-AUR.COM

Date	Time	County	Collision Location (Rt. # / Name)	Miles	Dir.	In / Near City or Town of:
09-18-2015	1630	40	1-Interstate 2-US Primary 3-SC Primary 4-Secondary 5-County 6-PP 520 / 7-Mainline 8-Connector 9-Business 5-Spur		N E S W	

To Vehicle Owner/ Operator: Failure to return this form to the Department of Motor Vehicles within 15 days from the date of the collision could result in the suspension of your driver license and registration privileges pursuant to South Carolina Code of Laws 56-9-351 and 56-10-530.

E-966754

Driver/Pedestrian's Full Name: COURAM GLENDA RENEE
Unit # 01 | Sex F | Race B | Street: 104 MACAW LN
Occ 1 | Birth Date 11-03-1958 | City, State, & Zip: LEXINGTON SC 290737673
State SC | Driver's License # 003814007 D | Insurance Company: LIBERTY MUTUAL
Year 2012 | Body 4S | Vehicle Make HOND | VIN # JHMGE8H57CC010766
State SC | Year 2017 | License Plate # LML574 | Owner's D.L. # 003814007
Home Telephone (803) 3580127 | Owner's Full Name COURAM GLENDA RENEE
Bus. Telephone ( ) | Street: 104 MACAW LN
Contributed To Collision: Yes (No) | City, State, & Zip: LEXINGTON SC 290737673

E-966755

Driver/Pedestrian's Full Name: BROWN BRANDON SENTELL
Unit # 02 | Sex M | Race B | Street: 942 BOULEVARD RD
Occ 1 | Birth Date 08-09-1986 | City, State, & Zip: SUMTER SC 291537705
State SC | Driver's License # 100435254 D | Insurance Company: PROGRESSIVE
Year 2004 | Body SU | Vehicle Make CADI | VIN # 1GYEE637840164468
State SC | Year 2017 | License Plate # LFN288 | Owner's D.L. #
Home Telephone (803) 2367851 | Owner's Full Name BROWN BRANDON SENTELL
Bus. Telephone ( ) | Street: 942 BOULEVARD RD
Contributed To Collision: Yes (No) | City, State, & Zip: SUMTER SC 291537705

E-966756

Driver/Pedestrian's Full Name: TIDWELL SHERWOOD FROST
Unit # 03 | Sex M | Race W | Street: 1776 MORNINGLO LN
Occ 1 | Birth Date 01-28-1957 | City, State, & Zip: COLUMBIA SC 292233609
State SC | Driver's License # 008118226 D | Insurance Company: NATIONWIDE
Year 2014 | Body VN | Vehicle Make NISS | VIN # 1N6BF0KL2EN107525
State SC | Year 2015 | License Plate # AVY780 | Owner's D.L. # 008118228
Home Telephone (803) 479139 | Owner's Full Name TIDWELL SHERWOOD FROST
Bus. Telephone ( ) | Street: 1776 MORNINGLO LN
Contributed To Collision: Yes (No) | City, State, & Zip: COLUMBIA SC 292233609

All Units Insurance Information
(to be completed by Investigating Officer)

Accident Insurance Information for Unit # 01
Company Name: LIBERTY MUTUAL | Area Code/Phone Number ( )
Agency Name | Policy Number: AOS2582252624051

Accident Insurance Information for Unit # 02
Company Name: PROGRESSIVE | Area Code/Phone Number ( )
Agency Name | Policy Number: 905416935

Accident Insurance Information for Unit # 03
Company Name: NATIONWIDE | Area Code/Phone Number ( )
Agency Name | Policy Number: 6623745

Automobile Liability Insurance Information

Notice of Requirement Accepted → Signature | Y N Refused to Affix Signature? | Y N Registration in SC?

To Be Completed Below or Entered at WWW.SC-AUR.COM By Insurance Company representative. This form should not be mailed to DMV if insurance information has been submitted electronically
Reference to Unit #: ____ I hereby affirm that to the best of my knowledge the vehicle described above was insured by the below stated insurance company on the date of the collision.

The information as contained herein is based upon my knowledge and belief as a representative of the insurance company and no warranty of liability is imputed into the above insurance as I have listed herein

Insurance Company | Policy #: | Signature | Title
Beginning Date | Ending Date | Policy Holder: | NAIC# Assigned by S.C. Dept. of Ins. | Bus. Telephone ( )

Notice: If liability insurance was not in effect for your vehicle involved in the collision, the Department of Motor Vehicles could suspend your driver license and registration privileges pursuant to South Carolina Code of Laws 56-9-351 and 56-10-530.

If any of the below are applicable, Disregard the above portion.

- ☐ Check here if a Form SR-23, Fleet policy of 25 or more vehicles is on file with the Department of Motor Vehicles covering the vehicle
- ☐ Check here if a certificate of self-insurance has been issued by the Department of Motor Vehicles covering the vehicle and indicate the certificate number: SI - _____
- ☐ Check here if liability insurance was not in effect to comply with South Carolina statutory requirements | Signature | Date

Form FR-10 Not Issued: Section 56-10-520
No FR-10 Issued to Operator/ Owner of Unit #: ____
Summons Issued to:
For operating or allowing the operation of an uninsured vehicle | Summons Number: | Signature

Investigating Officer's Name | Rank | Badge # | Code | Date | Reviewer's Name | Rank | Internal Agency Code

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Exhibit B

"Tidwell I" Offer of Judgment

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

IN THE COURT OF COMMON PLEAS
FOR THE FIFTH JUDICIAL CIRCUIT

CASE NO.: 2016-CP-40-02350

Glenda R. Couram,

Plaintiff,

vs.

Sherwood Tidwell,

Defendant.

OFFER OF JUDGMENT

RICHLAND COUNTY
FILED
2017 FEB 16 PM 4:21
JEANNETTE W. MCBRIDE
C.C.P. & G.S.

TO: GLENDA R. COURAM, PRO SE PLAINTIFF

PLEASE TAKE NOTICE that the Defendant, by and through his undersigned attorney, without admitting liability and in an attempt to compromise and settle the Plaintiff's claim pursuant to Rule 68 of the South Carolina Rules of Civil Procedure, hereby offers the sum of TWENTY THOUSAND AND 00/100 ($20,000.00) DOLLARS, including all costs, in full compromise and settlement of the Plaintiff's claim against the Defendant and hereby offers to allow judgment to be taken against him for the sum of TWENTY THOUSAND AND 00/100 ($20,000.00) DOLLARS, including all costs. The Plaintiff has twenty (20) days from the date indicated below to accept this offer; if written notice of acceptance is not given by the Plaintiff within the twenty (20) days specified, the offer is withdrawn, cannot be given in evidence and, if the Plaintiff fails to obtain a more favorable judgment than TWENTY THOUSAND AND 00/100 ($20,000.00) DOLLARS, including all costs, the Plaintiff cannot recover costs herein and must pay the Defendant's costs of defense.

SCANNED 249

CLAWSON and STAUBES, LLC

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Attorney for Sherwood Tidwell

Columbia, South Carolina

February 16, 2017

I, _____ accept the offer of judgment as stated above:

WITNESSES:

_____ _____

_____

I, _____, decline the offer of judgment as stated above:

WITNESSES:

_____ _____

_____

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Exhibit C

Order of The Honorable Robert E. Hood
f. June 1, 2017

STATE OF SOUTH CAROLINA COUNTY OF RICHLAND Glenda R. Couram, Plaintiff, vs. Sherwood Tidwell, Defendant.	IN THE COURT OF COMMON PLEAS FOR THE FIFTH JUDICIAL CIRCUIT CASE NO.: 2016-CP-40-02350 **ORDER GRANTING PLAINTIFF'S MOTION FOR PARTIAL SUMMARY JUDGMENT ON THE ISSUE OF LIABILITY**

2017 JUN -1 AM 11:09

This matter is before the Court on Plaintiff's Motion for Full and/or Partial Summary Judgment. A hearing was conducted before me on April 27, 2017.

INTRODUCTION

This case involves a motor vehicle accident that occurred on September 18, 2015, on I-20 in or near Columbia, South Carolina. The accident involved three vehicles. The Defendant, Sherwood Tidwell, was operating a vehicle that came into contact with the rear of a vehicle being operated by Brandon Brown. Mr. Brown's vehicle then came into contact with the rear of the vehicle being operated by the Plaintiff, Glenda Couram.

SUMMARY JUDGMENT STANDARD

Pursuant to South Carolina Rule of Civil Procedure 56(c), summary judgment is proper when there is no genuine issue as to any material fact and the moving party is entitled to judgment as a matter of law. E.g., Burriss v. Anderson County Bd. of Educ.,

369 S.C. 443, 633 S.E.2d 482 (2006); Dawkins v. Fields, 354 S.C. 58, 580 S.E.2d 433 (2003). When determining if any triable issues of fact exist, the evidence and all inferences which can be reasonably drawn from the evidence must be viewed in the light most favorable to the non-moving party. Wilson v. Style Crest Products, Inc., 367 S.C. 653, 656, 627 S.E.2d 733, 735 (2006). Moreover, even if there is no dispute regarding the evidentiary facts, but only as to the conclusions or inferences to be drawn from them, summary judgment should be denied. Id.

APPLICABLE LAW

In order to prevail on a claim for negligence, the Plaintiff must prove that the Defendant owed her a duty of reasonable care, that the duty was breached and that the breach was the proximate cause of the Plaintiff's injuries. "Negligence is not actionable unless it is a proximate cause of the injury." Hanselmann v. McCardle, 275 S.C. 46, 48 (1980). "Proximate cause requires proof of both causation in fact and legal cause." "Causation in fact is proved by establishing the injury would not have occurred "but for" the defendant's negligence. Legal cause is proved by establishing foreseeability." Madison v. Babcock Ctr., Inc., 371 S.C. 123, 147 (2006). "The question of proximate cause ordinarily is one of fact for the jury . . . ." Id.

ANALYSIS

The Defendant has admitted liability in regard to the accident in question in this case; however, the Defendant disputes both causation and damages. The Defendant argues that the Plaintiff was not injured in the accident and further argued that the

Plaintiff is claiming injuries that are unrelated to the accident.

While the Plaintiff claims she sustained physical and mental injuries as a result of the accident in question, it is within the province of the jury to determine whether the Plaintiff's alleged damages were caused by the accident in question in this case, meaning a jury must determine whether the Plaintiff's alleged damages would have occurred "but for" the Defendant's alleged negligence, as well as whether such damages were "foreseeable" or the natural and probable consequence of the alleged failure to exercise reasonable care.

CONCLUSION

NOW THEREFORE, the Plaintiff's Motion for Partial Summary Judgment on the Issue of Liability is GRANTED and the Plaintiff's Motion for Full Summary Judgment is DENIED.

AND IT IS SO ORDERED this 1 day of JUNE, 2017.

Robert E. Hood

The Honorable Robert E. Hood
Court of Common Pleas
Fifth Judicial Circuit

Exhibit D

Tidwell I Jury Verdict

Exhibit B

STATE OF SOUTH CAROLINA COUNTY OF RICHLAND Glenda R. Couram, Plaintiff, v. Sherwood Tidwell, Defendant.	IN THE COURT OF COMMON PLEAS FOR THE FIFTH JUDICIAL CIRCUIT Civil Action No. 2016-CP-40-02350 **VERDICT FORM**

1. Do you, the jury, unanimously find that Plaintiff Glenda R. Couram suffered damages?

✓ Yes OR _____ No

If the answer to Question 1 is yes, proceed to Question 2.
If the answer to Question 1 is no, stop and deliberate no further.

2. Do you, the jury, unanimously find that the damages suffered by Plaintiff Glenda R. Couram were proximately caused by the conduct of Defendant Sherwood Tidwell?

✓ Yes OR _____ No

If the answer to Question 2 is yes, proceed to Question 3.
If the answer to Question 2 is no, stop and deliberate no further.

3. We, the jury, unanimously award Plaintiff Glenda R. Couram damages in the amount of $ 1,000.00.

Linda E Wallace
Jury Foreperson

June 16, 2017
Columbia, South Carolina.

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Slip Op

Kovach v. Whitley,
C/A No. 2015-CP-08-02380
f. 10-24-2016

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FORM 4

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

JUDGMENT IN A CIVIL CASE
CASE NUMBER 2015CP0802380

Amy Kovach M. Dawes Cooke Jr.	Joshua A Whitley	Joshua S. Whitley Rodney Thompson	Amy Kovach Nancy Bloodgood

PLAINTIFF(S)

DEFENDANT(S)

Submitted by: Toal

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

DISPOSITION TYPE (CHECK ONE)

☐ **JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.

☒ **DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered. ☐ See Page 2 for additional information.

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

☐ **ACTION STRICKEN (*CHECK REASON*):** ☐ Rule 40(j) SCRCP; ☐ Bankruptcy; ☐ Other: _____

☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award;

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

BERKELEY COUNTY, S.C. CLERK OF COURT 2016 OCT 24 PM 1:40

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

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

ORDER INFORMATION

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

INFORMATION FOR THE JUDGMENT INDEX

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

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

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

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

Circuit Court Judge — 2753 Judge Code — 10/26/2016 Date

For Clerk of Court Office Use Only

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

Nancy Bloodgood 895 Island Park Drive Ste 202 Charleston, SC 29492
Lucy Clark Sanders 895 Island Park Dr. Ste. 202 Daniel Island, SC 29492
M. Dawes Cooke Jr. PO Drawer H Charleston, SC 29402-0197

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Laura Johnson Evans 25 Calhoun Street Ste. 250 Charleston, SC 29401
Mary Barnwell Ramsay 25 Calhoun Street, Ste. 250 Charleston, SC 29401

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

Court Reporter

Mary P. Brown - Clerk of Court

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

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

STATE OF SOUTH CAROLINA)
) IN THE COURT OF COMMON PLEAS
COUNTY OF BERKELEY) NINTH JUDICIAL CIRCUIT
) CASE NO: 2015-CP-8-2380

AMY KOVACH,

Plaintiff,

vs.

JOSHUA S. WHITLEY AND KAREI WHITLEY, IN HER INDIVIDUAL CAPACITY,

Defendants.

JOSHUA S. WHITLEY,

Defendant/ Counterclaimant,

vs.

AMY KOVACH,

Plaintiff/Counterclaim Defendant.

JOSHUA S. WHITLEY,

Defendant/ Third-Party Plaintiff,

vs.

RODNEY THOMPSON,

Third-Party Defendant.

ORDER GRANTING DEFENDANTS JOSHUA S. WHITLEY'S AND KAREN WHITLEY'S [illegible] FOR SANCTIONS

FILED
16 OCT 24 PM 1:41
CLERK OF COURT
BERKELEY COUNTY, S.C.

#1

This matter is before the Court on the Amended Motions for Sanctions (the Motic filed herein by Defendants Joshua S. Whitley (Mr. Whitley) and Karen S. Whitley (Dr. Whitl (collectively, Defendants) against Plaintiff Amy Kovach (Ms. Kovach) and her former couns

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Nancy Bloodgood, Esquire (Ms. Bloodgood), pursuant to Rule 11, SCRCP, and the South Carolina Frivolous Proceedings Act, section 15-36-10 of the South Carolina Code (2005) (the FCPSA). Arguments on the Motions were heard on September 16, 2016, where all parties were represented by counsel.

After considering the arguments of counsel, the exhibits submitted, and all filings including post-hearing submissions, the Court grants Defendants' Motions for Sanctions against Ms. Kovach and Ms. Bloodgood and awards Defendants their costs and reasonable attorneys' fees incurred in defending against the frivolous filings and monetary sanctions pursuant to the FCPSA and Rule 11. Respective counsel for Defendants are directed to submit affidavits of attorneys' fees and related defense costs to the Court for consideration of reasonableness within seven (7) days of receipt of this Order. The Court will set a hearing regarding attorneys' fees and related costs and the amount of the monetary sanctions, if any.

FINDINGS OF FACT

1. Ms. Kovach is the former Director of Communications and Community Relations for the Berkeley County School District (BCSD). She was fired from that position after she pled guilty to two crimes related to her leadership role in Berkeley County's 2012 School Bond Referendum (the Referendum). The Referendum called for a $198 million bond offering to pay for the building of five (5) new schools and renovations on nineteen (19) schools. In support of the Referendum, a campaign known as the "Vote Yes 4 Schools" was established.

2. During the campaign, Mr. Whitley, a private citizen, attorney, and taxpayer in Berkeley County, became concerned that Ms. Kovach and others at the BCSD were campaigning in favor of the Referendum using the BCSD's resources in violation of section 8-13-1346 of the South Carolina Code. Mr. Whitley investigated the matter by gaining access to relevant

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documents from the BCSD through the South Carolina Freedom of Information Act (the FOIA).

3. After the election, the BCSD responded to the FOIA request and provided e-mail communications demonstrating that Ms. Kovach was actively campaigning for passage of the Referendum using the BCSD's resources in violation of state law. Mr. Whitley brought this information to the attention of the Attorney General of South Carolina and, thereafter, the South Carolina Law Enforcement Division (SLED) began an investigation into Ms. Kovach's activities.

4. SLED's investigation eventually led the Attorney General's office to indict Plaintiff on five charges: (1) misconduct in office in violation of the common law of South Carolina; (2) criminal use of public funds to influence an election in violation of section 8-13-1346 of the South Carolina Code; (3) two counts of forgery based on Ms. Kovach's efforts to cover up her criminal misconduct; and (4) and one count of perjury related to fraudulently conducting procurement matters to cover up her criminal misconduct related to the campaign and use of district resources.

5. Ms. Kovach was provided with a defense attorney by her employer (the BCSD), pursuant to section 59-17-110 of the South Carolina Code, based on her claim that she had done nothing illegal and had always acted in good faith.

6. After spending eighteen months on paid leave from the school district, Ms. Kovach ultimately pled guilty in a negotiated plea to the misconduct in office and criminal use of public funds charges in exchange for dismissal of the remaining three charges. Ms. Kovach's guilty plea and sentencing occurred on August 28, 2015. During the proceedings, Ms. Kovach admitted under oath to the material facts supporting all five charges against her, including the two felony forgery charges and the perjury charge related to her efforts to cover up her misconduct.

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7. At the hearing on August 28, 2015, Assistant Deputy Attorney General Creighton Waters set forth the factual predicate for the charges and the state's proof in detail. *See generally,* Transcript of Record of Guilty Plea and Sentencing, Aug. 28, 2015 at 8–28. After hearing the State's recitation of the facts, Ms. Kovach told the Court under oath that she "agre[ed] with the facts as stated by the attorney general." *Id.* at 28. As part of the guilty plea, Plaintiff also admitted to the facts underlying the charges against her that were dismissed as part of the negotiated plea deal. *Id.* at 3, 10 (stating plea to misconduct covers and incorporates *all* of the charged conduct in addition to the underlying ethics act count); *id.* at pp. 6–7 (Ms. Kovach admitting that the allegations in the indictment were truthful after the Court read them to her, including the statement that she engaged in "covering up her actions with dishonesty"); *id.* at 28 (Ms. Kovach agreeing under oath with the facts that the State set forth including those supporting the forgery and perjury charges); *id.* at 30, 33–35 (Ms. Kovach agreeing under questioning from the Court that she was guilty of the charges).

8. Based on Ms. Kovach's representations to the Court, the Honorable W. Jeffrey Young accepted the negotiated plea.

#14 SBS

9. Judge Young sentenced Ms. Kovach to five years' imprisonment, suspended upon the completion of two years' probation and payment of a $25,000 fine. The judge characterized Ms. Kovach's actions as follows:

> All right, I've considered the presentations given by the attorney general and Mr. Theos; and even in my limited exposure to this case was [sic] started a month ago, what I see here is lies, lies, and lies. Ms. Kovach from what I see ignored every warning sign that was available to her. Again, she lied to every opportunity reading one's emails somebody warned her that this was not the right thing to do. The email says all fixed. Well, it's not all fixed. Her actions included, again, lies, fabrication of document, and at every opportunity she chose deceit over the truth.

Id. at 55–56.

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10. In light of the guilty plea and admissions to her illegal role in the Referendum, the superintendent of the BCSD recommended Ms. Kovach's termination to the Berkeley County School Board (the Board).

11. The Board sought input from the Attorney General's office regarding the evidence in the criminal case against Ms. Kovach. To this end, on August 31, 2015, Deputy Assistant Attorney General Waters wrote a lengthy letter to the Board detailing the facts supporting the charges that Ms. Kovach admitted to during the guilty plea proceedings.

12. On or about September 3, 2015, Ms. Kovach met with Ms. Bloodgood to discuss filing a grievance with the BCSD and filing civil claims in circuit court. Ms. Bloodgood apparently agreed to assist Plaintiff with these filings after reviewing "voluminous documents" related to the criminal matter and speaking with Ms. Kovach's criminal defense attorney.

13. After having Ms. Bloodgood review materials prepared by her, they submitted a grievance package to the Board, which included an Affidavit signed by Ms. Kovach and notarized by Mrs. Bloodgood and dated September 8, 2015. The essence of her Affidavit is that Ms. Kovach was falsely accused, that SLED and the Attorney General's Office had improper motives, and that the perjury and forgery charges "were completely bogus." Additionally, Ms. Kovach's affidavit contains material contradictions of her sworn admissions made during the guilty plea hearing. By way of example, Ms. Kovach stated under oath that "[n]o public funds were used to create or pay for any campaign video." Affidavit, ¶ 21. However, at her guilty plea and sentencing on August 28, 2015, Ms. Kovach admitted under oath that she "did use public funds to pay for the creation of a campaign video," which admission was material to her indictments and guilty plea.

14. On or about September 16, 2015, the Board denied Ms. Kovach's employment

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grievance appeal, which finalized her termination.

15. Beginning in October 2015, Ms. Bloodgood began drafting the Complaint in the present action. To accomplish this, Ms. Bloodgood met with Ms. Kovach on several occasions and reviewed the guilty plea transcript. Ms. Bloodgood had received a copy of the criminal hearing transcript on October 13, 2015, wherein her client admitted to all of the charged conduct. Further, Ms. Bloodgood had in her possession Mr. Waters' letter to the Board prior to filing the Complaint, as she submitted a FOIA request for the letter on September 24, 2015. Ms. Bloodgood received the documents sometime in early October, as her billing records indicate that she reviewed the Waters letter and edited the Complaint based on the letter on October 6 and 7, 2015. The Waters letter set forth specific proof for the several charges for which Ms. Kovach had been indicted.

16. Nevertheless, on October 15, 2015, Ms. Kovach, through her attorney, filed the instant civil action against the BCSD, Mr. Whitley, Scott Marino, Dr. Whitley, Terry Hardesty, and the Berkeley County Republican Party, LLC. The Complaint is thirty pages in length and continues with the central theme contained in Ms. Kovach's affidavit—that she was not in fact guilty of the crimes to which she pled guilty and others were to blame for her conduct.

17. The Complaint alleges the following causes of action: (1) breach of the covenant of good faith and fair dealing against the BCSD; (2) grossly negligent and/or intentional misrepresentation against the BCSD; (3) breach of fiduciary duty against the BCSD; (4) civil conspiracy against Mr. Whitley, Terry Hardesty, Scott Marino, Dr. Whitley, and the Berkeley County Republican Party, LLC; and (5) civil assault against Terry Hardesty.

18. As noted, the fourth cause of action contains allegations for civil conspiracy against Defendants and others, and is the subject of the Motions for Sanctions. The essence of

the conspiracy allegation is that Defendants conspired with others to have Ms. Kovach prosecuted. More specifically, the Complaint alleges that Defendants conspired with others to bring Ms. Kovach's criminal conduct to the attention of the Attorney General's Office, which ultimately resulted in Ms. Kovach's indictment and admission to the criminal conduct.

19. The Complaint also contains various allegations of wrongdoing against non-parties. More specifically, the Complaint alleges obstruction of justice, fraud on the court, and ethical breaches against the Attorney General, his lawyers, SLED, and one if its agents. (*See, e.g.*, Complaint at ¶¶ 104–06: perjury and forgery indictments were "retaliatory" and "completely bogus;" ¶ 110: SLED agent "drafted a false interview report with witness . . . ;" ¶ 112: the Attorney General attributed a doctored document to Ms. Kovach knowing that it was not her document, and a SLED agent "obstructed justice;" ¶ 115: SLED knew that "smurfing" charges were "patently false;" and ¶ 117: the Attorney Generals' Office "manufactured" smurfing charge to injure Ms. Kovach). While these allegations do not comprise actual claims against these parties, the Complaint questions the credibility of the investigation and indictment and implies that Ms. Kovach was not actually guilty of the crimes to which she pled guilty or the indicted charges dismissed in her plea deal. Indeed, Plaintiff alleges that the dismissed charges were "completely bogus." (Complaint, ¶ 106).

20. Further, the Complaint impugns State Senator Larry Grooms (a Vice President of Santee Cooper) and his wife, and the law firm that represented the BCSD. However, the Complaint does not allege an actual claim against these parties. (Complaint, ¶¶ 60, 65–66, 71, 163–64).

21. In sum, the Complaint contains numerous material contradictions of Ms. Kovach's sworn testimony at her guilty plea hearing. In response to the sworn contradictions in Ms.

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Kovach's affidavit and her allegations of misconduct by SLED and the Attorney General's Office, on November 9, 2015, the Attorney General filed with plea and sentencing judge, W. Jeffrey Young, a Petition for Rule to Show Cause "why Amy Kovach should not be held in contempt of court for her statements to this Court and her subsequent actions relating to her plea of guilty before this Court on August 28, 2015."

22. Meanwhile, on November 3, 2015, in this civil action, Mr. Whitley filed: (1) and Answer containing affirmative defenses, counterclaims, and a third-party complaint against Rodney Thompson (the former superintendent of the BCSD); (2) a motion to dismiss with an accompanying memorandum; and (3) a motion for sanctions against Ms. Bloodgood.

23. On November 16, 2015, Dr. Whitley filed: (1) a motion to dismiss pursuant to Rule 12(b)(6), SCRCP; and (2) a motion for sanctions against Ms. Bloodgood.

24. Judge Young signed the Rule to Show Cause on November 20, 2015, requiring Ms. Kovach to attend a hearing on February 8, 2016.

25. At the hearing on the Rule to Show Cause on February 8, 2016, the Attorney General alleged that Ms. Kovach committed perjury when she submitted her affidavit directly contradicting her previous sworn testimony, and committed constructive contempt "by making a mockery of the criminal justice system and false statements after her solemn plea of guilty before this Court." At the hearing, the Court addressed the Complaint in this action, which largely contains the same material contradictions as Ms. Kovach's affidavit.

26. Ultimately, Judge Young agreed not to hold Ms. Kovach in contempt based on her sworn reaffirmation that her admissions under oath at her guilty plea were in fact true and her express representation that she would immediately dismiss with prejudice the civil Complaint against all parties.

27. Ms. Kovach also admitted under oath that her Complaint contained information that was inconsistent with her sworn testimony at the guilty plea hearing.

28. Ms. Kovach and her criminal attorney attempted to shift the blame for the filing of the Complaint to Ms. Bloodgood, claiming that Ms. Bloodgood failed to perform due diligence before filing the Complaint.

29. Shortly after the hearing on the Rule to Show Cause, Ms. Kovach and Ms. Bloodgood began the process of trying to dismiss the lawsuit against all of the Defendants.

30. However, Dr. Whitley and Mrs. Whitley objected to their attempted dismissals on the grounds that they had pending motions for sanctions, the proposed dismissal was "without prejudice" as to Defendants, and, in the case of Mr. Whitley, counterclaims against Ms. Kovach were pending.

31. On February 12, 2016, Mr. Whitley filed an amended motion for sanctions, adding a claim for sanctions against Ms. Kovach.

32. On February 23, 2016, Dr. Whitley filed an amended motion for sanctions, adding a claim for sanctions against Ms. Kovach.

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33. At the hearing on September 16, 2016, Dr. Whitley requested to be dismissed with prejudice from the lawsuit, which was consented to at that time.

CONCLUSIONS OF LAW

I. Dr. Whitley's Motion Is Properly before the Court.

As a threshold matter, this Court has jurisdiction over Dr. Whitley's Motion. Ms. Bloodgood's attorneys contend that Dr. Whitley's motion was not properly before this Court because Kovach, acting through Ms. Bloodgood, had dismissed Dr. Whitley from this case before she answered.

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The Court rejects this argument for three reasons. First, Ms. Kovach's attempted dismissal of Dr. Whitley was procedurally improper and therefore is invalid. Second, even if Ms. Kovach had voluntarily dismissed Dr. Whitley, such dismissal is ineffective if legal prejudice is shown or important issues of public policy are present, and this matter involves both. *Burry & Son Homebuilders, Inc. v. Ford*, 310 S.C. 529, 531, 426 S.E.2d 313, 314 (1992). Finally, assuming arguendo that Dr. Whitley was no longer a party to this action, this Court retains jurisdiction to consider post-dismissal motions such as a motion for sanctions and/or motion for sanctions and attorneys' fees.[1]

Ms. Kovach filed this lawsuit on October 15, 2015. Dr. Whitley was not served until October 27, 2015. On November 9, 2015, Dr. Whitley filed and served both a Rule 12(b)(6) Motion to Dismiss the Complaint and a Notice and Motion for Rule 11 Sanctions. On November 23, 2015, Ms. Kovach filed a purported "Stipulation of Dismissal" as to Dr. Whitley, which counsel for Dr. Whitley received on December 1, 2015.[2] The transmittal letter, dated November 24, 2015, included no certificate of service. Although captioned a "Stipulation of Dismissal," the filing contained only the signature of Ms. Kovach's counsel, and not any of the other parties to the action.

#10 SBT

Rule 41(a)(1), SCRCP, provides the procedure for the Plaintiff to voluntarily dismiss an

[1] *See Cooter & Gell v. Hartmax Corp.*, 496 U.S. 384, 395 (1990) (recognizing that courts "may consider collateral issues after an action is no longer pending," including "motions for costs or attorney's fees."); *Sequa Corp v. Cooper*, 245 F.3d 1036, 1037 (8th Cir. 2001) ("As to the jurisdictional argument, a voluntary dismissal without prejudice under Rule 41(a)(1)(i) does not deprive a District Court of its authority to award costs."); *Kurkowski v. Volcker*, 819 F.2d 201, 203 (8th Cir. 1987) (holding that a district court had jurisdiction to impose Rule 11 sanctions on plaintiffs after voluntary dismissal without prejudice); *Nelson v. QHG of S.C., Inc.*, 354 S.C. 290, 302, 580 S.E.2d 171, 177 (Ct. App. 2003) (stating that federal version of rule 41 "is identical to Rule 41, SCRCP.").

[2] Prior to receiving service, Dr. Whitley filed her Answer that same morning with the Clerk of Court.

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action. Subsection (A) allows the filing of a notice of dismissal "at any time before service by the adverse party of an answer or motion for summary judgment . . . ." If a defendant has already so answered or moved, then a plaintiff can only voluntarily dismiss under subsection (a)(1)(B), which allows the filing of a stipulation of dismissal with the consent of all parties. Ms. Kovach's attempted dismissal of Dr. Whitley from this action followed the procedure of neither subsection. The "Stipulation of Dismissal" does not specify which subsection Ms. Kovach is filing under and contains only the signature of Ms. Kovach's counsel and none of the other parties to the action. It was, therefore, invalid as a stipulation under subsection (a)(1)(B).[3]

Ms. Bloodgood's counsel argued at the motions hearing that the "Stipulation of Dismissal" was intended to be a Notice of Dismissal under Rule 41(a)(1)(A), and the caption was a typographical error. Regardless, the Court need not reach this issue because, had Ms. Kovach intended to file under subsection (A) as a voluntary dismissal, this was not an available option to her, as Dr. Whitley had previously filed her Motion to Dismiss the Complaint and her Motion for Sanctions.[4]

#11

Even had Plaintiff followed the proper procedure for voluntary dismissal, such dismissal is ineffective if "legal prejudice is shown by the defendant or important issues of public policy are present." *Burry & Son Homebuilders, Inc. v. Ford*, 310 S.C. 529, 531, 426 S.E.2d 313, 314

[3] Dr. Whitley's counsel argues that Ms. Kovach's purported filing was also objectionable to Defendant for being *without* prejudice. On December 2, 2015, Dr. Whitley filed a timely Notice and Motion to Strike Stipulation of Dismissal as to Defendant Karen Whitley.

[4] Ms. Bloodgood argues that since Dr. Whitley had not answered or moved for summary judgment, Ms. Kovach was free to voluntarily dismiss. However, Dr. Whitley's Motion to Dismiss and Motion for Sanctions precluded Ms. Kovach from voluntarily dismissing. Ms. Kovach's Motion to Dismiss attached, incorporated, and relied upon Ms. Kovach's guilty plea transcript, which would have converted that motion into one for summary judgment. *See Johnson v. Dailey*, 318 S.C. 318, 321, 457 S.E.2d 613, 615 (stating that 12(b)(6) motion is converted into summary judgment if court is presented with, and does not exclude, matters outside the pleadings). This Court does consider the attached transcript.

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(1992). The facts of this matter involve both.

In *Newman v. Old West, Inc.*, 286 S.C. 394, 334 S.E.2d 275 (1985), the Supreme Court of South Carolina upheld a trial judge's decision to deny the plaintiff's request for voluntary dismissal where the defendants had "expended significant sums of money . . . ." *Id.* at 396, 334 S.E.2d at 276. The record reflects that Dr. Whitley's attorney had likewise expended significant effort in defending the claim against his client prior to its dismissal and in attempting to secure dismissal. Should Dr. Whitley be procedurally barred from pursuing her motion for sanctions, she would suffer the full impact of being forced to defend against a frivolous claim without recourse. It would not be equitable to permit a party to knowingly file a patently frivolous civil claim, thus forcing a defendant to the trouble and expense of formally defending, only to later permit plaintiff—after being confronted with the repercussions—to dismiss the frivolous claim without consequence. Therefore, the Court finds that Dr. Whitley should be able to proceed with her Motion for Sanctions against Ms. Kovach and Ms. Bloodgood.

The Court notes that at the September 16, 2016 hearing, Dr. Whitley requested to be dismissed from the lawsuit with prejudice, which was consented to at that time; therefore, she is hereby dismissed with prejudice, except as to her Motion for Sanctions disposed of herein.

II. Sanctions are Appropriate in this Matter.

Distilled to its essence, Defendants argue that Ms. Bloodgood and Ms. Kovach should not have filed the Complaint containing allegations of civil conspiracy against them based upon two items: (a) Ms. Kovach's criminal plea testimony; and (b) the August 31, 2015 letter from Assistant Attorney General Waters to the BCSD. Further, Mr. Whitley argues that a civil conspiracy claim is not colorable against him because he was a "private citizen" reporting what he believed to be criminal conduct. According to their arguments, these two items absolutely preclude a civil conspiracy claim against them. Ms. Bloodgood and Ms. Kovach argue that the

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essence of the Complaint does *not* revolve around Ms. Kovach's prosecution or Defendants' participation in encouraging it, but rather the appropriateness of her termination by the BCSD. Ms. Bloodgood argues that Defendants took inappropriate and conspiratorial actions in furtherance of securing Ms. Kovach's termination from employment. She further argues that: (a) Ms. Kovach's criminal plea does not preclude the filing of the civil conspiracy claim; and (b) that Assistant Attorney General Waters' August 31, 2015 letter has no precedential value and, in fact, misrepresented both fact and law to the BCSD in an ongoing effort (at the behest of Mr. Whitley) to secure Ms. Kovach's termination.

The Court finds that Defendants are entitled to sanctions and sanctions are appropriate against both Ms. Kovach and Ms. Bloodgood on the basis that both directly participated in and contributed to the filing of a frivolous claim. The Complaint itself contradicts Ms. Kovach's admissions under oath during her guilty plea, which was known by Ms. Kovach and Ms. Bloodgood at the time of the filing of the Complaint.[5] The facts admitted under oath at the guilty plea, and the plea itself, foreclosed the claim against Defendants for civil conspiracy, because the allegations against them directly contradict Ms. Kovach's material admissions under oath. In addition to the guilty plea transcript that Ms. Bloodgood possessed, the detailed elaboration on those predicate facts, set forth in the letter of Deputy Assistant Attorney General Creighton Waters of August 31, 2015, was available to Ms. Bloodgood contemporaneous with the preparation, filing, and service of the Complaint and should have served to drive home the point that the civil action was irreconcilable with Ms. Kovach's admissions in the matter and resulting

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[5] To this end, the civil conspiracy cause of action as pled in the Complaint plainly centers around Defendants role in the criminal prosecution of Ms. Kovach—and not in her termination from the BCSD, as now argued by Ms. Bloodgood and Ms. Kovach. However, even if the Complaint centered on Defendants' role in Ms. Kovach's termination, Ms. Kovach's admissions in her guilty plea of misconduct in office and illegal use of BCSD funds and resources would fully justify—and even mandate—her termination.

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in her criminal conviction. *See Heck v. Humphrey*, 512 U.S. 477, 484-85 (1994) (discussing the "hoary legal principle that civil tort actions are not appropriate vehicles for challenging the validity of outstanding criminal judgments . . . ." and holding state prisoner cannot bring a civil claim for constitutional tort that necessarily implies the invalidity of his criminal conviction unless the conviction was previously invalidated); *see also Tozier v. City of Temple Terrace*, No. 8:10-cv-2750, 2011 WL 3961816 (M.D. Fla. 2011) (applying *Heck* as a basis for an award of sanctions against an attorney).

A. Legal Standard

Defendants have moved for sanctions pursuant to both Rule 11 of the South Carolina Rules of Civil Procedure and the FCPSA. The Court is also vested with inherent authority to award sanctions. *See Holmes v. Haynsworth Sinkler Boyd, P.A.*, 408 S.C. 620, 641, 760 S.E.2d 399, 410 (2014) (abrogated on other grounds).

Under Rule 11(a) a party and/or the party's attorney may be sanctioned for filing a frivolous pleading, motion, or other paper, or for making frivolous arguments. *Ex Parte Gregory*, 378 S.C. 430, 438, 663 S.E.2d 46, 51 (2008) (citing *Runyon v. Wright*, 322 S.C. 15, 471 S.E.2d 160 (1996)). Further, "[w]hile [R]ule 11 is evaluated by a subjective standard, the rule still may be violated with a filing that is so patently without merit that no reasonable attorney could have a good faith belief in its propriety." *Ex parte Bon Secours St. Francis Xavier Hosp., Inc.*, 393 S.C. 590, 597–98, 713 S.E.2d 624, 628 (2011). Our Supreme Court has affirmed sanctions against a lawyer for filing a frivolous suit without first conducting a reasonable investigation into the facts underlying the claim. *See Gregory*, 378 S.C. at 430, 663 S.E.2d at 46.

The FCPSA provides for liability for attorneys' fees and costs of frivolous suits. *See* S.C.

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Code Ann. § 15-36-10 (2005). The FCPSA provides that any person who takes part in the procurement, initiation, and continuation of any civil proceeding is subject to being assessed for payment of all or a portion of the attorney fees and court costs of the other party if . . . (2) the proceedings have terminated in favor of the person seeking an assessment of the fees and costs. Sanctions are appropriate where "a reasonable attorney in the same circumstances would believe that the case or defense was frivolous as not reasonably founded in fact." *Id.* The Act utilizes a reasonable attorney standard to determine whether sanctions are warranted. *See Se. Site Prep, LLC v. Atl. Coast Builders & Contractors, LLC*, 394 S.C. 97, 107, 713 S.E.2d 650, 655 (Ct. App. 2011). In determining if an attorney or party has violated the Act, the court shall take into account, *inter alia*, the length of time available to the attorney or party to investigate the claims and the information disclosed to the attorney/party. *See* S.C. Code §15-36-10(E).

B. Ms. Kovach's Guilty Plea and Admissions Under Oath Foreclosed Her Claim for Civil Conspiracy Against Defendants.

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Ms. Kovach's Complaint, filed on her behalf by Ms. Bloodgood, alleges a cause of action against Defendants for civil conspiracy. Pursuant to several legal doctrines, no actionable claim for civil conspiracy could exist against Defendants because of Ms. Kovach's admissions under oath at the sentencing hearing.

The elements of a civil conspiracy in South Carolina are (1) the combination of two or more people, (2) for the purpose of injuring the plaintiff, (3) which causes special damages. *See Pye v. Estate of Fox*, 369 S.C. 555, 566–67, 633 S.E.2d 505, 511 (2006); *see also LaMotte v. Punch Line of Columbia, Inc.*, 296 S.C. 66, 370 S.E.2d 711 (1988); *Peoples Federal Savings & Loan Ass'n of S.C. v. Resources Planning Corp.*, 358 S.C. 460, 470, 596 S.E.2d 51, 56–57 (2004) (holding "[a] civil conspiracy is a combination of two or more parties joined for the purpose of injuring the plaintiff and thereby causing special damage"). It is essential that the plaintiff prove

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all of these elements in order to recover. *See Lyon v. Sinclair Refining Co.*, 189 S.C. 136, 200 S.E. 78 (1938).

The conspiracy claim filed by Ms. Kovach and Ms. Bloodgood against Defendants had no "good ground to support it." The sum total of the conspiracy allegations against Defendants are as follows:

a) Defendants and others "conspired with each other" to file a complaint with the Attorney General, and took actions to ensure a Resolution was passed by the Berkeley County Republican Party, LLC encouraging the Attorney General to prosecute Plaintiff. (Complaint, ¶ 159.)

b) Defendants and others "played an active and inappropriate role in SLED's investigation and upon information and belief provided false statements to SLED and the Attorney General." (Complaint, ¶ 160.)

c) Defendants and others "suggested stories and provided false information to the press . . . ." and "communicated directly with Defendant BCSD Board members to turn them against Plaintiff." (Complaint, ¶¶ 161-162.)

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d) State Senator Larry Grooms, who sat in the front row at Plaintiff's criminal case hearings and "acknowledged [Mr. Whitley's] actions towards [Ms. Kovach] when he stated publicly, 'Josh has got the goods on her.'" (Complaint, ¶ 163.)

e) Defendants exchanged emails regarding the lease of Dr. Whitley's private property while Dr. Whitley was at work. (Complaint ¶ 168.)

f) Dr. Whitley used her work computer to negotiate the lease of her private property. (Complaint, ¶ 167.)

g) Mr. Whitley "knew and encouraged his mother [Dr. Whitley] to use public

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resources while she was working to lease her personal property which personally benefited her." (Complaint, ¶ 174).

h) Dr. Whitley advocated and spoke publicly in favor of the Referendum. (Complaint, ¶ 166.)

i) Mr. Whitley violated Rule 3.6 of the Professional Rules of Conduct for Lawyers by repeatedly commenting on a pending matter that SLED was investigation in order to influence the outcome of the SLED investigation. (Complaint, ¶ 170.)

j) Mr. Whitley "threatened to sue volunteer Campaign Coordinator Co-Chair Jane Pulling if she continued to support [Ms. Kovach]." (Complaint, ¶ 171).

k) Mr. Whitley "bragged publically that he hoped to harm the [BCSD]." (Complaint, ¶ 172).

l) Mr. Whitley "issued multiple FOIA requests for emails of other BCSD employees who publically expressed support for Plaintiff." (Complaint, ¶ 173).

The gravamen of Ms. Kovach's conspiracy claim against Defendants is that they and others conspired to report to the Attorney General as to Ms. Kovach's criminal activity and to encourage the Berkeley County Republican Party to pass a resolution encouraging her prosecution. (*See* Complaint, ¶159). Thus, the only specific actions alleged by Ms. Kovach and Ms. Bloodgood to support the claim for civil conspiracy between Defendants and others were that they: (1) filed a complaint with the Attorney General, and (2) ensured a Resolution was passed by the Berkeley County Republican Party, LLC, encouraging the Attorney General to prosecute Ms. Kovach. Both Defendants were within their rights when they undertook these actions. Even if they had so conspired, bringing Ms. Kovach's now-admitted criminal activity to the attention of the authorities, resulting in her indictment and conviction, is not actionable as a

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matter of law.

The Complaint also alleged that Defendants and others made false statements to SLED and the press, but they fail to identify any such statements. They complain that Mr. Whitley sought information through the FOIA, which is a right reserved to any person under section 30-4-30 of the South Carolina Code. They assert that Mr. Whitley violated Rule 3.6 of the Rules of Professional Conduct, Rule 407, SCACR, which is inapplicable to Defendant's speech as a concerned private citizen and taxpayer and does not prevent Mr. Whitley from exercising his First Amendment rights. To the contrary, Mr. Whitley's action in bringing Ms. Kovach's criminal activity to the attention of the authorities, resulting in her indictment and conviction, is not actionable as a matter of law.

First, a citizen's efforts to have a corrupt public employee prosecuted are not actionable in a civil case. This Court notes that "a public official is answerable to the public; members of the public are not third-party interlopers." *See Angus v. Burroughs & Chapin Co.*, 368 S.C. 167, 170, 628 S.E.2d 261, 262 (2006) (holding terminated County Administrator could not sue county council, newspaper or a private citizen for civil conspiracy to have her terminated). Defendants had every legal right as citizens to report Ms. Kovach's illegal acts to the authorities.

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Furthermore, Defendants' actions are protected by the doctrine of judicial privilege. Ms. Kovach alleges that Defendants' roles as witnesses in SLED's investigation are actionable civil conspiracy. To the contrary, such statements provided as part of the judicial process are absolutely privileged and cannot be the basis for a civil conspiracy claim. *See Crowell v. Herring*, 301 S.C. 424, 430, 392 S.E.2d 464, 467 (Ct. App. 1990) (holding that an "absolute privilege exists as to any utterance arising out of the judicial proceeding and having any reasonable relation to it, including preliminary steps leading to judicial action of any official

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nature . . . .").

The civil conspiracy claim was also foreclosed by the related doctrines of collateral and judicial estoppel. In essence, Ms. Kovach's Complaint represents an attempt to re-litigate the factual basis for her indictment and re-litigate the question of her guilt or innocence. But Ms. Kovach was *bound by her guilty plea* and could not take a position contrary to her previous admissions under oath at the guilty plea hearing during her civil action. In South Carolina, "once a person has been criminally convicted, the person is bound by that adjudication in a subsequent civil proceeding based on the same facts underlying the criminal conviction." *Doe v. Doe*, 346 S.C. 145, 146, 551 .S.E2d 257, 258 (2001). In this context, a plea of guilty is a "confession of guilt, made in a formal manner and has the same effect in law as a verdict of guilty." *Sanders v. Leeke*, 254 S.C. 444, 447, 175 S.E.2d 796, 797 (1970). Thus, a defendant who enters a guilty plea "may be collaterally estopped from litigating the same issue in a subsequent civil suit." *Zurcher v. Bilton*, 379 S.C. 132, 666 S.E.2d 224 (2008).

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Finally, the Court finds that Ms. Kovach has not alleged—and could not allege—any special damages flowing from the conspiracy. Ms. Kovach's purported damages flowing from the conspiracy (for example, public humiliation, reputational damage, loss of career opportunities) proximately flow not from the alleged conspiracy but from the SLED investigation, the criminal indictments, Ms. Kovach's guilty plea, sentencing, resulting termination from her employment, and the public notoriety surrounding all of those proceedings that were brought upon her by her own criminal acts. These damages cannot qualify as special damages required supporting a claim for civil conspiracy. *See, e.g., Lawson v. S.C. Dept. of Corrections*, 340 S.C. 346, 352, 532 S.E.2d 259, 261 (2000) (finding summary judgment proper where no special damages alleged).

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Ms. Bloodgood argued in her Affidavit that the type of conduct alleged in the civil conspiracy claim is similar to conduct alleged in other reported civil conspiracy cases. She cites the following cases in support of this theory: *Cricket Cove Ventures, LLC v. Gilland*, 390 S.C. 312, 326, 701 S.E.2d 39, 46 (Ct. App. 2010); *City of Hartsville v. S.C. Mun. Ins. & Risk Fin. Fund*, 382 S.C. 535, 677 S.E.2d 574 (2009); *Gynecology Clinic, Inc. v. Cloer*, 334 S.C. 555, 514 S.E.2d 592 (1999); *Coleman v. Stevens*, 124 S.C. 8, 117 S.E. 305 (1923). However, none of these cases are relevant to the facts at hand, because none involved a plaintiff who pled guilty, admitted to her crimes and subsequently sued a defendant for conspiring to have her prosecuted. There simply exists no legal basis to support the alleged civil conspiracy claim against Defendants. The guilty plea and admissions under oath at the sentencing foreclosed the possibility of such an action as a matter of law.

A. The Civil Conspiracy Claims Against Defendants Are Sanctionable.

The Court finally addresses the question of whether the filing of the civil conspiracy claims brought against Defendants warrant sanctions. The Court finds that they do as against both Ms. Kovach and Ms. Bloodgood.

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"[T]he standard for sanctions under Rule 11 is essentially the same as that of the FCPSA," and the Court finds that Ms. Kovach and Ms. Bloodgood are subject to sanctions under both. *See Father v. S.C. Dept. of Social Servs.*, 353 S.C. 254, 261, 578 S.E.2d 11, 15 (2003). There was no factual or legal basis to support the conspiracy claim, and the inference is unavoidable that improper motives on the part of Ms. Kovach and poor judgment on the part of Ms. Bloodgood drove the filing of the complaint against Defendants. Further, the attorney's filing of allegations that are directly contradicted by her client's previous sworn admissions and plea is troubling. While it appears to the Court that Ms. Bloodgood's actions in the filing of the Complaint may have been the result of a combination of factors, including pressure from her

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client, it was not reasonable to do so in light of the information Ms. Bloodgood had at her disposal.

To this end, Ms. Bloodgood's conduct in the instant case is similar to that which the Supreme Court found to be sanctionable in *Ex Parte Gregory*, 378 S.C. 430, 438, 663 S.E.2d 46, 51 (2008). In *Gregory*, the Court upheld a sanctions award against a plaintiff's attorney who failed to contact the defendant, plaintiff's previous attorney, before filing suit against him for conversion of settlement funds. The Court deemed the reliance by the plaintiff's counsel solely on information received from the plaintiff to be a breach of counsel's duty to conduct a reasonable investigation.

Here, before filing her Complaint, Ms. Bloodgood had available to her the transcript of her client's plea and an explanatory letter from the Attorney General's Office that directly contradicted the allegations in the Complaint, yet she proceeded to file the Complaint anyway. Thus, if the *Gregory* scenario were adjusted such that the plaintiff's counsel in that case actually contacted the defendant before filing suit, learned through that contact that no viable claim for conversion could be maintained, and still filed suit, it would comparable to the situation at bar. In other words, plaintiff's counsel in *Gregory* simply failed to take an act the Court properly believed he should, whereas in the present case Ms. Bloodgood had knowledge of the claim's lack of viability prior to filing the Complaint. Thus, sanctions are appropriate as to Ms. Bloodgood.

Ms. Bloodgood maintains that she conducted a thorough investigation into the facts, and that the Complaint was carefully considered. Ms. Bloodgood offers evidence that she performed some thirty-seven (37) hours of work on the Complaint, talked with Ms. Kovach's criminal defense attorneys, reviewed all relevant documents, including the criminal transcript, and went

through multiple versions of the Complaint. The Court does not discount Ms. Bloodgood's diligence or professionalism, as attested to by the character affidavits submitted by lawyer colleagues on her behalf. However, Rule 11's requirement for the attorney to make a reasonable investigation necessarily means that an attorney cannot contradict sworn testimony from his or her own client regarding the same facts and circumstances. Ms. Bloodgood had a copy of the guilty plea transcript and the letter of Deputy Assistant Attorney General Creighton Waters at the time she filed the Complaint. She cannot claim that she had to rely merely upon her client's representations.

Ms. Kovach is even more responsible for making the frivolous filing. Both Ms. Kovach's Affidavit and Complaint contain factual allegations that are irreconcilable with material aspects of her sworn testimony at her guilty plea and sentencing hearing and with conduct she has admitted under oath to committing. Ms. Kovach pled guilty to a detailed and clear factual predicate to her crimes as set forth by the Attorney General. Thereafter, she perjured herself in an Affidavit to the Board in which she attempted to deny her guilt. When that was unsuccessful, she urged Ms. Bloodgood to file, and succeeded in filing, a lawsuit with similar false accusations. The Attorney General then moved for contempt, wherein Ms. Kovach reaffirmed her guilt and blamed her attorney, Ms. Bloodgood, for the filing of the lawsuit. Now, through counsel, she is qualifying what she testified to under oath at her Rule to Show Cause hearing and, through counsel, does not blame Ms. Bloodgood for the filing of the frivolous lawsuit. Thus, in one venue (the criminal one), Ms. Kovach took a position as to Ms. Bloodgood's representation to evade a finding of contempt and then in this hearing took a contrary position. In short, Ms. Kovach should be held accountable for her duplicitous and frivolous filings.

However, despite Ms. Kovach's egregious behavior throughout these proceedings,

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because the suit was filed under Ms. Bloodgood's signature, the Court is compelled to order sanctions against her, as well. Neither Ms. Kovach nor Ms. Bloodgood have presented any substantive explanation for the material contradictions. At the end of the day, a complaint that materially contradicts a plaintiff's previous sworn testimony from a criminal proceeding lacks the factual foundation that is required by Rule 11 and must be deemed frivolous.

This Court is mindful that sanctions are an extreme measure not to be imposed lightly. This case warrants this measure. Rule 11 requires attorneys to make a reasonable investigation. Here, Ms. Bloodgood had the benefit of a transcript of Ms. Kovach's guilty plea proceedings. However, she signed and filed a Complaint that contradicted the transcript and made sensational and unsupported averments. Ms. Bloodgood also inexplicably ignored the letter from the Attorney General that she had in her possession prior to filing the lawsuit. By choosing to ignore the transcript and the Attorney General's letter, Ms. Bloodgood filed a frivolous lawsuit and must be sanctioned. Further, Ms. Kovach's attempt to re-litigate her criminal conviction through the civil justice system amounts to bad faith and also requires the Court to sanction her.

This Court is further mindful that not awarding sanctions sets a dangerous precedent. The Defendants in this action, who suspected criminal activity, had the right to make a complaint to the Attorney General. In fact, they had the right to be wrong, that is, had the Attorney General not found criminal activity, a civil conspiracy claim would still not exist against the persons that reported suspected criminal activity to authorities. Nevertheless, Defendants got it right, in that Ms. Kovach had indeed committed the very criminal acts they complained of to the Attorney General. In fact, Ms. Kovach admitted to committing these criminal acts, pled guilty, and was sentenced. After reviewing the guilty plea transcript, Ms. Bloodgood should have counseled Ms. Kovach that filing a civil complaint would not only subject her to Rule 11 sanctions, but it would

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place her back in criminal jeopardy (as it in fact did via the Rule to Show Cause motion and order). Ms. Bloodgood's failure to properly counsel her client that a civil action would place her in jeopardy ultimately cost Defendants great expense and subjected them to needless harassment.

In sum, both attorney and client acted together to file a frivolous lawsuit and both shall be liable for sanctions, to be apportioned at a later date.

B. An Award Of Attorney Fees Is Appropriate

The Court finds that Defendants are entitled to be reimbursed their reasonable attorneys' fees and litigation costs incurred in defending this action and prosecuting his Motion for Sanctions. *See Ex parte Gregory*, 378 S.C. 430, 438, 663 S.E.2d 46, 48 (2008) (holding an order under Rule 11 sanctioning a party and/or attorney for filing a frivolous claim "may include an order to pay the reasonable costs and attorney fees incurred by the party or parties defending against the frivolous action"). In addition, the FCPSA specifically provides for liability for attorney fees, costs, and other sanctions. *See* S.C. Code Ann. § 15-36-10 (2005).

CONCLUSION

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For the reasons stated herein, the Court finds that an award of attorneys' fees and defense costs to the Defendant is reasonable and grants the Defendant's Motion for Sanctions against both Plaintiff and Bloodgood. The Court will consider the amount of attorneys' fees and costs due and any other sanctions provided for by the FCPSA and Rule 11 at a later hearing.

IT IS SO ORDERED.

Jean H. Toal
Presiding Judge, Ninth Judicial Circuit

October 21, 2016
Columbia, South Carolina.

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Slip Op

City of Columbia v. Assa'ad Faltas,
2017 WL 2665155 (S.C. June 21, 2017)

2017 WL 2665155
Only the Westlaw citation is currently available.

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Supreme Court of South Carolina.

CITY OF COLUMBIA, Respondent,

v.

Marie-Therese ASSA'AD-FALTAS, Appellant.

Appellate Case No. 2015-000941

|

Opinion No. 27723

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Submitted February 15, 2017

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Filed June 21, 2017

Synopsis

Background: Defendant was convicted following a bench trial in the Municipal Court of simple assault. She appealed, claiming violation of her right to self-representation. The Circuit Court, Richland County, Alison Renee Lee, J., determined that trial court did not abuse its discretion in not allowing defendant to proceed pro se at trial. Defendant filed pro se appeal.

Holdings: The Supreme Court held that:

[1] defendant's passing complaint about appointed counsel during lengthy diatribe at scheduling hearing was not effective or unequivocal invocation of her constitutional right of self-representation, and

[2] even if defendant had unequivocally asserted her constitutional right to self-representation, trial court was justified in insisting that defendant proceed with the assistance of appointed counsel.

Affirmed.

West Headnotes (13)

[1] Constitutional Law
⇦ Waiver of counsel;self-representation
Criminal Law
⇦ In general;right to appear pro se

A defendant has a constitutional right to self-representation under the Sixth and Fourteenth Amendments. U.S. Const. Amends. 6, 14.

Cases that cite this headnote

[2] Criminal Law
⇦ In general;right to appear pro se

The constitutional right of self-representation is not absolute. U.S. Const. Amends. 6, 14.

Cases that cite this headnote

[3] Criminal Law
⇦ Delay or misuse of waiver or right of self-representation

The constitutional right of self-representation is not a license to abuse the dignity of the courtroom; neither is it a license not to comply with relevant rules of procedural and substantive law. U.S. Const. Amends. 6, 14.

Cases that cite this headnote

[4] Criminal Law
⇦ Delay or misuse of waiver or right of self-representation

The constitutional right of self-representation does not exist to be used as a tactic for delay, for disruption, for distortion of the system, or for manipulation of the trial process. U.S. Const. Amends. 6, 14.

Cases that cite this headnote

[5] Criminal Law
⇦ Delay or misuse of waiver or right of self-representation

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A trial judge may refuse to permit a criminal defendant to represent himself when he is not able and willing to abide by rules of procedure and courtroom protocol; a trial court must be permitted to distinguish between a manipulative effort to present particular arguments and a sincere desire to dispense with the benefits of counsel. U.S. Const. Amends. 6, 14.

Cases that cite this headnote

[6] Criminal Law
⇦ Validity and sufficiency, particular cases

Defendant's passing complaint about appointed counsel during lengthy diatribe at scheduling hearing six weeks prior to trial was not an effective or unequivocal invocation of her constitutional right of self-representation at trial for simple assault. U.S. Const. Amends. 6, 14.

Cases that cite this headnote

[7] Criminal Law
⇦ Capacity and requisites in general

To be effective, an assertion of the constitutional right of self-representation must be (1) clear and unequivocal; (2) knowing, intelligent and voluntary, and (3) timely. U.S. Const. Amends. 6, 14.

Cases that cite this headnote

[8] Criminal Law
⇦ Capacity and requisites in general

The particular requirement that a request for self-representation be clear and unequivocal is necessary to protect against an inadvertent waiver of the right to counsel by a defendant's occasional musings on the benefits of self-representation. U.S. Const. Amends. 6, 14.

Cases that cite this headnote

[9] Criminal Law
⇦ In general;right to appear pro se

At bottom, the *Faretta* right to self-representation is not absolute, and the government's interest in ensuring the integrity and efficiency of the trial at times outweighs the defendant's interest in acting as his own lawyer. U.S. Const. Amends. 6, 14.

Cases that cite this headnote

[10] Criminal Law
⇦ Delay or misuse of waiver or right of self-representation

Where the circumstances surrounding an accused's purported assertion of the right to proceed without counsel suggest a manipulation of the system rather than an unequivocal desire to invoke the constitutional right of self-representation and dispense with the benefits of counsel, a court is justified in insisting that the accused proceed with the assistance of counsel. U.S. Const. Amends. 6, 14.

Cases that cite this headnote

[11] Criminal Law
⇦ Capacity and requisites in general

The requirement that a request for self-representation be clear and unequivocal prevents a defendant from taking advantage of and manipulating the mutual exclusivity of the rights to counsel and self-representation. U.S. Const. Amends. 6, 14.

Cases that cite this headnote

[12] Criminal Law
⇦ Delay or misuse of waiver or right of self-representation

Even if defendant had unequivocally asserted her constitutional right to self-representation at trial for simple assault, trial court was justified in insisting that defendant proceed with the assistance of appointed counsel; defendant had long history of abusing judicial process, in case at issue, defendant had abused and harassed court officers, disrupted, delayed, and prolonged proceedings, and

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persistently disregarded and circumvented court orders aimed at curbing her improper conduct, and it was apparent that defendant sought to proceed pro se only to bombard court with irrelevant and meritless arguments and factual assertions. U.S. Const. Amends. 6, 14.

Cases that cite this headnote

[13] Criminal Law
⇐ Proceedings After Judgment

For purposes of defendant's appeal from criminal conviction for simple assault, orders of Supreme Court prospectively placing restrictions on defendant's ability to represent herself in pro se capacity, right or wrong, were binding upon lower courts and, thus, lower courts did not commit reversible error in enforcing them. U.S. Const. Amend. 6.

Cases that cite this headnote

Appeal from Richland County Alison Renee Lee, Circuit Court Judge

Attorneys and Law Firms

Appellate Defender John H. Strom, of Columbia, for Appellant.

Bruce H. Greenberg, Jr., of Columbia, for Respondent.

Opinion

PER CURIAM:

*1 In this direct appeal, Appellant Marie-Therese Assa'ad-Faltas appeals her simple assault conviction and sentence, arguing her right to self-representation was violated and that she is entitled to a new trial in which she represents herself. For many years, Appellant has engaged in a pattern of frivolous filings and inappropriate conduct towards the courts, court officers, and court employees of this State. Appellant's abuse of the justice system has even reached the United States Supreme Court. *See Assa'ad-Faltas v. Richland Cnty. Sheriff's Dept.*, —— U.S. ——, 135 S.Ct. 1418, 191 L.Ed.2d 354 (2015) (noting Dr. Faltas has "repeatedly abused" the United States Supreme Co. process).

Appellant's unrelenting inappropriate conduct in the South Carolina courts necessitated that certain restrictions be placed upon Appellant's pro se access to the courts to curb her abuse of the judicial process. In light of this and after carefully considering the facts of this case, for the reasons that follow, we affirm Appellant's conviction and sentence.

I.

Appellant was charged with simple assault following a September 11, 2009 confrontation with her then-landlord ("Landlord"), who had previously been a target of Appellant's unrelenting litigiousness and harassment.[1] Earlier that month, Landlord notified Appellant that a routine property inspection would take place under the terms of the lease; Appellant objected to the proposed date for the inspection and it was rescheduled; however, Appellant objected to the second proposed date as well and thereafter typed up a notice protesting Landlord's entry into her apartment on the rescheduled day and time.[2] Appellant mailed a copy of this objection to Landlord (and faxed a copy to Landlord's attorney), but Appellant nevertheless was concerned Landlord would deny receiving it; Appellant testified she therefore felt compelled also to personally hand-deliver a copy of her objections to Landlord.

On the day of the confrontation, Landlord had come to the apartments to perform some maintenance outside of one of the buildings; as Landlord was working, she spotted Appellant coming towards her with a piece of paper in her hand. Landlord previously was advised by her attorney not to accept any paperwork from Appellant and to insist that Appellant provide any and all paperwork to Landlord's attorney; accordingly, without even knowing what the papers were, Landlord began backing away and instructed Appellant to leave her alone and to take the documents to the attorney.

*2 Appellant admitted Landlord instructed her to "go away" and that she disregarded that request; however, Appellant contends she merely touched the papers to Landlord's hand and the papers thereafter fell to the ground. In contrast, both Landlord and an eyewitness

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testified that Appellant repeatedly and forcefully shoved the papers into Landlord's chest and stated in a loud, hostile manner "You got it! You got it!" Landlord immediately called the police. Appellant was charged with simple assault by way of a courtesy summons.

II.

The legal issues before the Court involve Appellant's Sixth Amendment right to self-representation described in *Faretta v. California*, 422 U.S. 806, 95 S.Ct. 2525, 45 L.Ed.2d 562 (1975). Because the right to proceed pro se as a criminal defendant is not absolute and may be forfeited where a litigant repeatedly abuses the judicial process, Appellant's history of inappropriate conduct informs our analysis of this case. *See Cochran v. Morris*, 73 F.3d 1310, 1316 (4th Cir. 1996) (finding "a plaintiff's past litigious conduct *should inform* a [] court's" determination of whether a claim is frivolous and thus abusive of the judicial process (emphasis added)) (citing *In re McDonald*, 489 U.S. 180, 184, 109 S.Ct. 993, 103 L.Ed.2d 158 (1989)). Accordingly, we first summarize some of Appellant's past litigious conduct before exploring the procedural history of this specific case.

Over the last twenty years, Appellant has engaged in a pattern of vexatious and disruptive conduct aimed at courts throughout South Carolina and beyond. *See, e.g., Assa'ad-Faltas v. Carter*, No. 1:14CV678, 2014 WL 4566037, at *4–5, *9 (M.D.N.C. Sept. 15, 2014) (listing numerous judicial decisions which "show that [Appellant] repeatedly has abused the litigation process[,] both in state and federal courts" and finding the specific claims before that court to be "legally frivolous and malicious"). Since 1997, Appellant has been involved in fifty-two matters before this Court and twenty-one matters before the court of appeals, the vast majority of which Appellant has initiated and which have been found to be without merit or frivolous.

During Appellant's attendance at a January 2011 oral argument before this Court in a matter to which Appellant was not a party, Appellant stood and attempted to address the Court to offer her opinion on how the case should be resolved. Additionally, Appellant has pursued and approached individual members of this Court and other Court personnel in non-public areas of the Courthouse, in the Courthouse parking lot, at a hotel in Columbia, and even during a worship service at a local church, all in various attempts to raise legal arguments or discuss pending litigation matters. Her unrelenting efforts to contact and harass individual (current and former) Justices of this Court have resulted in members of this Court recusing themselves from all matters involving Appellant.

Additionally, Appellant repeatedly submits an overwhelming volume of written documents, either seeking special privileges, requesting that this Court intervene in matters which are outside our appellate jurisdiction, or addressing matters which are altogether non-justiciable. During the last six months, Appellant has requested that this Court grant her permission to sit for either the July 2017 or February 2018 bar examination without paying an application fee or obtaining a law school degree; she has asked to be appointed the Director of South Carolina Court Administration to implement an initiative applying scientific principles to the administration of justice; she has forwarded to this Court her ideas for how Congress could repeal and replace the Affordable Care Act;[3] and she has asked this Court to make a public show of support for Coptic Christians in Egypt in the wake of recent violent attacks targeting the religious group. These matters are typical of Appellant's frequent submissions which fall well outside this Court's purview; however, the extensive time and effort the Court and its staff must expend to ensure each of Appellant's countless submissions is given fair and meaningful consideration to determine what Court action, if any, is necessary results in diversion of limited judicial resources away from the many other complex and important matters pending before this Court.

*3 However, Appellant's abuse of the judicial process is not limited to our appellate courts. Appellant has also persistently engaged in disruptive and inappropriate conduct in state circuit courts such that her physical access to the Richland County Courthouse was restricted based on findings by the circuit court:

> I find that [Appellant] is in the Richland County Courthouse on an almost daily basis, that she is insulting and demanding to personnel in the Clerk of Court's office, that she is a constant irritant to the Solicitor's office, that she has been banned from the Solicitor's office for disruptive behavior and has had to be escorted from that office by law enforcement,

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that she has harassed individual solicitors by following them around the courthouse, that she constantly calls the office of the undersigned to the point that I have had to post her phone numbers on office phones with instructions to my staff not to answer incoming calls from her numbers, that she appears in courtrooms and attempts to have ex parte conversations with sitting judges involved in other cases, and that the security forces at the Richland County Courthouse have advised the undersigned that [Appellant] is a constant nuisance to the orderly oversight of activity in a very busy courthouse. Even the Public Defender's office has had to deal with [Appellant] loitering at or near the entrance to that office.

It is fair to say that no other criminal defendant in Richland County has been treated with such consideration as [Appellant]. In response, [Appellant] has treated this Court and courthouse personnel with rudeness, incivility [,] and constant harassment.... The people's business must be conducted in an orderly and unencumbered manner. [Appellant] has created an obstruction to this process.

Subsequently, this Court received reports that Appellant thereafter attended circuit court proceedings in which she was not involved and disruptively held up placards in an attempt to convey her objections to the proceedings.

In an effort to restrict Appellant from engaging in such inappropriate conduct, this Court issued an order on December 23, 2009, prohibiting Appellant from filing anything with this Court unless it is signed and filed by an attorney.[4] Thereafter, in April 2011, the Court expanded that prohibition to preclude Appellant from filing anything in *any* court of this state in a pro se capacity based on Appellant's persistent disregard for and abuse of the judicial process. In response to Appellant's repeated attempts to circumvent this Court's orders, including a series of emails Appellant sent to judges and law clerks about pending litigation, on October 24, 2012, then-Chief Justice Toal issued an order expressly prohibiting Appellant from contacting "any judge, justice, law clerk, clerk of court or any other officer or employee of the Judicial System by telephone, e-mail or any other form of electronic communication."

Although this Court subsequently decided to modify its restrictions and prospectively permit Appellant to proceed pro se in criminal actions in which she is a defendant, the Court nevertheless cautioned in November 2013 and again in January 2014 that the right to defend pro se in a criminal trial is not absolute and may be forfeited "if [Appellant] is unable or unwilling to abide by the rules of procedure and courtroom protocol."[5]

*4 Quite frankly, this Court's efforts have not been successful. To the contrary, in the time since our initial December 23, 2009 order attempting to curtail Appellant's inappropriate conduct, the number and frequency of Appellant's meritless filings and inappropriate behaviors has increased rather than decreased. Since December 23, 2009, Appellant has filed (or attempted to file) pro se with this Court thirty-one appeals and petitions for extraordinary writs,[6] 103 motions and supplemental motions, and sixty-one other items of correspondence, in addition to countless phone calls and emails to court staff (notwithstanding this Court's order expressly forbidding such contact). Moreover, since January 2014, Appellant has visited this Courthouse more than thirty times despite the fact that no hearing or oral argument was scheduled in any matter involving her. In short, Appellant's conduct and the overwhelming number of documents and exhibits she submits constitute a gross abuse of the justice system. Although this Court has found it necessary to take steps to curb Appellant's aggressive pro se litigiousness as part of our " 'responsibility [ ] to see that resources are allocated in a way that promotes the interests of justice,' " *Assaad-Faltas v. University of S.C.*, 971 F.Supp. 985, 991 (D.S.C. 1997) (quoting *In re McDonald*, 489 U.S. 180, 184, 109 S.Ct. 993, 103 L.Ed.2d 158 (1989)), Appellant persists unabated in her " 'frivolous demands on the Court's limited resources.' " *Martin v. District of Columbia Court of Appeals*, 506 U.S. 1, 2, 113 S.Ct. 397, 121 L.Ed.2d 305 (1992) (quoting *Zatko v. California*, 502 U.S. 16, 18, 112 S.Ct. 355, 116 L.Ed.2d 293 (1991)). With this history of Appellant's prolific inappropriate conduct in mind, we turn now to the procedural history of this specific case.

III.

In addition to the underlying assault charge, Appellant faced several other municipal court charges. It appears that in early 2013, Appellant was represented by attorney Theodore Lupton in five municipal court matters; however, due to Appellant's abusive and harassing behavior, Mr. Lupton moved to be relieved as counsel

in February 2013. During the motion hearing before the circuit court,[7] Mr. Lupton explained:

> From the beginning[,] I have tried to work with her. She has been—you know, I feel that—that her conduct, starting with that first communication, has been abusive in terms of insult towards myself, insults towards those that are friends of mine, colleagues of mine, towards the Court, towards the judicial system generally.
>
> Your Honor, I've tried to ignore all these. I've tried to explain to her that she's taking positions that are contrary to the law. She has made demands, not requests, but demands, that [I] take actions which I have explained to her are contrary to my legal ethics, filing motions that I explained are not legally merited and thus would be frivolous improper motions that I am prohibited from filing under my ethics. She has not accepted that and has attempted to harass me into filing motions.... Your Honor, it's—it's excessive and extreme. She demands things that are not merited, demands immediate responses even when I've tried to explain that I have other matters I have to deal with.
>
> Your Honor, I've spent hours every single day with very few exceptions since I've been appointed on this case dealing with her. She has accused me of lying when I didn't respond in what she thought was a timely fashion....
>
> It's just a pattern of ... intruding into my personal life doing—you know, of course, she has the right to research her attorneys, but commenting on my personal appearance on my website, ... my wife's appearance on the website, [Appellant] was saying that our pictures were not very good and that she could take better ones for us, trying to Facebook friend my wife. Just things of that nature over the course of just over a month have created a situation where the abuse and harassment is such that I cannot represent her.
>
> And I've represented some very difficult clients, I've represented clients that were verbally abusive to me, I've taken it. I feel that as a member of the Bar, it is my duty to represent my client, even if they don't like me, even if they are abusive towards me.... But in this situation, her absolute demands that I take actions, her refusal to accept reality, really, has gotten to the point where I cannot represent her. And this pattern is such that I don't think anybody can. I don't think anybody can represent her unless they do what she demands.
>
> *5 ... I think that she does not see she has done anything improper or wrong. I think that she is absolutely firmly convinced in her mind that because her case ... is special, different and unique, that she is absolutely justified in what she does.... And she has already threatened to engage in litigation in Federal Court against me if I attempt to continue to represent her.

Appellant joined the motion, stating she did not wish for Mr. Lupton to continue to represent her and strenuously asserting her right to self-representation.[8] Accordingly, the circuit court conducted a thorough *Faretta* colloquy to advise Appellant of the dangers of self-representation, during which Appellant emphatically stated her desire to represent herself based on her opinion that she would be more successful than counsel in representing her own interests and that she knew more about certain areas of the law than many lawyers and judges.

The circuit court noted Appellant's advanced medical education and found that Appellant understood the ramifications of electing to proceed pro se; however, the court referenced this Court's orders precluding Appellant from appearing in or filing documents with any court of the state in a pro se capacity and took the matter under advisement. Shortly thereafter, the circuit court denied the motion to relieve counsel in a written order. Notably, the order did not include any findings of fact or conclusions of law regarding the court's decision to deny the motion; rather, the order simply commended Mr. Lupton for his adept representation of Appellant[9] and placed restrictions on the manner in which Appellant was permitted to contact and communicate with Mr. Lupton.

Five days later, Appellant, represented by Mr. Lupton, appeared at a scheduling hearing in municipal court regarding several of her pending municipal court charges, including the underlying assault charge. During that hearing, Appellant was permitted to address the court directly regarding a host of issues, including:

> I just want to put it on the record. The other thing is that I do not recognize Mr. Lupton as my

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> Lawyer, I do not want him, I do not trust him.

Despite this statement of displeasure to the municipal court (in the midst of a litany of other grievances), neither Appellant nor her counsel renewed the previous motion to relieve counsel, requested that the municipal court conduct a *Faretta* inquiry, or requested a ruling on the issue of Appellant's right to self-representation. *See* Rule 602(e)(2), SCACR (specifying that a motion to relieve counsel must be directed to the trial judge). Accordingly, the municipal court made no ruling on this issue, and Appellant's assault charge was set for trial on Thursday, April 25, 2013. [10]

*6 The day before trial, the municipal court heard pretrial motions during which neither Appellant nor counsel renewed, raised, or requested that the municipal court rule on the issue of Appellant's right to self-representation. Following a bench trial [11] the next day, Appellant was convicted of simple assault and sentenced to twenty days in jail.

Although Appellant was represented by Mr. Lupton throughout trial, she was nevertheless permitted to address the court directly regarding more than twenty procedural matters and points of law, as well as to submit thirty-one evidentiary exhibits (distinct from the one exhibit submitted by counsel) and an "*Anders*" brief of issues Appellant insisted on raising despite counsel's refusal to do so based on his ethics and professional judgment. Further, at the conclusion of Appellant's testimony on direct examination, the municipal court granted Appellant free-reign to present "narrative" testimony to raise any additional facts or points of law she wished the court to consider. [12] Essentially, Appellant was permitted hybrid representation. [13]

*7 Despite the municipal court's generous accommodations, Appellant repeatedly disrupted, delayed, and prolonged the proceedings. Specifically, Appellant engaged in three emotional outbursts during the proceedings, [14] continually interjected without first being recognized to speak, and interrupted the municipal court, defense counsel, and opposing counsel more than a dozen times. Despite being reminded to stay on relevant topics twenty-two times by the municipal court and an additional seventeen times by her counsel (in addition to five relevance objections to various portions of her testimony by opposing counsel), Appellant persisted in raising frivolous legal arguments and impertinent factual assertions, including her claim that "known agents" of "false accusers" infiltrated the jury venire in an unrelated proceeding and a lengthy and detailed exposition about how Appellant's various current and former health problems justified her request to remain seated during the proceedings *after* the municipal court had already granted the request.

Despite counsel's zealous representation and Appellant's active participation throughout the proceedings, Appellant first unequivocally asserted her right to self-representation to the municipal court during the sentencing proceeding following her conviction. Specifically, Appellant contended she was the victim in the situation—not the aggressor—that Landlord lied on the stand, and that Mr. Lupton was "ineffective" because he did not advance Appellant's interests by raising the legal arguments she wished to be raised. Appellant claimed Mr. Lupton had conspired with prosecutors and judges to ensure that Appellant was wrongly convicted and that Mr. Lupton's refusal to raise her requested legal arguments stemmed from his dislike of Appellant and his inability to comprehend her clever and prescient legal theories. The municipal court did not rule on the issue of self-representation.

Thereafter, in December 2013, Appellant appeared before the circuit court in the appeal from her assault conviction. At the outset of that hearing, the circuit court granted Appellant's motion to relieve counsel and permitted Appellant to appear pro se. During the hearing, Appellant argued that her constitutional right to self-representation was violated by having "derelict" counsel "forced" on her during and after her municipal court trial. Appellant argued this was structural error and warranted reversal of her conviction. [15]

In response, the City argued that neither Appellant nor her counsel moved to relieve counsel before the municipal court prior to trial; because this issue was not timely raised, the municipal court had no opportunity to rule on it, and therefore, Appellant's argument was not preserved for appellate review. On reply, Appellant argued the issue of self-representation *was* raised but those discussions took place in a portion of the proceedings that was not included in the official transcript. [16] In a written order, the

circuit court found there was no evidence the municipal court abused its discretion in not allowing Appellant to proceed pro se at trial.

Appellant filed a timely pro se notice of appeal with this Court, along with a motion to be appointed counsel. On appeal, Appellant is represented by an attorney from the South Carolina Commission on Indigent Defense. Despite this Court's numerous orders specifically limiting Appellant's ability to file anything with an appellate court in a pro se capacity (not to mention the Court's general refusal to accept pro se filings from any litigant who is represented by counsel), Appellant has nevertheless filed or attempted to file ten pro se motions in the twenty-five months since the notice of appeal was filed. [17] It appears most (if not all) of these filings stem from Appellant's displeasure that her appointed counsel refuses to give Appellant control over how the appeal is handled and refuses to raise frivolous factual and legal points requested by Appellant.

IV.

*8 Through counsel, Appellant now argues she unequivocally invoked the right to self-representation before the municipal court and that the municipal court committed an error of law in failing to conduct a *Faretta* hearing regarding her request to proceed pro se. Appellant also argues that this Court's orders which prospectively place restrictions on her ability to represent herself in a pro se capacity violate her Sixth Amendment right to self-representation; thus, according to Appellant, the circuit court committed reversible error in relying upon them. We disagree and address these issues in turn.

A. Appellant's Right to Self-Representation before the Municipal Court

[1] [2] [3] "A defendant has a constitutional right to self-representation under the Sixth and Fourteenth Amendments." *State v. Samuel*, 414 S.C. 206, 211, 777 S.E.2d 398, 401 (Ct. App. 2015) (quoting *Faretta*, 422 U.S. at 807, 95 S.Ct. 2525). "However, the right of self-representation is not absolute." *Id.* (quoting *United States v. Frazier–El*, 204 F.3d 553, 559 (4th Cir. 2000)). "The right of self-representation is not a license to abuse the dignity of the courtroom. Neither is it a license not to comply with relevant rules of procedural and substantive law." *Faretta*, 422 U.S. at 834, 95 S.Ct. 2525 (1975).

[4] [5] Indeed, "[t]he right of self-representation does not exist to be used as a tactic for delay, for disruption, for distortion of the system, or for manipulation of the trial process." *Samuel*, 414 S.C. at 212, 777 S.E.2d at 401 (citation omitted). "A trial judge may refuse to permit a criminal defendant to represent himself when he is 'not able and willing to abide by rules of procedure and courtroom protocol.' " *Id.* (quoting *United States v. Lopez–Osuna*, 242 F.3d 1191, 1200 (9th Cir. 2001)). "A trial court must be permitted to distinguish between a manipulative effort to present particular arguments and a sincere desire to dispense with the benefits of counsel." *Id.* (citing *Frazier–El*, 204 F.3d at 560).

[6] [7] [8] In evaluating Appellant's claim that the municipal court infringed upon her constitutional right of self-representation, we must first determine whether Appellant effectively invoked this right during proceedings before the municipal court. To be effective, "[a]n assertion of the right of self-representation therefore must be (1) clear and unequivocal; (2) knowing, intelligent and voluntary; and (3) timely." *Frazier-El*, 204 F.3d at 558 (internal citations omitted). "The particular requirement that a request for self-representation be clear and unequivocal is necessary to protect against an inadvertent waiver of the right to counsel by a defendant's occasional musings on the benefits of self-representation." *Id.* (internal quotation marks and citations omitted).

[9] [10] "At bottom, the *Faretta* right to self-representation is not absolute, and the government's interest in ensuring the integrity and efficiency of the trial at times outweighs the defendant's interest in acting as his own lawyer." *Id.* (internal quotation marks and citation omitted). Where the circumstances surrounding an accused's purported assertion of the right to proceed without counsel suggest "a manipulation of the system [rather] than an unequivocal desire to invoke [the] right of self-representation" and "dispense with the benefits of counsel," a court is justified in insisting that the accused proceed with the assistance of counsel. *Id.* at 560 (refusing to let a defendant proceed pro se as part of a manipulative strategy to advance frivolous arguments counsel had previously refused to make).

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In this case, the only motion to relieve counsel was raised to (and denied by) the circuit court, yet the circuit court's denial of this motion is not a basis for Appellant's claim of error in this appeal. Rather, Appellant's claim of error is that the municipal court failed to conduct a subsequent *Faretta* inquiry to explore whether her desire to proceed pro se and waive the right to counsel was knowing, intelligent, and voluntary.

*9 The problem with this argument is that Appellant's right to self-representation was not unequivocally raised or asserted to the municipal court for its consideration before or even during her trial. As previously noted, Appellant raised a passing complaint about Mr. Lupton during a lengthy diatribe at a scheduling hearing six weeks prior to trial; however, the issue was not mentioned again during subsequent pretrial hearings or during trial itself. Indeed, at no point did the municipal court judge recognize this as an issue that required a distinct ruling from him. Nor did Appellant request that the municipal court rule on this specific issue, despite her ample opportunities prior to and during her trial to personally raise any point of law or fact she wanted the municipal court to consider.

[11] In light of the record and the "constitutional primacy" of the right to counsel over the right to self-representation, *Frazier-El*, 204 F.3d at 559, along with the "presumption against waiver of the constitutional right to counsel," *Von Moltke v. Gillies*, 332 U.S. 708, 723, 68 S.Ct. 316, 92 L.Ed. 309 (1948), we cannot say the municipal court erred in failing to construe Appellant's "musings" as a waiver of the right to counsel. Our finding is particularly justified since "[t]he requirement that a request for self-representation be clear and unequivocal also prevents a defendant from taking advantage of and manipulating the mutual exclusivity of the rights to counsel and self-representation." *Frazier-El*, 204 F.3d at 559; *see also United States v. Ductan*, 800 F.3d 642, 649 (4th Cir. 2015) ("Consistent with our view that representation by counsel is the 'default position,' we have instead instructed lower courts to 'indulge in every reasonable presumption' against the relinquishment of the right to counsel." (citation omitted)).

[12] Additionally, even had the issue been unequivocally and timely raised to the municipal court, we find the municipal court would have been justified in insisting that Appellant proceed with the assistance of counsel. Indeed, Appellant's long history of abusing the judicial process, coupled with her conduct in this case in abusing and harassing courts and court officers; disrupting, delaying, and prolonging proceedings; and persistently disregarding and circumventing the orders of this Court aimed at curbing her improper conduct all underscore the Court's interest in preventing Appellant's further manipulation of the system and "in ensuring the integrity and efficiency of the trial." *Frazier-El*, 204 F.3d at 558; *see State v. Hester*, 324 S.W.3d 1, 33 (Tenn. 2010) ("Disingenuous invocations of the right of self-representation that are designed to manipulate the judicial process constitute an improper tactic by a defendant and are not entitled to succeed.") (citing *United States v. Welty*, 674 F.2d 185, 187 (3d Cir.1982)); *id.* ("A court may deny a manipulative request for self-representation, distinguishing between a genuine desire to invoke a right of self-representation and a manipulative effort to frustrate the judicial process." (citations omitted)); *Tanksley v. State*, 113 Nev. 997, 946 P.2d 148, 150 (1997) (observing "[a] defendant's right to self-representation does not allow him to engage in uncontrollable and disruptive behavior in the courtroom," and finding "the defendant's pretrial activity is relevant if it affords a strong indication that the defendant [ ] will disrupt the proceedings in the courtroom" (internal quotation marks and citations omitted)).

Indeed, the record as a whole indicates the underlying reason Appellant was dissatisfied with counsel was her frustration that counsel refused to give her control in how her proceedings were handled, refused to file frivolous subpoenas and motions, and refused to proffer irrelevant materials as evidentiary exhibits. It is apparent that Appellant sought to proceed pro se only to bombard the courts with irrelevant and meritless arguments and factual assertions (many of which she was able to raise to the municipal court herself). This is essentially the same rationale upon which the defendant in *Frazier-El* sought to dismiss his counsel and proceed pro se; however, instead of finding error, the Fourth Circuit Court of Appeals affirmed the district court's insistence that the defendant proceed with appointed counsel as the defendant's asserted right to self-representation was merely a manipulative tactic. 204 F.3d at 560; *see also United States v. Edelmann*, 458 F.3d 791, 809 (8th Cir. 2006) (affirming denial of request for self-representation which was partly based on the defendant's frustration that counsel refused to file frivolous pleadings); *Jones v. State*,

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348 S.C. 13, 14, 558 S.E.2d 517, 518 (2002) (forbidding counsel to act as a conduit for pro se filings and insisting that counsel "use professional judgment in reviewing the documents and [ ] submit the client's arguments only if relevant and only after they have been edited by counsel for review by the Court"). We find Appellant likewise asserts a violation of her right to self-representation for manipulative reasons, and we therefore affirm as to this issue.

*10 And finally, ironically Appellant did engage in self-representation throughout the trial in municipal court. As noted above, Appellant regularly interjected herself into counsel's role by her constant outbursts concerning all facets of the trial. Perhaps the clearest example of Appellant's handling of her defense is the municipal court's allowance of Appellant's unfettered ramblings following her counsel-directed testimony.

B. Circuit Court's Reliance upon Orders of This Court

[13] Appellant further contends that this Court's orders that prospectively place restrictions on her ability to represent herself in a pro se capacity violate her Sixth Amendment right to self-representation, and therefore, the circuit court committed reversible error in relying upon them. We disagree.

Although we acknowledge the extensive nature of the restrictions this Court has placed upon Appellant's ability to appear or submit filings in a pro se capacity, these restrictions have evolved over time to become increasingly tailored to target only that conduct by Appellant which is considered abusive and harassing. The Court's current order, though extreme, is nevertheless proportionate to Appellant's extreme and escalating behavior in harassing and burdening courts and court staff and in wasting judicial resources. We understand and appreciate Appellant's constitutional argument that, regardless of the subsequent modifications to our orders, any prospective restrictions on a litigant's ability to appear pro se fail to pass constitutional muster.

However, as a procedural matter, this case—an appeal *from* a municipal court conviction—is not the proper vehicle through which Appellant may challenge the constitutionality of the Court's orders.[18] Rather, for purposes of this appeal, the orders of this Court—right or wrong—were binding upon the lower courts, and the lower courts therefore did not commit reversible error in enforcing them. *State v. Cheeks*, 400 S.C. 329, 733 S.E.2d 611 (Ct. App. 2012) (citing S.C. Const. art. V, § 9) (noting decisions of this Court are binding precedents).

Additionally, even assuming arguendo Appellant's contentions were procedurally proper, " 'There is no constitutional right of access to the courts to prosecute an action that is frivolous or malicious.' " *Childs v. Miller*, 713 F.3d 1262, 1265 (10th Cir. 2013) (quoting *Tripati v. Beaman*, 878 F.2d 351, 353 (10th Cir.1989) (per curiam)). " 'No one, rich or poor, is entitled to abuse the judicial process.' " *Id.* Based on the record as a whole, we find Appellant's claim of error is without merit.

V.

For the foregoing reasons, we affirm Appellant's conviction and sentence.

AFFIRMED.

KITTREDGE, Acting Chief Justice, HEARN, FEW, JJ., and Acting Justice James E. Moore, concur. BEATTY, CJ, not participating.

All Citations

— S.E.2d —, 2017 WL 2665155

Footnotes

1 This was not the first tumultuous relationship between Appellant and a landlord. *See Koon v. Fares*, 379 S.C. 150, 666 S.E.2d 230 (2008) (affirming the circuit court's resolution of the eviction dispute adversely to Appellant and in favor of Appellant's former landlord).

2 Appellant explained she could not be present for the rescheduled inspection since she had a brief due at the Court of Appeals on that date and that she strenuously objected to Landlord entering the apartment in her absence based on her fear that Landlord would steal and/or photograph her belongings.

3 42 U.S.C. §§ 18001–18122 (2010).

4 Four days after this Court's December 23, 2009 order, Appellant pursued and, without identifying herself, approached a member of this Court at a church service for the purpose of "serving" a packet of papers detailing her exceptions to this Court's order restricting her frivolous filings and requesting that the Court reconsider her objections.

5 In our January 30, 2014 order, we also clarified "Neither this order nor the order of November 7, 2013, shall have any impact on actions previously taken under this Court's order of June 28, 2013, or the earlier orders of this Court or its Chief Justice referenced in that order." Appellant's trial in this case was held April 24–25, 2013, and therefore, is unaffected by this Court's subsequent decision to permit Appellant to represent herself pro se in criminal trials.

6 In comparison, during the twelve-year period from January 15, 1997 to December 15, 2009, Appellant commenced only seventeen actions.

7 Although it is not clear from the record why the motion to relieve counsel was pending before the circuit court as to Appellant's *municipal criminal charges*, the circuit court order denying Mr. Lupton's motion to be relieved as counsel specifically references the warrant number from which Appellant's underlying municipal court assault charge arose.

8 In addressing the court directly, Appellant explained that she was dissatisfied with Mr. Lupton because she believed Mr. Lupton mischaracterized her contact as abusive and harassing and because counsel left "a lot of loose ends" in preparing her defense that she would not have tolerated had she been representing herself, such as counsel's inability to obtain nonexistent police "dash cam" videos of the incident in question.

9 We likewise commend Mr. Lupton.

10 Three days before trial, Appellant sent an email directly to the municipal court (and to two law clerks employed by this Court), complaining about Mr. Lupton's representation "being forced on her" and forwarding a chain of emails she and Mr. Lupton had previously exchanged. In the forwarded email exchange, Appellant demanded that Mr. Lupton move for a continuance due to her severe knee pain and situational depression; however, Mr. Lupton refused to request a continuance on Appellant's behalf, explaining he believed Appellant was merely attempting to delay trial and stating "I am not asking to continue this case when I believe, based on the evidence I have seen, that you are simply trying to manipulate the system to stall for more time because you are afraid of trial."

11 Appellant requested a bench trial so she would have more leeway in discussing the circumstances of other proceedings, evidence of which would have been excluded as irrelevant during a jury trial.

12 Appellant spent most of this time discussing circumstances surrounding her unrelated harassment charges in circuit court, including details of how she successfully defended herself pro se against these charges despite not having received "full discovery." Although the municipal court gently reminded Appellant to please stay on the topic of the assault charges, Appellant balked at the suggestion that her testimony might be irrelevant and continued to discuss immaterial matters. Appellant also submitted into evidence transcript excerpts from unrelated court proceedings and described in detail how her involvement in numerous litigation endeavors has disrupted her life.

13 *Miller v. State*, 388 S.C. 347, 347, 697 S.E.2d 527 (2010) ("Since there is no right to 'hybrid representation' that is partially *pro se* and partially by counsel, substantive documents, with the exception of motions to relieve counsel, filed *pro se* by a person represented by counsel are not to be accepted unless submitted by counsel.") (citing *State v. Stuckey*, 333 S.C. 56, 508 S.E.2d 564 (1998); *Foster v. State*, 298 S.C. 306, 379 S.E.2d 907 (1989)); *State v. Devore*, 416 S.C. 115, 120–21, 784 S.E.2d 690, 693 (Ct. App. 2016) (observing there is no right to hybrid representation under either the United States or South Carolina constitution and explaining substantive documents submitted pro se by litigants who are represented by counsel should not be accepted by the clerk of court for filing); *see also Jones v. State*, 348 S.C. 13, 14, 558 S.E.2d 517, 517–18 (2002) (holding "counsel cannot serve as a mere conduit for *pro se* documents in an effort to avoid the prohibition against hybrid representation and the displeasure of his client"); *id.* ("Tails should not wag dogs. Merely because an appellant believes that the irrelevant is relevant is no reason to turn the system on its head and solemnly contemplate the wisdom of a person who does not have the sense to be guided by experts in an area where he himself possesses no expertise." (citation omitted)).

14 Two outbursts occurred during the Victim's testimony, and a third occurred during sentencing.

15 Appellant further argued that based on principles of federalism and sovereignty, the City of Columbia does not possess the authority to have a court in the first instance, and thus, her conviction is void and must be vacated.

16 Months after the transcript was delivered and the designation of matter to be included in the record on appeal was filed by counsel, Appellant, in a pro se capacity, submitted to this Court altered versions of official transcripts as exhibits to motions she attempted to file in this case. Appellant contends these versions of the transcript she submitted contain the discussions that were omitted from the official transcript.

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17 Appellant first submitted a sixty-five page pro se document titled "Appellant's Motion to Suspend this Appeal or to Deem its Being Held in Abeyance Suspension for the Purpose of Presenting After-Discovered Evidence *to the Trial Court*" on June 30, 2015, and on November 6, 2015, a second pro se document titled "Appellant's Motions and Brief AS OF RIGHT UNDER *ANDERS V. CALIFORNIA*, 386 U.S. 738 (1967), to Suspend this Appeal for the Purpose of Presenting After-Discovered Evidence *to the Trial Court* AND to Restore Marie-Therese Assa'ad-Faltas, MD. MPH, Her Fourteenth Amendment Rights, Or, in the alternative, Motion for the Court to Appoint *Another* Counsel to Argue the Sole Point that This Court Cannot Deprive Marie-Therese Assa'ad-Faltas, MD. MPH of her *Anders* Rights." The Clerk of Court refused to accept either of these documents for filing and reminded Appellant that, as she was represented by counsel, the only pro se motion she was permitted to make is a motion to relieve counsel. Six weeks later, Appellant submitted a pro se motion to relieve counsel, in which she referred to her counsel as an "uninspired and unprincipled functionary" who "refuses to show [Appellant] the brief, if any, before filing it and has refused to give [Appellant] any control over how the appeal is handled." Appellant thereafter supplemented her motion to relieve counsel on January 19, 2016, and again on January 27, 2016, before this Court denied the motion on February 11, 2016.

On June 13, 2016, Appellant filed a second pro se motion to relieve counsel, which was denied on August 4, 2016. Appellant filed a third pro se motion to relieve counsel on December 28, 2016, and in its order denying the motion, this Court found that because Appellant had filed three motions to relieve counsel without good cause, Appellant would be precluded from filing "any further motions to relieve counsel in this matter."

Less than two months later, on February 21, 2017, Appellant (who was still represented by appointed counsel) filed yet another pro se motion, this one styled "Appellant's First Contingent Motion to Appoint Counsel for the purpose of rehearing Or to allow her to file her own Petition for Rehearing in case the decision is adverse to her but current counsel does not wish to seek rehearing AND to toll the rehearing time until this motion is decided." In the body of the motion, Appellant justified her pro se submission by observing "This Court barred Appellant from filing more motions *to relieve* counsel *in this case* but did not bar her from filing a motion to appoint counsel *in this case or any other*." Appellant thereafter filed two supplements to this motion—one on March 3, 2017, and another on March 13, 2017. Appellant's motion is denied, and we hereby direct the Clerk of this Court to reject any further pro se filing in which Appellant addresses any legal issue, or requests any relief, other than the appointment of counsel or the relief of appointed counsel (subject to this Court's order forbidding any further pro se motions to relieve counsel in this particular matter), regardless of how the motion is styled. Any such pro se motion or any other violation of this Court's orders will result in contempt proceedings being initiated against Appellant, notwithstanding this Court's prior forbearance in initiating contempt proceedings warranted by Appellant's previous violations of this Court's orders.

18 Moreover, Appellant has already raised these constitutional arguments in petitions for rehearing and motions to reconsider the Court's orders, which have already been ruled upon by this Court.

End of Document

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STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

Glenda Couram,

Plaintiff,

v.

Nationwide Mutual Insurance Company, Titan Indemnity Company, Eugene Matthews, in his individual capacity, Sherwood's Plumbing Services, LLC, Sherwood Tidwell, Owner/Operator/ Agent, and Beatrice Tyree Tidwell,

Defendants.

IN THE COURT OF COMMON PLEAS
FOR THE FIFTH JUDICIAL CIRCUIT

C/A No.: 2017-CP-40-04048

CERTIFICATE OF SERVICE

I, the undersigned employee of Richardson Plowden & Robinson, counsel for the Defendant Eugene Matthews, do hereby certify that I have served a copy of the *SUPPLEMENT TO MOTION FOR JUDGMENT ON THE PLEADINGS OF DEFENDANT EUGENE MATTHEWS AND FOR SANCTIONS* by causing a copy of the same to be personally deposited in the United States Postal Service mail, postage prepaid, with the return address clearly visible, addressed to the *pro se* Plaintiff and parties of record as indicated below on this 21st day of July, 2017:

Glenda R. Couram
104 Macaw Lane
Lexington, SC 29073

Nationwide Mutual Insurance Company
ATTN: Legal Department
1000 Yard Street
Grandview Heights, OH 43212

Titan Idemnity Insurance
ATTN: Legal Department
1 West Nationwide Boulevard
Columbus, OH 42215

Sherwood Tidwell
Sherwood Plumbing Services
1776 Morninglo Lane
Columbia, SC 29223

JENNIFER L. MILES
Paralegal

July 21, 2017
Columbia, South Carolina.

297

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

Glenda R. Couram,

Plaintiff,

vs.

Nationwide Mutual Insurance Company, Titan Indemnity Company, Eugene Matthews, in his individual capacity, Sherwood Plumbing Service, LLC, Sherwood Tidwell, Owner/Operator/Agent, and Beatrice Tyree Tidwell,

Defendants.

IN THE COURT OF COMMON PLEAS
FOR THE FIFTH JUDICIAL CIRCUIT

CASE NO.: 2017-CP-40-04048

ANSWER TO PLAINITFF'S AMENDED COMPLAINT

RICHLAND COUNTY FILED
2017 AUG -7 PM 4:12
JEANNETTE W. RICHARDS C.C.P. & G.S.

The Defendants, Sherwood Tidwell, Beatrice Tyree Tidwell and Sherwood Plumbing Service, LLC answering the Complaint of the Plaintiff, above named, and responding to the allegations as follows:

1. Each and every allegation of the Complaint which is not specifically admitted, qualified or explained is denied and strict proof is demanded thereof.

FOR A FIRST DEFENSE
(Failure to State a Claim)

2. The Complaint fails to state facts sufficient to constitute a cause of action and the Complaint should be dismissed pursuant to the provisions of SCRCP Rule 12(b)(6) and/or Rule 12(c).

FOR A SECOND DEFENSE
(Prior Action Pending)

3. That there is presently pending another cause of action between the same parties for the same claim, such action being Glenda R. Couram v. Sherwood Tidwell

and being designated as Case No. 2016-CP-40-02350 and, therefore, the within action should be dismissed pursuant to the provisions of SCRCP Rule 12(b)(8).

FOR A THIRD DEFENSE
(*Res Judicata*/Collateral Estoppel)

4. The Plaintiff's claims are barred by the doctrines of collateral estoppel, *res judicata*, waiver, or estoppel.

FOR A FOURTH DEFENSE
(Sole Negligence/Cause)

5. The Plaintiff is the sole cause of any damage she has suffered.

FOR A FIFTH DEFENSE
(Failure to Mitigate Damages)

6. The Plaintiff has failed to take prompt and reasonable action under the circumstances to avoid the occurrence of additional damages and such failure to mitigate damages constitutes a complete defense as to that portion of damages which could have been otherwise avoided by reasonable and prompt action on the part of the Plaintiff.

FOR A SIXTH DEFENSE
(Lack of Proper Service)

7. That the court lacks jurisdiction over the person of the Defendants because the Plaintiff has not obtained proper service in the manner required by law and, therefore, the Plaintiff's Complaint should be dismissed pursuant to the provisions of SCRCP Rule 12(b)(2).

FOR A SEVENTH DEFENSE
(Incorporation of Affirmative Defenses)

8. The undersigned denies each and every allegation of the Complaint, asserts those affirmative defenses set forth in Rule 8 of the South Carolina Rules of

Civil Procedure, contests service and personal jurisdiction, and raises those defenses set forth in Rule 12, all to the extent they are applicable.

FOR AN EIGHTH DEFENSE
(S.C. Frivolous Civil Proceedings Sanctions Act)

9. The Defendants hereby give notice of their intent to pursue remedies provided by the South Carolina Frivolous Civil Proceedings Sanctions Act, S.C. Code Ann. § 15-36-10.

FOR AN NINTH DEFENSE
(Lack of Proximate Cause)

10. All or a portion of Plaintiff's damages claimed in this case were not proximately caused by the subject motor vehicle collision, and this defense of lack of proximate cause is pled as a complete and total defense to all claims.

FOR A TENTH DEFENSE
(Punitive Damages Unconstitutional - Procedural Due Process)

11. To the extent that the Complaint seeks punitive or exemplary damages, it violates the rights of the Defendants to procedural due process under the Fourteenth Amendment of the United States Constitution and the Constitution of the State of South Carolina, and therefore fails to state a cause of action upon which either exemplary or punitive damages can be awarded.

FOR AN ELEVENTH DEFENSE
(Punitive Damages Unconstitutional - Substantive Due Process)

12. To the extent that the Complaint seeks punitive or exemplary damages, it violates the Defendants' rights to substantive due process as provided in the Fifth and Fourteenth Amendments of the United States Constitution and the Constitution of the State of South Carolina, and therefore fails to state a cause of action upon which either

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exemplary or punitive damages can be awarded.

FOR A TWELFTH DEFENSE
(Improper Party)

13. Sherwood Plumbing Service, LLC is improperly named as a party to this action.

FOR A THIRTEENTH DEFENSE
(Failure to Allege Facts)

14. The Plaintiff has failed to allege any facts or claim against Defendant Beatrice Tyree Tidwell.

WHEREFORE, having fully answered the Complaint of the Plaintiff, the Defendants pray as follows:

1. That the Complaint against Defendants be dismissed with prejudice;
2. For costs, attorney's fees and expenses of the action; and
3. For such other relief as the Court deems just and proper.

CLAWSON and STAUBES, LLC

Jescelyn T. Spitz
Bar No.: 101880
1612 Marion Street, Suite 200
Columbia, South Carolina 29201-2939
Phone: (800) 774-8242
Fax: (843) 722-2867
Email: jspitz@clawsonandstaubes.com
Attorney for Sherwood Tidwell, Beatrice Tyree Tidwell and Sherwood Plumbing, LLC

Columbia, South Carolina
August 2, 2017

301

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true copy of the foregoing Defendants Sherwood Tidwell, Beatrice Tyree Tidwell and Sherwood Plumbing Service, LLC's Answer to Plaintiff's Amended Complaint was served upon the following parties on the 4th day of August, 2017, via:

X	United States Postal Service
	Facsimile
	Electronic Email
	Via Hand Delivery

Ms. Glenda R. Couram
104 Macaw Ln
Lexington, SC 29073-7673
Email Address: grcouram@hotmail.com

RICHLAND COUNTY
FILED
2017 AUG -7 PM 4:12
JEANNETTE W. HOBRIDGE
C.C.P. & G.S.

J. R. Murphy, Esq.
Murphy & Grantland, P.A.
PO Box 6648
Columbia, SC 29260-6648
Email Address: jmurphy@murphygrantland.com
Attorney For: Nationwide Mutual Insurance Company

Mallory Turnage

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

Glenda R. Couram,

Plaintiff,

vs.

Nationwide Mutual Insurance Company, Titan Indemnity Company, Eugene Matthews, in his individual capacity, Sherwood Plumbing Service, LLC, Sherwood Tidwell, Owner/Operator/Agent, and Beatrice Tyree Tidwell,

Defendants.

IN THE COURT OF COMMON PLEAS
FOR THE FIFTH JUDICIAL CIRCUIT

CASE NO.: 2017-CP-40-04048

NOTICE OF MOTION AND MOTION TO DISMISS

RICHLAND COUNTY
FILED
2017 AUG -7 PM 4:12
JEANNETTE W. McBRIDE
C.C.P. & G.S.

The Defendants, Sherwood Plumbing Service, LLC, Sherwood Tidwell and Beatrice Tyree Tidwell, through the undersigned attorneys, will move before the Presiding Judge of the Court of Common Pleas at the Richland County Courthouse, for an Order dismissing the above captioned case with prejudice. This Motion will be based on the pleadings in this case, on SCRCP 12(b)(6) and on such law as is appropriate. Further, the Defendants respectfully request that the Court sanction Plaintiff under the South Carolina Frivolous Civil Proceedings Sanctions Act and/or SCRCP 11.

Signature on following page

CLAWSON and STAUBES, LLC

Jescelyn T. Spitz
Bar No.: 101880
1612 Marion Street, Suite 200
Columbia, South Carolina 29201-2939
Phone: (800) 774-8242
Fax: (843) 722-2867
Email: jspitz@clawsonandstaubes.com
Attorney for Sherwood Plumbing Service, LLC, Sherwood Tidwell and Beatrice Tyree Tidwell

Columbia, South Carolina
August 3, 2017

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true copy of the foregoing Notice of Motion and Motion to Dismiss was served upon the following parties on the 4th day of August, 2017, via:

X	United States Postal Service
	Facsimile
	Electronic Email
	Via Hand Delivery

Ms. Glenda R. Couram
104 Macaw Ln
Lexington, SC 29073-7673
Email Address: grcouram@hotmail.com

RICHLAND COUNTY
FILED
2017 AUG -7 PM 4:13
JEANNETTE W. BOOKER
C.C.P. & G.S.

J. R. Murphy, Esq.
Murphy & Grantland, P.A.
PO Box 6648
Columbia, SC 29260-6648
Email Address: jmurphy@murphygrantland.com
Attorney For: Nationwide Mutual Insurance Company

Mallory Turnage
Mallory Turnage

STATE OF SOUTH CAROLINA COUNTY OF RICHLAND Glenda R. Couram, Plaintiff, vs. Nationwide Mutual Insurance Company, Titan Indemnity Company, Eugene Matthews, in his individual capacity, Sherwood Plumbing Service, LLC and Sherwood Tidwell, Defendants.	IN THE COURT OF COMMON PLEAS FOR THE FIFTH JUDICIAL CIRCUIT CASE NO.:2017-CP-40-04048 **MOTION AND ORDER INFORMATION FORM AND COVERSHEET**

Pro Se Plaintiff: Glenda R. Couram Bar No. Address: 104 Macaw Lane Lexington, SC 29073-7673 Phone: (803) 358-0127 E-mail: grcourman@hotmail.com	Defendant's Attorney: Jescelyn T. Spitz Bar No. 101880 Address: CLAWSON and STAUBES, LLC 1612 Marion Street, Suite 200 Columbia, South Carolina 29201-2939 Phone: (800) 774-8242 Fax: (843) 722-2867 E-mail: jspitz@clawsonandstaubes.com

☒ **MOTION HEARING REQUESTED (attach written motion and complete SECTIONS I and III)**
☐ **FORM MOTION, NO HEARING REQUESTED (complete SECTIONS II and III)**
☐ **PROPOSED ORDER/CONSENT ORDER (complete SECTIONS II and III)**

SECTION I: Hearing Information

Nature of Motion: Motion to Dismiss
Estimated Time Needed: 15 minutes Court Reporter Needed: ☒ YES/☐ NO

SECTION II: Motion/Order Type

☒ Written motion attached
☐ Form Motion/Order

I hereby move for relief or action by the court as set forth in the attached proposed order.

Signature of Attorney for ☐ Plaintiff / ☒ Defendant — Date submitted: 8/8/17

SECTION III: Motion Fee

☒ PAID – AMOUNT: $_____
☐ EXEMPT: (check reason)
- ☐ Rule to Show Cause in Child or Spousal Support
- ☐ Domestic Abuse or Abuse and Neglect
- ☐ Indigent Status ☐ State Agency v. Indigent Party
- ☐ Sexually Violent Predator Act ☐ Post-Conviction Relief
- ☐ Motion for Stay in Bankruptcy
- ☐ Motion for Publication ☐ Motion for Execution (Rule 69, SCRCP)
- ☐ Proposed order submitted at request of the court; or, reduced to writing from motion made in open court per judge's instructions
  Name of Court Reporter: _____
- ☐ Other: _____

JUDGE'S SECTION	
☐ Motion Fee to be paid upon filing of the attached order. ☐ Other:	JUDGE CODE _____ Date: _____

CLERK'S VERIFICATION

Mells ✓ 8/7/17

Collected by: _____ Date Filed: _____
☐ MOTION FEE COLLECTED: $ _____
☐ CONTESTED – AMOUNT DUE: $ _____

FILED
2017 AUG 7 PM 4:12
RICHLAND COUNTY, S.C.
W. MCCORMICK

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

Glenda R. Couram,

Plaintiff,

vs.

Nationwide Mutual Insurance Company, Titan Indemnity Company, Eugene Matthews, in his individual capacity, Sherwood Plumbing Service, LLC, Sherwood Tidwell, Owner/Operator/Agent, and Beatrice Tyree Tidwell,

Defendants.

IN THE COURT OF COMMON PLEAS
FOR THE FIFTH JUDICIAL CIRCUIT

CASE NO.: 2017-CP-40-04048

NOTICE OF MOTION AND MOTION FOR JUDGMENT ON THE PLEADINGS

RICHLAND COUNTY
FILED
2017 AUG -7 PM 4:12
JEANNETTE W. McBRIDE
C.C.P. & G.S.

The Defendants, Sherwood Plumbing Service, LLC, Sherwood Tidwell and Beatrice Tyree Tidwell, through the undersigned attorneys, will move before the Presiding Judge of the Court of Common Pleas at the Richland County Courthouse, for judgment on the pleadings pursuant to SCRCP 12(c). Defendants respectfully request that the Court dismiss all claims against them with prejudice, and to sanction Plaintiff under the South Carolina Frivolous Civil Proceedings Sanctions Act and/or SCRCP 11.

Signature on following page

CLAWSON and STAUBES, LLC

Jescelyn T. Spitz
Bar No.: 101880
1612 Marion Street, Suite 200
Columbia, South Carolina 29201-2939
Phone: (800) 774-8242
Fax: (843) 722-2867
Email: jspitz@clawsonandstaubes.com
Attorney for Sherwood Plumbing Service, LLC,
Sherwood Tidwell and Beatrice Tyree Tidwell

Columbia, South Carolina
August 3, 2017

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true copy of the foregoing Notice of Motion and Motion for Judgment on the Pleadings was served upon the following parties on the 4th day of August, 2017, via:

X	United States Postal Service
	Facsimile
	Electronic Email
	Via Hand Delivery

Ms. Glenda R. Couram
104 Macaw Ln
Lexington, SC 29073-7673
Email Address: grcouram@hotmail.com

RICHLAND COUNTY
FILED
2017 AUG -7 PM 4:12
JEANNETTE W. WALKER
C.C.P. & G.S.

J. R. Murphy, Esq.
Murphy & Grantland, P.A.
PO Box 6648
Columbia, SC 29260-6648
Email Address: jmurphy@murphygrantland.com
Attorney For: Nationwide Mutual Insurance Company

Mallory Turnage

Mallory Turnage

STATE OF SOUTH CAROLINA COUNTY OF RICHLAND Glenda R. Couram, Plaintiff, vs. Nationwide Mutual Insurance Company, Titan Indemnity Company, Eugene Matthews, in his individual capacity, Sherwood Plumbing Service, LLC and Sherwood Tidwell, Defendants.	IN THE COURT OF COMMON PLEAS FOR THE FIFTH JUDICIAL CIRCUIT CASE NO.:2017-CP-40-04048 **MOTION AND ORDER INFORMATION FORM AND COVERSHEET**

Pro Se Plaintiff: Glenda R. Couram Bar No. Address: 104 Macaw Lane Lexington, SC 29073-7673 Phone: (803) 358-0127 E-mail: grcourman@hotmail.com	Defendant's Attorney: Jescelyn T. Spitz Bar No. 101880 Address: CLAWSON and STAUBES, LLC 1612 Marion Street, Suite 200 Columbia, South Carolina 29201-2939 Phone: (800) 774-8242 Fax: (843) 722-2867 E-mail: jspitz@clawsonandstaubes.com

☒ **MOTION HEARING REQUESTED (attach written motion and complete SECTIONS I and III)**
☐ **FORM MOTION, NO HEARING REQUESTED (complete SECTIONS II and III)**
☐ **PROPOSED ORDER/CONSENT ORDER (complete SECTIONS II and III)**

FILED
2017 AUG 7 PM 4:12
CHARLENE MCCORMACK
CLERK OF COURT

SECTION I: Hearing Information

Nature of Motion: Motion for Judgment on the Pleadings
Estimated Time Needed: 15 minutes Court Reporter Needed: ☒YES/☐ NO

SECTION II: Motion/Order Type

☒Written motion attached
☐Form Motion/Order
I hereby move for relief or action by the court as set forth in the attached proposed order.

Signature of Attorney for ☐ Plaintiff /☒ Defendant — August 3, 2017 Date submitted

SECTION III: Motion Fee

☒ PAID – AMOUNT: $25.00
☐ EXEMPT: (check reason)
☐ Rule to Show Cause in Child or Spousal Support
☐ Domestic Abuse or Abuse and Neglect
☐ Indigent Status ☐ State Agency v. Indigent Party
☐ Sexually Violent Predator Act ☐ Post-Conviction Relief
☐ Motion for Stay in Bankruptcy
☐ Motion for Publication ☐ Motion for Execution (Rule 69, SCRCP)
☐ Proposed order submitted at request of the court; or, reduced to writing from motion made in open court per judge's instructions
Name of Court Reporter: _____
☐ Other: _____

JUDGE'S SECTION	
☐ Motion Fee to be paid upon filing of the attached order. ☐ Other:	JUDGE CODE _____ Date:

CLERK'S VERIFICATION

Collected by: _____ Date Filed: 8/7/17
☐ MOTION FEE COLLECTED: $ _____
☐ CONTESTED – AMOUNT DUE: $ _____

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOR THE FIFTH JUDICIAL CIRCUIT
COUNTY OF RICHLAND	)	CA NO: 2016-CP-40-_____
Glenda R. Couram	)	
Plaintiff	)	
	)	
Sherwood Tidwell, Insured	)	
Titan Indemnity Company	)	
Subsidiary of Nationwide Mutual Insurance Company	)	
Defendants	)	
_____	)	JURY TRIAL DEMANDED

FILED
2016 MAR 21 A 11:20

SUMMONS

TO THE DEFENDANTS ABOVE NAMED:

YOUR ARE HEREBY SUMMONED and required to answer the complaint herein, copy of which is herewith served upon you, and to serve a copy of your answer to this complaint upon the subscriber, at the address shown below, within thirty (30) days after service hereof, exclusive of the day of such service, and if you fail to answer the complaint, judgement by default will be rendered against you for the relief demanded in the complaint.

Respectfully submitted by,

Glenda R. Couram
104 Macaw Lane
Lexington, SC 29073
803 358-0127
grcouram@hotmail.com
Pro se Plaintiff

Dated this 28th day of March 2016
Columbia, South Carolina

thing Plaintiff knew her car was violently slammed into by Mr. Brown's car a cream colored Crown Victory.

7. Plaintiff was driving a 2012 Honda Fit.

8. Defendant's vehicle was a commercial vehicle whose entire front end had been crushed it appeared to the Plaintiff.

9. Defendant failed to observe traffic conditions during rush hour on a Friday and driving too fast to stop collided into Mr. Brown who collided into Plaintiff causing property damage and injury to the Plaintiff.

10. Plaintiff did not cause or contribute to the collision in any manner as confirmed by the accident report in fact, it was a total shock she had even been hit and further she had no ability to avoid or prevent the collision.

11. As a result of the collision, Plaintiff suffered painful, traumatic, and injuries throughout her body which resulted in significant medical treatment (physical and occupational therapy).

12. Plaintiff has incurred, and will continue to incur in the future, medical expenses, and has suffered, and will continue to suffer general damages such as physical and mental pain and suffering, emotional anguish, loss wages, and a loss of enjoyment of life, along with considerable medical bills and inconvenience, all of which she is entitled to be compensated for as a direct and proximate result of Defendant's actions as described above.

13. Defendant was negligent, negligent *per se*, careless, reckless, and grossly negligent in one or more of the following particulars:

a. In causing his vehicle and Mr. Brown's vehicle to collide into Plaintiff's vehicle;
b. In operating a vehicle in a distracted manner;
c. In failing to observe traffic;
d. In failing to keep a proper outlook;

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e. In operating a vehicle in a manner too fast for conditions;
f. In operating a vehicle in a manner to avoid a collision;
g. In failing to maintain proper control and distance over the vehicle;
j. In failing to properly brake the vehicle to avoid the collision;
k. In failing to take any evasive action by means to keep from causing the collision;
l. In failing to obey the statutory and common laws of the State of South Carolina;
m. In failing to use the degree of caution and care that a reasonable driver would have used under the same or similar circumstances;
n. In operating his motor vehicle in whole or in part in a careless, reckless, willful, and wanton disregard for others; and
o. In otherwise being negligent or reckless as discovery may reveal. All of which were the direct and proximate cause of the injuries and damages suffered by Plaintiff.

14. Plaintiff is entitled to a judgment against the Defendant to compensate her for the damages and injuries sustained.

15. Plaintiff is entitled to an award of punitive damages to the extent Defendant's conduct was in violation of statutory laws or reckless, willful, or wanton.

16. Plaintiff demands a jury trial.

WHEREFORE, Plaintiff prays this Honorable Court for judgment against Defendant for: (a) actual and consequential damages; (b) punitive damages; (c) pre-judgment interest; (d) costs and attorney's fees in instituting this action, if applicable; and (e) for such other and further legal and equitable relief as this Honorable Court may deem just and proper.

Respectfully submitted,

By: _____

Glenda Couram
104 Macaw Lane
Lexington, SC 29073
Columbia, South Carolina 29201
Email: grcouram@hotmail.com
Phone: (803) 358-0127
Pro se Plaintiff

Dated this 25th, day of March 2016
Columbia, South Carolina

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DECLARATION PAGE

"I hereby declare that the above statement and information in this document is true to the best of my knowledge and belief, and that I understand it is made for use as evidence in court and subject to penalty for perjury."

Respectfully submitted,

By: _____

Glenda Couram
104 Macaw Lane
Lexington, SC 29073
Columbia, South Carolina 29201
Email: grcouram@hotmail.com
Phone: (803) 358-0127
Pro se Plaintiff

FILED
2016 APR 12 PM 1:21

Dated this 28th, day of March 2016
Columbia, South Carolina

SECTION 38-77-250. Release of coverage information upon written request of claimant's attorney; confidentiality.

(A) Every insurer providing automobile insurance coverage in this State and which is or may be liable to pay all or a part of any claim shall provide, within thirty days of receiving a written request from the claimant's attorney, a statement, under oath, of a corporate officer or the insurer's claims manager stating with regard to each known policy of nonfleet private passenger insurance issued by it, the name of the insurer, the name of each insured, and the limits of coverage. The insurer may provide a copy of the declaration page of each such policy in lieu of providing such information. The request shall set forth under oath the specific nature of the claim asserted and shall be mailed to the insurer *by certified mail* or statutory overnight delivery. The request also must state that the attorney is authorized to make such a request and must be accompanied by a copy of the incident report from which the claim is derived.

(B) If the request provided in subsection (A) contains information insufficient to allow compliance, the insurer upon whom the request was made may so state in writing, stating specifically what additional information is needed and such compliance shall constitute compliance with this section.

(C) The information provided to a claimant or his attorney as required by subsection (A) of this section shall not create a waiver of any defenses to coverage available to the insurer and shall not be admissible in evidence.

(D) The information provided to a claimant or his attorney as required by subsection (A) shall be amended upon the discovery of facts inconsistent with or in addition to the information provided.

(E) The provisions of this section do not require disclosure of limits for fleet policy limits, umbrella coverages, or excess coverages.

(F) The information received pursuant to this section is confidential and must not be disclosed to any outside party. Upon final disposition of the case, the claimant's attorney must destroy all information received pursuant to this section. The court must impose sanctions for a violation of this subsection.

HISTORY: 2011 Act No. 52, Section 4, effective January 1, 2012.

MEDICAL BILLS AND COST
SUBMITTED ON MARCH 22, 2016

ITEMIZED MEDICAL BILLS TO DATE (SPECIAL/GENERAL DAMAGES):

Lexington Urgent Care	$	1591.00	
Lexington Radiology Assoc.		90.00	
Palmetto Associates		95.00	
Vital Energy PT and OT (ongoing)	$	≈ 3026.00	as of December 9, 2015
Prescription Costs (3) (not total my share	$	22.00	(2 @ $9 and 1 @ $4
Vital Energy (release)	$	2260.00	Dec. 15 to March 22, 2016
Wage/loss/mileage/gas to date	$	≈ 779.00	
Wage/loss/mileage/gas	$	562.00	
TOTAL	$	8425.00 x 3 = $26,775	

(plus future Medical bills of $1500 (including future loss wages, gas, mileage)

NOTE: Medicals records, release of information, incident report, wage loss letters (2) etc., and other bills sent to

Rick Skurko, Claims Specialist II
Commercial Casualty
Nationwide Non-Standard Claims
PO Box 93863
Cleveland, OH 44101

APR 12 2016 11:21

Respectfully submitted by,

Glenda R. Couram
104 Macaw Lane
Lexington, SC 29073
803 358-0127
grcouram@hotmail.com
Pro se Plaintiff

Case Claim #0326373362

316

Mail FR-10 to: SC Department of Motor Vehicles
Office of Financial Responsibility (803) 896-5000
PO Box 1498 Blythewood, SC 29016-0036

SOUTH CAROLINA DEPARTMENT OF MOTOR VEHICLES FR-10 (REV. 11/2011)
NOTICE OF REQUIREMENT

Submit Electronically: Agents of Company Representatives can submit your insurance information at WWW.SC-AUR.COM

Date	Time	County	Interstate / US Primary / SC Primary	Collision Location (Rte # / Name)	Mile Line & Connection / Arterial / Business / Spur	Miles	Dir.	In / Near City or Town of
09-18-2015	1630	40		520 I			N E S W	

To Vehicle Owner/Operator: Failure to return this form to the Department of Motor Vehicles within 15 days from the date of the collision could result in the suspension of your driver license and registration privileges pursuant to South Carolina Code of Laws 56-9-351 and 56-10-530.

E-966754

Driver/Pedestrian's Full Name: COURAM GLENDA RENEE

Unit # 01 | Sex F | Race B | Street: 104 MACAW LN
Occ 1 | Birth Date 11-03-1959 | City, State, & Zip: LEXINGTON SC 290737673
State SC | Driver's License # 003014007 D | Insurance Company: LIBERTY MUTUAL
Year 2012 | Body 4S | Vehicle Make HOND | VIN # JHMGE8H57CC010766
State SC | Year 2017 | License Plate # LML524 | Owner's D.L. # 003014007
Home Telephone 803 3590127 | Owner's Full Name COURAM GLENDA RENEE
Bus. Telephone | Street: 104 MACAW LN
Contributed To Collision: Yes (No) | City, State & Zip: LEXINGTON SC 290737673

E-966755

Driver/Pedestrian's Full Name: BROWN BRANDON SENTELL

Unit # 02 | Sex M | Race B | Street: 942 BOULEVARD RD
Occ 1 | Birth Date 08-09-1986 | City, State, & Zip: SUMTER SC 291537705
State SC | Driver's License # 100435254 D | Insurance Company: PROGRESSIVE
Year 2004 | Body SU | Vehicle Make CADI | VIN # 1GYEE637840164468
State SC | Year 2017 | License Plate # LFN288 | Owner's D.L. #
Home Telephone 803) 2367851 | Owner's Full Name BROWN BRANDON SENTELL
Bus. Telephone | Street: 942 BOULEVARD RD
Contributed To Collision: Yes (No) | City, State & Zip: SUMTER SC 291537705

E-966756

Driver/Pedestrian's Full Name: TIDWELL SHERWOOD FROST

Unit # 03 | Sex M | Race W | Street: 1776 MORNINGLO LN
Occ 1 | Birth Date 01-26-1957 | City, State, & Zip: COLUMBIA SC 292233609
State SC | Driver's License # 008118226 D | Insurance Company: NATIONWIDE
Year 2014 | Body VN | Vehicle Make NISS | VIN # 1N6BF0KL2EN107525
State SC | Year 2015 | License Plate # AVV780 | Owner's D.L. # 008118226
Home Telephone (803) 479139! | Owner's Full Name TIDWELL SHERWOOD FROST
Bus. Telephone | Street: 1776 MORNINGLO LN
Contributed To Collision: Yes (No) | City, State & Zip: COLUMBIA SC 292233609

All Units Insurance Information

(To be completed by Investigating Officer)

Accident Insurance Information for Unit # 01
Company Name: LIBERTY MUTUAL | Area Code/Phone Number
Agency Name | Policy Number: AOG2582252624051

Accident Insurance Information for Unit # 02
Company Name: PROGRESSIVE | Area Code/Phone Number
Agency Name | Policy Number: 905416935

Accident Insurance Information for Unit # 03
Company Name: NATIONWIDE | Area Code/Phone Number
Agency Name | Policy Number: 6623745

Automobile Liability Insurance Information

Notice of Requirement Accepted → Signature | Y N Reference to Attached Insurance?

To Be Completed Before Entered at WWW.SC-AUR.COM By Insurance Company representative. This form should not be mailed to DMV if insurance has been submitted electronically.

Reference to Unit # ____: I hereby affirm that to the best of my knowledge the vehicle described above was insured by the below stated insurance company on the date of the collision.

The information as contained herein and he/she is a representative of the ____ of liability is imputed into the above ____ listed herein.

To the best of my knowledge ____ this company are in force as I have stated herein.

Insurance Company | Policy #:
Signature | Title
Beginning Date | Ending Date | Policy Holder:
NAIC # Assigned by S.C. Dept. of Ins. | Bus. Telephone

Notice: If liability insurance was not in effect for your vehicle involved in the collision, the Department of Motor Vehicles could suspend your driver license and registration privileges pursuant to South Carolina Code of Laws 56-9-351 and 56-10-530.

If any of the below are applicable, Disregard the above portion.

Form FR-10 Not Issued: Section 56-10-520

☐ Check here if a Form SR-22, fleet policy or 25 or more vehicles is on file with the Department of Motor Vehicles covering the vehicle.

☐ Check here if a certificate of self-insurance has been issued by the Department of Motor Vehicles covering the vehicle and indicate the certificate number: SI

☐ Check here if liability insurance was not in effect to comply with South Carolina statutory requirements.

Signature | Date

FR-10 Issued to Operator/Owner of Unit #:
Summons Issued to:
For operating or allowing the operation of an uninsured vehicle
Summons Number:
Signature

Investigating Officer's Name | Post | Badge # | Date | Time | Reference Number | Rank | Enforcement Agency Code

March 28, 2016

Rick Skurko, Claims Specialist II
Commercial Casualty
Nationwide Non-Standard Claims
PO Box 93863
Cleveland, OH 44101

RE:	**Policyholder:**	**Sherwood Tidwell**
	Insurance Company:	**Titan Indemnity Company**
	Date of Accident/Loss:	**September 18, 2015**
	Claimant/Injured:	**Glenda Couram**
	Claims #:	**144356-GC**

Dear Mr. Skurko:

Please be advised that as you have determined not to negotiate this matter after two attempts by me, your offer has been medicals and two thousand five hundred ($2,500.00 for pain and suffering) based on my waiting too long to seek medical attention and car damage. My offer is no longer viable.

I am submitting to you a copy of the Summons and Complaint, Certificate of Service that has been filed to the Richland County Circuit Court. My client suffered personal injuries from a motor vehicle collision that occurred in Richland County on March 25, 2014.

Your insured, Sherwood Tidwell, was negligent in causing this collision. A copy of the incident report, medicals, two letters from employer of wage lost and medical bills have already been submitted the most recent submission was this month.

Pursuant to S.C. Code Ann. § 38-77-250, we are hereby writing to obtain information concerning automobile insurance coverage of the insured and the insured vehicle, the driver, and the owner of the vehicle. We hereby request within thirty (30) days from the above date, a statement, under oath, of a corporate officer or the insurer's claims manager stating with regard to each known policy issued, the name of the insurer, the name of each insured, and the limits of coverage. In the alternative, you may provide a copy of the declaration page of each such policy in lieu of providing such information. I am hereby authorized to make this request.

I would request this information be provided within the next thirty (30) days. Thank you for your assistance.

Sincerely,

Glenda Couram
104 Macaw Lane
Lexington, SC 29073
Columbia, South Carolina 29201
Email: grcouram@hotmail.com
Phone: (803) 358-0127
Pro se Plaintiff

STATE OF SOUTH CAROLINA)	IN THE COURT OF COMMON PLEAS FOR THE FIFTH JUDICIAL CIRCUIT
COUNTY OF RICHLAND)	
)	CASE NO.:2016-CP-40-02350
Glenda R. Couram)	**MOTION AND ORDER INFORMATION FORM AND COVERSHEET**
Plaintiff,)	
vs)	
)	
Sherwood Tidwell and Titan Indemnity Company, Subsidiary of Nationwide Mutual Insurance Company)	
Defendant.)	

Pro Se Plaintiff: Glenda Couram Bar No. Address: 104 Macaw Ln Lexington, SC 29073-7673 Phone: 803-358-0127 Fax E-mail: Glenda.couram@scdmv.net	Defendant's Attorney: Jescelyn T. Spitz Bar No. 101880 Address: CLAWSON and STAUBES, LLC 1612 Marion Street, Suite 200 Columbia, South Carolina 29201-2939 Phone: (800) 774-8242 Fax: (843) 720-2667 E-mail: jspitz@clawsonandstaubes.com

☐ **MOTION HEARING REQUESTED (attach written motion and complete SECTIONS I and III)**
☐ **FORM MOTION, NO HEARING REQUESTED (complete SECTIONS II and III)**
X **PROPOSED ORDER/CONSENT ORDER (complete SECTIONS II and III)**

2016 SEP 20 AM 12:18
RICHLAND CO. S.C.
CLERK OF COURT
FILED

SECTION I: Hearing Information

Nature of Motion:
Estimated Time Needed: Court Reporter Needed: ☐YES/☐ NO

SECTION II: Motion/Order Type

☐Written motion attached
X Form Motion/Order
I hereby move for relief or action by the court as set forth in the attached proposed order

Signature of Attorney for ☐ Plaintiff /X Defendant Date submitted

SECTION III: Motion Fee

X PAID – AMOUNT. $25.00
☐ EXEMPT:
(check reason)
☐ Rule to Show Cause in Child or Spousal Support
☐ Domestic Abuse or Abuse and Neglect
☐ Indigent Status ☐ State Agency v Indigent Party
☐ Sexually Violent Predator Act ☐ Post-Conviction Relief
☐ Motion for Stay in Bankruptcy
☐ Motion for Publication ☐ Motion for Execution (Rule 69, SCRCP)
☐ Proposed order submitted at request of the court; or,
reduced to writing from motion made in open court per judge's instructions
Name of Court Reporter: _____
☐ Other:

JUDGE'S SECTION

☐ Motion Fee to be paid upon filing of the attached order.
☐ Other: _____

JUDGE CODE _____
Date: _____

CLERK'S VERIFICATION

Collected by: mellis ✓ Date Filed: 9/20/16
☐ MOTION FEE COLLECTED: $ _____
☐ CONTESTED – AMOUNT DUE: $ _____

SCCA 233 (11/2003)

318

STATE OF SOUTH CAROLINA COUNTY OF RICHLAND Glenda R. Couram, Plaintiff, vs. Sherwood Tidwell and Titan Indemnity Company, Subsidiary of Nationwide Mutual Insurance Company, Defendant.	IN THE COURT OF COMMON PLEAS FOR THE FIFTH JUDICIAL CIRCUIT CASE NO.: 2016-CP-40-02350 **DEFENDANT'S MOTION TO DISMISS TITAN INDEMNITY AND NATIONWIDE INSURANCE COMPANY**

TO: GLENDA COURAM, *PRO SE* PLAINTIFF:

YOU WILL PLEASE TAKE NOTICE that the undersigned, as attorney for the Defendants in the above-referenced matter, will move before the Presiding Judge of the Richland County Court of Common Pleas, at the Richland County Courthouse at 10:00 a.m. on the tenth day after service hereof or as soon hereafter as possible for an Order dismissing the Defendants Titan Indemnity Company and Nationwide Mutual Insurance Company from the above-captioned action.

Specifically, the Defendants would move to dismiss Titan Indemnity Company and Nationwide Mutual Insurance Company as named defendants in the above-captioned action. The grounds for this motion are that the Plaintiff does not have an appropriate or proper cause of action directly against Titan Indemnity Company and Nationwide Mutual Insurance Company. The claimant does not have a policy of insurance or contract of insurance with Titan Indemnity Company or Nationwide Mutual Insurance Company that applies to this action. Titan Indemnity Company a subsidiary of Nationwide Mutual Insurance Company was the insurance carrier for the Defendant Sherwood Tidwell at the

time the accident in question in this case occurred and the Plaintiff's claim is properly against Sherwood Tidwell and not Titan Indemnity Company and Nationwide Mutual Insurance Company. As a result, the Plaintiff does not have a direct cause of action against Titan Indemnity Company and Nationwide Mutual Insurance Company and therefore the Defendants would move to dismiss the Plaintiff's claim against the Defendants Titan Indemnity Company and Nationwide Mutual Insurance Company.

Additionally, the Plaintiff has failed to state facts sufficient to constitute a cause of action against Titan Indemnity Company and Nationwide Mutual Insurance Company within her Complaint, and, therefore, Titan Indemnity Company and Nationwide Mutual Insurance Company should be dismissed pursuant to SCRCO Rule 12(b)(6).

Based upon all of the above, the Defendants would ask that the Court dismiss the Plaintiff's claim against the Defendants Titan Indemnity Company and Nationwide Mutual Insurance Company.

Respectfully Submitted,

CLAWSON AND STAUBES, LLC

Anna Wade Sumner
Bar No.: 101888
1612 Marion Street, Suite 200
Columbia, South Carolina 29201-2939
Phone: (800) 774-8242
Fax: (843) 722-2867
Email: asumner@clawsonandstaubes.com
Attorney for Defendant Sherwood Tidwell.

Columbia, South Carolina
MAY 10th, 2016

320

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true copy of the foregoing Defendant's Motion to Dismiss Titan Indemnity and Nationwide Insurance Company was served upon the following parties on the 10 day of May, 2016, via:

X	United States Postal Service, Certified Mail, Return Receipt Requested
	Facsimile
	Electronic Email
	Via Hand Delivery

Ms. Glenda R. Couram
104 Macaw Ln
Lexington, SC 29073-7673

Joyce Linker, Legal Assistant to
Anna Wade Sumner, Esquire

CLAWSON AND STAUBES LLC

Anna W. Sumner
Licensed in SC
asumner@clawsonandstaubes.com

May 10, 2016

File No.: 20160881.000

The Honorable Jeanette W. McBride
Richland County Clerk of Court
PO Box 2766
Columbia, SC 29202-2766

Re: Glenda R. Couram v. Sherwood Tidwell and Titan Indemnity Company, Subsidiary of Nationwide Mutual Insurance Company
Case No.: 2016-CP-40-02350

Dear Ms. McBride:

Enclosed please find the original and one (1) copy of Defendant's Motion to Dismiss Titan Indemnity and Nationwide Insurance Company to be filed in the above-referenced case. Please file the original and return a stamped, filed copy of the Defendant's Motion to Dismiss Titan Indemnity and Nationwide Insurance Company in the self-addressed, stamped envelope provided for your convenience. Also enclosed is our check in the amount of Twenty-five ($25.00) Dollars representing the administrative fee for this request as well as the docketing form required by your office.

By copy of this letter, I am serving a copy of the Defendant's Motion to Dismiss Titan Indemnity and Nationwide Insurance Company upon counsel of record, along with a Certificate of Service.

Very truly yours,

CLAWSON and STAUBES, LLC

Anna Wade Sumner

AWS/jkl
Enclosure

cc: Ms. Glenda R. Couram

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true copy of the foregoing Defendant's Motion to Dismiss Titan Indemnity and Nationwide Insurance Company was served upon the following parties on the _____ day of May, 2016, via:

X	United States Postal Service, Certified Mail, Return Receipt Requested
	Facsimile
	Electronic Email
	Via Hand Delivery

Ms. Glenda R. Couram
104 Macaw Ln
Lexington, SC 29073-7673

Joyce Linker, Legal Assistant to
Anna Wade Sumner, Esquire

STATE OF SOUTH CAROLINA)
) IN THE COURT OF COMMON PLEAS
COUNTY OF RICHLAND) FIFTH JUDICIAL CIRCUIT
) CASE NO: 2016-CP-40-02350
)
Glenda R. Couram)
Plaintiff)
v)
) RESPONSE TO DEFENDANT'S
Sherwood Tidwell, Insured by) MOTION TO DISMISS TITAN
Titan Indemnity Company) INDEMNITY A SUBSIDIARY OF
Subsidiary of Nationwide Mutual Insurance) NATIONWIDE INSURANCE CO.
Company)
Defendants)
) JURY TRIAL DEMANDED

2016 MAY 26 PM 9:39
JEANETTE W. GAMBRELL
CLERK OF COURT
RICHLAND COUNTY
FILED

COMES NOW the Plaintiff, acting pro se and in response to the Defendants' Motion to Dismiss states that she has no Objection to the dismissal of Titan Indemnity Company a Subsidiary of Nationwide Mutual Insurance Company as Defendants.

Pro se understands that she can only file suit against Mr. Sherwood Tidwell at this time. Therefore, if allowed, the pro se moves this court to Dismiss Titan Indemnity Company a Subsidiary of Nationwide Mutual Insurance Company *as* Defendants in this immediate matter pending before this court and apologizes to the Defendants and the court for the inadvertent error. The only Defendant, at this time, should be Mr. Sherwood Tidwell the insured.

Respectfully submitted by:

Glenda R. Couram
Pro Se
104 Macaw Lane
Lexington, SC 29073
803 358-0127
grcouram@hotmail.com

Dated this 23nd, day of May 2016
Lexington, South Carolina

May 23, 2016

The Honorable Jeanette W. McBride
Richland county Clerk of Court
PO Box 2766
Columbia, SC 29202-2766

RE: Glenda R. Couram v Sherwood Tidwell, Insured by Titian Indemnity Company a Subsidiary of Nationwide Mutual Insurance Company
Case Number: 2016-CP-40-02350

Dear Ms. McBride:

Please find enclosed Response to the Defendant's Motion to Dismiss Titan Indemnity Company a Subsidiary of Nationwide Mutual Insurance Company as Defendants in this Action. The only named Defendant should be Mr. Sherwood Tidwell. I have also enclosed responses to their Standard and Supplemental Interrogatories and Request for Production along with a self addressed envelope to mail stamped copies back to me.

Thank you.

Sincerely,

Glenda R. Couram
Pro se
104 Macaw Lane
Lexington, SC 29073
803 358-0127
grcouram@hotmail.com

encls.

copies of the Requests for production/interrogatories not sent to court

c: Anna Wade Sumner, Esq.
Clawson and Staubes, LLC
1612 Marion Street, Suite 200
Columbia, SC 29201-2939

Courtesy Copy to Claims Adjuster
Tracy Peer, Claims Specialist II,
Commercial Casualty
Nationwide Non-Standard Claims
PO Box 93863
Cleveland, OH 44101

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

Glenda R. Couram,

Plaintiff,

vs.

Sherwood Tidwell and Titan Indemnity Company, Subsidiary of Nationwide Mutual Insurance Company,

Defendants.

IN THE COURT OF COMMON PLEAS
FOR THE FIFTH JUDICIAL CIRCUIT

CASE NO.: 2016-CP-40-02350

CONSENT ORDER REMOVING PARTY

RICHLAND CO.
FILED
2016 SEP 20 PM 12:19
JEANNETTE W. McBRIDE
C.C.P. & G.S.

In this automobile negligence action, the Plaintiff filed suit on April 12, 2016 alleging that Co-Defendant, "Titan Indemnity Company, Subsidiary of Nationwide Mutual Insurance Company," was negligent related to a motor vehicle accident which occurred on September 18, 2015. The specific claims as to Co-Defendant "Titan Indemnity Company, Subsidiary of Nationwide Mutual Insurance Company" are unclear in the Complaint.

Discovery has taken place and the parties have found that there is no evidence under South Carolina Law which shows "Titan Indemnity Company, Subsidiary of Nationwide Mutual Insurance Company" to be liable to the Plaintiff. SCRCP 21 allows parties to be dropped by order of the Court on any motion on such terms as are just.

The Plaintiff has consented to the Defendant's motion to drop Co-Defendant, "Titan Indemnity Company, Subsidiary of Nationwide Mutual Insurance Company," as a named party. If evidence becomes available to the parties which suggest Co-Defendant, "Titan Indemnity Company, Subsidiary of Nationwide Mutual Insurance Company," should be added as a Co-Defendant at a later date, the parties mutually

agree that this issue may be fully developed and the Court may add Co-Defendant, "Titan Indemnity Company, Subsidiary of Nationwide Mutual Insurance Company," as a party in compliance with SCRCP 21.

IT IS SO ORDERED.

Presiding Judge

Columbia, South Carolina

This 2 day of Sept, 2016.

327

WE SO MOVE:

CLAWSON and STAUBES, LLC

Jescelyn T. Spitz
Bar No. 101880
Attorney for Defendants

CONSENT:

Glenda R. Couram
Pro Se Plaintiff

RICHLAND COUNTY
FILED
2019 SEP 20 PM 12:19
JEANNETTE W. McBRIDE
C.P. & C.S.

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

RECEIVED
JUN 18 2018
SC Court of Appeals

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas

G. Thomas Cooper, Jr.

Civil Case No.: 2017-40-CP-04048

Glenda R Couram ..... Appellant,

v.

Nationwide Mutual Insurance Company, Titan Indemnity Company, Eugene Matthews in his individual capacity, Sherwood Plumbing Service, LLC, dba, Beatrice T. Tidwell, Rick Skurko in his official and individual capacity and Tracey Peer in her official and individual capacity

..... Respondents

NOTICE OF APPEAL

Glenda Couram Appeals the order dated on or about April 23, 2018, (I *never* received a copy of the written signed Order granting Dismissal of this case from Judge or Clerk of Court) a signed written Order denying the Motion to Reconsider was received on May 18, 2018 from Judge G. Thomas Cooper, Jr., as listed above.

Appellant never a received written signed notice of entry of this Order but the date of the Order is on or about April 23, 2018.

Glenda Couram, pro se
104 Macaw Lane
Lexington, SC 29073
(803) 358-0127
Pro se Appellant

June 17, 2018

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas

G. Thomas Cooper, Jr.

Civil Case No.: 2017-40-CP-04048

RECEIVED
JUN 18 2018
SC Court of Appeals

Glenda R Couram ..... Appellant,

v.

Nationwide Mutual Insurance Company, Titan Indemnity Company, Eugene Matthews in his individual capacity, Sherwood Plumbing Service, LLC, dba, Beatrice T. Tidwell, Rick Skurko in his official and individual capacity and Tracey Peer in her official and individual capacity

..... Respondents

PROOF OF SERVICE

I certify that I have served the *NOTICE OF APPEAL* on all named Defendants/ Respondents by depositing a copy of it in the United States Mail, postage prepaid, timely on all attorneys of record Jescelyn Spitz, *Attorney For Respondent.* Clawson & Staubes, LLC, 1612 Marion Street, #200, Columbia, South Carolina 29201; J.R. Murphy, Attorney for Respondents, Murphy & Grantland, PA, 4406-B Forest Dr., Columbia, SC 29206 and Eugene H. Matthews, c/o Richardson Plowden Robinson, 1900 Barnwell St., Columbia, SC 29201 on June 17, 2018.

Glenda Couram, pro se
104 Macaw Lane
Lexington, SC 29073
(803) 358-0127
Pro se Appellant

The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS
CLERK

V. CLAIRE ALLEN
DEPUTY CLERK

POST OFFICE BOX 11629
COLUMBIA, SOUTH CAROLINA 29211

1220 SENATE STREET
COLUMBIA, SOUTH CAROLINA 29201

TELEPHONE: (803) 734-1890
FAX: (803) 734-1839
www.sccourts.org

July 13, 2018

Glenda Couram
104 Macaw Lane
Lexington SC 29073

Re: Glenda Couram v. Nationwide Mutual
Appellate Case No. 2018-001134

Dear Ms. Couram:

The Court received your correspondence dated June 25, 2018, regarding modification of the caption for this appeal. After careful consideration of the caption as it appears on the orders you are appealing, the Court has changed the caption for this appeal to read as follows:

Glenda R. Couram, Appellant,

v.

Nationwide Mutual Insurance Company, Titan Indemnity Company, Eugene Matthews, in his individual capacity, Sherwood Plumbing SVC, LLC, dba and Beatrice T. Tidwell, Rick Skurko in his official and individual capacity and Tracey Peer, in her official and individual capacity, Respondents.

Very truly yours,

V. Claire Allen, Deputy

CLERK

cc: John Robert Murphy, Esquire
Jescelyn Tillman Spitz, Esquire
Eugene Hamilton Matthews, Esquire

June 25, 2018

RECEIVED
JUN 28 2018
SC Court of Appeals

Jenny Abbott Kitchings
Clerk, South Carolina Court of Appeals
1220 Senate Street
Columbia, SC 29201

RE: Nationwide Mutual Insurance Company, Titan Indemnity Company, Eugene Matthews in his individual capacity, *dba Sherwood Plumbing Service, LLC Sherwood Tidwell Owner/Operator/Agent #30530*[1] *and* Beatrice T. Tidwell, *Rick Skurko in his official and individual capacity and Tracey Peer in her official and individual capacity*
Appellant Case No.: 2018-001134

Dear Ms. Kitchings

In this letter as a response to the case manager spoken to today, June 26, 2018, Appellant is asking this court to reinstate the correct CAPTION in this matter. Appellant never agreed to drop any of the above Defendants from this action. I filed with the following captions/heading:

Initial Amended Complaint filed July 18, 2017 (the Appellant did not need the court's permission as it was amended prior to an Answer by the Defendant(s) the Caption at all times read as follows:

> Nationwide Mutual Insurance Company, Titan Indemnity Company, Eugene Matthews, in his individual capacity, dba Sherwood's Plumbing Service, LLC Sherwood F. Tidwell, Owner/Oper./Agent #30530 *and* Beatrice Tyree Tidwell

As is very clearly shown, Appellant do not use the conjunction *and* between Sherwood's Plumbing Service LLC, Sherwood F. Tidwell Owner/ Oper./Agent #30530. The *conjunction* and[2] is not USED until the Defendants' responses to the Complaint and when Judge Cooper asked them to write their own Orders to Dismiss, etc., in doing they changed the entire meaning and INTENT of this pro se making it appear that this pro se Appellant name Sherwood Tidwell

---

[1] *Sherwood Tidwell Owner/Operator/Agent #30530 this was clearly meant as notation which the complaint and the record clearly defines – the court clearly ignored the pro se standard in reading this pro se's complaint*

[2] AND CONJUNCTION used to connect words of the same part of speech, clauses, or sentences, that are to be taken jointly "bread and butter" · synonyms: together with · along with · with · as well as used to introduce an additional comment or interjection.
"if it came to a choice—and this was the worst thing—she would turn her back on her parents" · *synonyms: as well as · together with · along with · in addition to; informal used after some verbs and* before another verb to indicate intention, instead of "to". "I would try and do what he said" · ANDs (plural noun)

as a party to this action in order to have this action dismissed upon deception and the lower court's giving them them charge of judge and jury.

(See Responses dated August 15, 2017 and September 5, 2017 by Attorney Murphy, Response by Attorney Matthews dated July 12, 2017 and response by Attorney Spitz dated August 3, 2017)

If this court researched this matter it should have found that no responses, answers, complaints or motions filed by this *Pro se Appellant* does she use the conjunction and saying she was including Sherwood Tidwell in this action, in fact she clearly states she is not doing so.

Nor will it find where she left off or dropped Beatrice T. Tidwell yet the Defendants consistently do so.

Nor will it show the Appellant dropped Rick Skurko and Tracy Peer named in the amended Complaint *Dismissed* by the lower court therefore they are part of this Appeal as Captioned in the *NOTICE OF APPEAL*

The fact that the Plaintiff never caught this misleading and deception by the Officers of the Court Murphy, Matthews and Spitz, does not change the facts of this matter and the TRUE caption or well established law and the meaning of the Plaintiff being the Master of her *Complaint. See Chester v SC Department of Public Safety, et.al. (SC Sup Ct 2007) (See attached* and below).

See also the emails from Pro se Appellant to Judge Cooper were she informed the court of its mistake (Attached Page 2) and were that Mistake was corrected in the Denial of the Motion to Reconsider dated May 16, 2018, which should be the controlling order in this matter Appellant understands.

Pro se never provided this court or Judge Cooper with the heading that is reported in this Court's letter dated June 25, 2018 were it *dropped* Respondents Beatrice Tidwell, Rick Skurko and Tracy Peer *AND this court wrongly added* Sherwood Tidwell as a Respondent, he is not a respondent in this Appeal.

INITIAL Caption - Nationwide Mutual Insurance Company, Titan Indemnity Company, Eugene Matthews in his individual capacity, Sherwood Plumbing Service, LLC, dba *and* Beatrice T. Tidwell

December 4, 2017 amended complaint adding Rick Skurko and Tracy Peer and additional causes of action. The new caption should read:

> Nationwide Mutual Insurance Company, Titan Indemnity Company, Eugene Matthews in his individual capacity, *dba Sherwood Plumbing Service, LLC (Sherwood Tidwell Owner/Operator/Agent #30530) and* Beatrice T. Tidwell,

Rick Skurko in his official and individual capacity and Tracey Peer in her official and individual capacity

At no time, did I DROP Beatrice T. TIDWELL to do so would take away the causes of action for negligent entrustment, etc.,

In fact, Appellant made it a point to correct Judge Cooper's Order letting him know that she did not agree to drop Beatrice Tidwell (See emails) at which point they corrected the heading.

The Judge's Caption in his Order denying Appellant's complaint parrots the Defendants' Caption

This is clearly not what is on any document filed by this Appellant. The Defendants have misconstrued[3] the Complaint[4] and this resulted in this APPEAL. This action is a complete injustice and continues to show the prejudice the courts have of pro se litigants.

As stated the actions are completely inappropriate and is against well established law and is also a violation of the well established Pro Se Standard, it goes against this court's and sister courts and superior courts the South Carolina Supreme Court as well as the United States well established rules and laws governing captions and the rights of the pro se plaintiff or anyone for that matter..

See Hampton v. Monsanto Co., No. 4:11–CV–1662 (CEJ), 2011 WL 5307835 (E.D. Mo. Nov. 3, 2011). *Anderson v. Bayer Corp.*, 610 F.3d 390, 393 (7th Cir. 2010

Once the pro se informed Judge Cooper's office of the wrong Caption in Denial the lower court made the corrections and cited the correct CAPTion (See Motion to Reconsider Response dated May 16, 2018).

As to Rick Skurko and Tracy Peer,[5] Appellant clearly Appealed Judge Cooper's Order dismissing the Amended Complaint therefore they were never dropped from this Appeal it would make no sense to Appeal the denial of the Amended Complaint without the very individuals that *I sought to add including the additional cause of actions. They cannot be dropped from the* Appeal Caption and must be put back. They are all rightly named in the *NOTICE OF APPEAL*

In Chester v SC Department of Public Safety, et.al., 2007 the South Carolina Supreme Court:

> "It is well-settled that a plaintiff has the sole right to determine which co-tortfeasor(s) she will sue. e.g., Doctor v. Robert Lee, Inc., 215 S.C. 332, 55 S.E.2d

---

[3] interpret (something, especially a person's words or actions) wrongly.
[4] Making themselves the Master of this APPELLANT's Complaint
[5] I spelled the name in the Caption as Tracy --- the Defendants spelled it Tracey

68 (1949); South Carolina Dep't of Health and Envior. Control v. Fed. Serv. Indus., Inc., 294 S.C. 33, 362 S.E.2d 311 (Ct. App. 1987).

Giving a TCA defendant the right to a proportionate verdict "when an alleged tortfeasor is named a party defendant," intended to abrogate the tort plaintiff's right to choose her defendant, nor to effectively force the plaintiff to choose between settling with some parties and thereby forego her right to sue a TCA defendant, or going to trial against all co-tortfeasors. Compare Wade v. Berkeley County, 348 S.C. 224, 559 S.E.2d 586 (2002).

Based on the above evidence and court record, I am asking this court to reinstate the heading as document and filed by the lower court's records, the filed records and the emails submitted.

I also apologize for any typos or grammar mistake as I had a panic attack and am dealing with it while writing this per my conversation with the case manager.

Sincerely,

Linda A. Duram
104 Macaw Lane
Lexington, SC 29073
803 358-0127

egc

Attachments

cc: John Robert Murphy, Esquire
Jessalyn Tillman Spitz, Esquire
Eugene Matthews, Esquire.

Re: ALERT Re: Matthews "Order"

glenda c

[illegible]

Thank you

From: Cooper, G. Thomas Law Clerk (Jamie Rutkoski) <GCooperLC@sccourts.org>
Sent: Thursday, April 26, 2018 3:30 PM
To: glenda c
Cc: CLAWSON AND STAUBES LLC; gmatthews@richardsonplowden.com; jrmurphy@murphygrantland.com
Subject: RE: ALERT Re: Matthews "Order"

Received.

Jamie Rutkoski
Law Clerk to the Honorable G. Thomas Cooper, Jr. and the Honorable Jean H. Toal
Circuit Court of South Carolina
1121 Broad St., Rm. 243
Post Office Box 1557
Camden, SC 29021
Phone: (803) 425-7182
Fax: (803) 425-5529

From: glenda c [mailto:grcouram@hotmail.com]
Sent: Tuesday, April 24, 2018 4:00 PM
To: Cooper, G. Thomas Law Clerk (Jamie Rutkoski) <GCooperLC@sccourts.org>
Cc: CLAWSON AND STAUBES LLC <jspitz@clawsonandstaubes.com>; gmatthews@richardsonplowden.com; jrmurphy@murphygrantland.com
Subject: Re: ALERT Re: Matthews "Order"

Dear sir

Please acknowledge I informed you I will file a motion to reconsider within 10 days of your decision as required by the courts thru this email as you requested I contact you.

If you would like me to send a letter to you please let me know.

Glenda couram

P9 1

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803 358-0127

From: glenda c <grcouram@hotmail.com>
Sent: Monday, April 23, 2018 11:52 PM
To: gcooperk@sccourts.org; gcooper@sccourts.org
Cc: CLAWSON AND STAUBES LLC; jrmurphy@murphygrantland.com; gmatthews@richardsonplowden.com
Subject: Re: ALERT Re: Matthews "Order"

Sir

As I am writing and filing the Reconsideration and Notice of Appeal - I note that for some reason **Beatrice Tidwell** was removed from the caption of *my* complaints.

The caption should read *Nationwide Mutual Insurance Company, Titan Indemnity Company, Eugene Matthews, in his individual, Sherwood's Plumbing Services, LLC, Sherwood F. Tidwell, Owner/Oper./Agent #30530 and Beatrice Tyree Tidwell.* The Caption was Amended without need of leave of court according to Rule 15 *prior* to receiving the Defendants' Answer. Dated July 18, 2017 and clocked in July 19, 2017

The later amended compliant *reads the same* except adding Tracey Peer and Mark Skurko.

With respect sir, I would appreciate the correction on the caption in your Order so there is no issue with the Appeal and 59 Motion as I am going to respond with the correct defendants. I am not sure how the caption was changed but it was not changed by the Plaintiff except when amended with the defendants as listed above.

glen

From: glenda c <grcouram@hotmail.com>
Sent: Monday, April 23, 2018 9:25 PM
To: gcooperlc@sccourts.org; gcooper@sccourts.org
Cc: CLAWSON AND STAUBES LLC; gmatthews@richardsonplowden.com; jrmurphy@murphygrantland.com
Subject: Re: ALERT Re: Matthews "Order"

Dear Judge Cooper

I received the Order dismissing my complaint under the Motion to Dismiss. This is to inform you that per the rules I will file a motion to reconsider rule 59 and then a Notice of Appeal as soon as I get your denial of the Rule 59 Motion.

I do not believe there is a transcript because you had each person write your order, but I will check with the transcriber for that day just in case.

I hope to have the 59 Motion to you by May 15th as I just received the denial.

f9 2

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glen

From: glenda c <grcouram@hotmail.com>
Sent: Thursday, February 22, 2018 8:57 PM
To: gcooperlc@sccourts.org; gcooper@sccourts.org
Cc: gmatthews@richardsonplowden.com; CLAWSON AND STAUBES LLC; jrmurphy@murphygrantland.com
Subject: ALERT Re: Matthews "Order"

Judge Cooper

I would appreciate it if you will read the Order submitted by Matthews. In that Order he is asking you to do away with my constitutional rights to include right to the courts. I understand the courts has been no friend to me as a pro se but I am still a citizen an allowing Orders to be written by attorneys can allow a lot of wrongs being done and rights being taken as with Judge McFadden who allowed Matthews to write his order as Matthews has stated in his response to you

I have met with an attorney, neither of us understand what is happening but I am working to submit the document as you asked. I am just asking that if you decide to sign Matthews Order provided for your signature that you don't take away my hard **earned rights in the US. With all due respect**

Thank you

From: glenda c <grcouram@hotmail.com>
Sent: Tuesday, February 20, 2018 6:56 PM
To: gcooperlc@sccourts.org; gcooper@sccourts.org
Cc: CLAWSON AND STAUBES LLC; jrmurphy@murphygrantland.com; gmatthews@richardsonplowden.com
Subject: REQUEST FOR ADDITIONAL TIME TO FILE "ORDER"

Judge Cooper

As a pro se I am having difficulty in figuring out what you want in "this order." I have an appointment to speak with an attorney to get some direction as to what you want. I thought maybe you wanted what I would be willing to settle for but I cannot image that is the case.

I have put before the court already why this matter is not subject to dismissal at this stage so to ensure I am complying with what you are asking I have made an appointment to speak with an attorney.

Please allow me a full 20 days to submit to the court the "order" from me which will make the "order" due between now and March 4, 2018.

Glenda Couram
803 358-0127

P93

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CONFIDENTIALITY NOTICE ~~~ This message is intended only for the addressee and may contain information that is confidential. If you are not the intended recipient, do not read, copy, retain, or disseminate this message or any attachment. If you have received this message in error, please contact the sender immediately and delete all copies of the message and any attachments.

pg 4

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Re: Order

glenda c

Thu 5/3/2018 8:35 PM

To: Cooper, G. Thomas Law Clerk (Jamie Rutkoski) <GCooperLC@sccourts.org>;

Okay I will wait for the Clerk to send the Order. Thank you

Glen

From: Cooper, G. Thomas Law Clerk (Jamie Rutkoski) <GCooperLC@sccourts.org>
Sent: Thursday, May 3, 2018 8:07 PM
To: glenda c
Subject: Re: Order

The judge does not disburse Orders to the parties. That is handled by the Clerk's office.

Sent from my iPhone

On May 3, 2018, at 4:03 PM, glenda c <grcouram@hotmail.com<mailto:grcouram@hotmail.com>> wrote:

Hello

I have been waiting for the Judge's signed Order to know the date for the Motion to Reconsider I have not received it thru email or mail.

Glen

CONFIDENTIALITY NOTICE ~~~ This message is intended only for the addressee and may contain information that is confidential. If you are not the intended recipient, do not read, copy, retain, or disseminate this message or any attachment. If you have received this message in error, please contact the sender immediately and delete all copies of the message and any attachments.

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The Supreme Court of South Carolina

Carolyn Chester, as Personal Representative of the Estate of Sherman E. Boutte, Jr., Appellant,

v.

South Carolina Department of Public Safety, South Carolina Department of Transportation, South Carolina Forestry Commission, Gary Thomas LaSalle, COBRA Transport a/k/a Cobra Automobile Transporting, Alternative Transport Services, Florida Auto Transport, Vic Mullins as the Personal Representative of the Estate of Jacob Trey Hall, Robin H. Miller, as the Personal Representative of the Estate of Rory Miller, Jeremy Crye, Ryder Truck Rental, Inc., Darren Mosley, RSC Transportation, Inc., Randel Brigman, Ernestine Hare Arnette, Mayflower Movers a/k/a Mayflower Transit, LLC and American Way Moving and Storage, Inc., Defendants,

of whom the South Carolina Department of Public Safety, South Carolina Department of Transportation and South Carolina Forestry Commission are the Respondents.

ORDER

Respondents' petition for rehearing is granted and the following opinion substituted for the original opinion. The only change is found in the first sentence of the FACTS, where the phrase "controlled burn being conducted by respondent Forestry Commission" is stricken and replaced by the word "fire."

IT IS SO ORDERED.

s/ Jean H. Toal C. J.

s/ Donald W. Beatty J.

s/ John W. Kittredge J.

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s/ Kaye G. Hearn J.

s/ James E. Moore A.J.

Columbia, South Carolina
August 23, 2010

THE STATE OF SOUTH CAROLINA
In The Supreme Court

Carolyn Chester, as Personal Representative of the Estate of Sherman E. Boutte, Jr., Appellant,

v.

South Carolina Department of Public Safety, South Carolina Department of Transportation, South Carolina Forestry Commission, Gary Thomas LaSalle, COBRA Transport a/k/a Cobra Automobile Transporting, Alternative Transport Services, Florida Auto Transport, Vic Mullins as the Personal Representative of the Estate of Jacob Trey Hall, Robin H. Miller, as the Personal Representative of the Estate of Rory Miller, Jeremy Crye, Ryder Truck Rental, Inc., Darren Mosley, RSC Transportation, Inc., Randel Brigman, Ernestine Hare Arnette, Mayflower Movers a/k/a Mayflower Transit, LLC and American Way Moving and Storage, Inc., Defendants,

of whom the South Carolina Department of Public Safety, South Carolina Department of Transportation, and South Carolina Foresty Commission are the Respondents.

Appeal from Dorchester County
James C. Williams, Jr., Circuit Court Judge

Opinion No. 26833
Heard June 8, 2010 – Re-filed August 23, 2010

REVERSED

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Mark B. Tinsley, of Gooding and Gooding, of Allendale, and Robert Norris Hill, of Newberry, for Appellant.

Lisa A. Reynolds, of Anderson &Sequi, of Charleston; R. Morrison M. Payne and Christy Scott, both of Scott & Payne, of Walterboro; and Roy Pearce Maybank, of Charleston, for Respondents.

PER CURIAM: Appellant contends the trial judge erred in ordering her, the plaintiff in this Tort Claims Act (TCA) suit brought against three state agencies (respondents), to join other alleged joint tortfeasors as defendants at respondents' request, in order to effectuate the respondents' right to a proportionate verdict under S.C. Code Ann. § 15-78-100(c) (2005). The trial judge agreed with respondents that he could require appellant to add party defendants, but ultimately dismissed the action because these co-tortfeasors could not be joined since the appellant had already settled with them. See Rule 19, SCRCP. We agree with appellant that the trial judge lacks the authority to require her to sue additional alleged co-tortfeasors, and reverse.

FACTS

Appellant's decedent was killed in a multiple vehicle accident caused when heavy smoke from a fire allegedly obstructed visibility on Interstate 95. As a result of the number of vehicles involved and the alleged negligence of three different state agencies, there are numerous potential defendants. A number of passengers in these vehicles or their estates brought actions in Hampton County naming appellant as a defendant. Appellant then brought this suit against the three TCA defendants in Dorchester County, and subsequently received settlements from a number of other defendants in the original Hampton suits. The Dorchester TCA defendants contended, and the trial judge agreed, that they were entitled to have the judge order appellant to join other alleged tortfeasors (including many with whom appellant had already settled in Hampton County) as defendants under Rule 19, SCRCP. The statute upon which the respondents and the trial judge relied provides:

> In all actions brought pursuant to this chapter when an alleged joint tortfeasor is named as party defendant in addition to the governmental entity, the trier of fact must return a special verdict specifying the proportion of monetary liability of each defendant against whom liability is determined.
>
> §15-78-100(c).

ISSUE

Can a TCA defendant require the plaintiff to sue other alleged tortfeasors?

ANALYSIS

It is well-settled that a plaintiff has the sole right to determine which co-tortfeasor(s) she will sue. E.g., Doctor v. Robert Lee, Inc., 215 S.C. 332, 55 S.E.2d 68 (1949); South Carolina Dep't of Health and Envior. Control v. Fed. Serv. Indus., Inc., 294 S.C. 33, 362 S.E.2d 311 (Ct. App.

1987). A ruling that a TCA defendant can compel a plaintiff to join other alleged tortfeasors as defendants in that suit would overturn this firmly entrenched common law principle. Moreover, *a concomitant ruling that where these defendants cannot be joined because they have already* settled with the plaintiff, the action must be dismissed, would thwart our strong public policy favoring the settlement of disputes. E.g., Poston v. Barnes, 294 S.C. 261, 363 S.E.2d 888 (1967). We are not persuaded that the General Assembly, in enacting § 15-78-100(c), giving a TCA defendant the right to a proportionate verdict "when an alleged tortfeasor is named a party defendant," intended to abrogate the tort plaintiff's right to choose her defendant, nor to effectively force the plaintiff to choose between settling with some parties and thereby forego her right to sue a TCA defendant, or going to trial against all co-tortfeasors. Compare Wade v. Berkeley County, 348 S.C. 224, 559 S.E.2d 586 (2002).

Where, as here, the plaintiff has settled with some co-tortfeasors the TCA defendants are not *without a remedy. First, if the jury returns a verdict finding more than one respondent liable,* then it will be required to apportion liability among these respondents. § 15-78-100(c). Moreover, under the procedure outlined in Smalls v. South Carolina Dep't of Educ., 339 S.C. 208, 528 S.E.2d 682 (Ct. App. 2000), any respondent found liable will be entitled to an equitable set-off against the settlements appellant has already received.

CONCLUSION

The trial judge erred in holding that under Rule 19, SCRCP, he could require appellant to join other co-tortfeasors in order to afford the respondents their potential right to proportionate liability under § 15-78-100(c).

REVERSED.

TOAL, C.J., BEATTY, KITTREDGE, HEARN, JJ., and Acting Justice James E. Moore, concur.

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Glen Curam
104 Macaw Ln
Lexington, SC 29073



RECEIVED
JUN 28 2018
SC Court of Appeals

Jenny Abbott Kitchings
Clerk, Court of Appeals
1220 Senate St
Columbia, SC 29201

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The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS
CLERK

V. CLAIRE ALLEN
DEPUTY CLERK

POST OFFICE BOX 11629
COLUMBIA, SOUTH CAROLINA 29211
1220 SENATE STREET
COLUMBIA, SOUTH CAROLINA 29201
TELEPHONE: (803) 734-1890
FAX: (803) 734-1839
www.sccourts.org

November 15, 2018

Glenda Couram
104 Macaw Lane
Lexington SC 29073

Mr. John Robert Murphy, Esquire
PO Box 6648
Columbia SC 29260

Mr. E. Dale Lang, Jr., Esquire
Clawson And Staubes, LLC
1612 Marion St., Suite 200
Columbia SC 29201

Eugene Hamilton Matthews, Esquire
1900 Barnwell St.
Post Office Drawer 7788
Columbia SC 29202

Re: Glenda Couram v. Nationwide Mutual
Appellate Case No. 2018-001134

Dear Counsel and Ms. Couram:

You are advised that all parties may file one unbound, original and one bound copy of the record and final briefs.

Very truly yours,

CLERK

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RECEIVED
JAN - 4 2018

STATE OF SOUTH CAROLINA)	IN THE COURT OF COMMON PLEAS
)	FOR THE FIFTH JUDICIAL CIRCUIT
COUNTY OF RICHLAND)	CASE NO.: 2017-CP-40-04048
)	
Glenda R. Couram)	
Plaintiff,)	
)	
vs)	
)	
Nationwide Mutual Insurance Company,)	
Titan Indemnity Company,)	
Eugene Matthews, in his individual capacity)	
dba Sherwood's Plumbing Services, LLC)	
Sherwood F. Tidwell, Owner/Oper./Agent)	
#30530 and Beatrice Tyree Tidwell)	
Defendants.)	JURY TRIAL DEMANDED
)	

PLAINTIFF'S MOTION FOR A CONTINUANCE AND PROTECTION
REQUEST FOR RECUSAL

AND NOW, come Plaintiff as pro se, and file the within Motion for Recusal/Continuance and Protection through the *Month of January 2018*.

This is the first time this pro se Plaintiff has requested at *Continuance* of this court and therefore request be granted along with the *Protection* for the Month of January 2018. Plaintiff has been accepted into Vocational Rehabilitation for Pain Management and other classes related to high blood pressure, stress, anxiety, ptsd and panic disorder, to assist her in obtaining future employment if possible and to deal with other issues she is having both physically and mentally.

The program requires full attendance and therefore Plaintiff ask for the first time that this court grant her request for *protection and continuance* along with the Motion for Recusal.

Plaintiff also ask this court or that Judge Manning and Newman recuse themselves from hearing or presiding over cases involving her and this Recusal Motion in the interest of Justice and according to well established law.

$91

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2. Plaintiff does not feel that the named judges can be unbiased towards her as the letter attached indicates also there is no one that could not see that given the facts that these judges can be impartial as the proof of cases before them clearly show demonstrates such bias or prejudice.

See *Municipal Publications, Inc., et al. v. Court of Common Pleas of Philadelphia County*, 207 Pa. 194, 489 A.2d 1286 (1985), Plaintiffs request that the Judge Manning and Newman recuse themselves from presiding over Plaintiff's Recusal Motion. A copy of the letter outlining the Plaintiff's concerns and fears are attached and made a part hereof.

3. In South Carolina disqualification is governed by the South Carolina Code of Judicial Conduct, which calls on a judge to disqualify himself in any proceeding in which his impartiality might reasonably be questioned, including instances where he has a personal bias against a party; as well as by Rule 33 of the Rules of Practice of the Supreme Court, which generally requires that a judge recuse when he has a personal bias concerning a party. A South Carolina constitutional provision, Article V, §19, also deals with the subject.[1]

WHEREFORE, Plaintiffs respectfully request that the Judges Casey Manning and Newman recuse themselves from hearing Plaintiffs' Recusal Motion and other matters in this court.

Respectfully submitted,

Glenda Couram, pro se
104 Macaw Lane
Lexington, SC 29073
803 358-01427
grcouram@hotmail.com

[1] 'justice must satisfy the appearance of justice.'" (citation omitted) (quoting *In re* Murchison, 349 **U.S. 133, 136** (1954); Offutt v. United States, 348 **U.S. 11,** 14 (1954))); Commonwealth v. Brandenburg, 114 **S.W.3d 830,** 834 **(Ky. 2003)** ("[T]here need not be an actual claim of bias or impropriety levied, but the mere appearance that such an impropriety might exist is enough to implicate due process concerns.").

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOR THE FIFTH JUDICIAL CIRCUIT
COUNTY OF RICHLAND	)	CASE NO.: 2017-CP-40-04048
	)	
Glenda R. Couram	)	
Plaintiff,	)	
	)	
vs	)	
	)	
Nationwide Mutual Insurance Company,	)	
Titan Indemnity Company,	)	
Eugene Matthews, in his individual capacity	)	
dba Sherwood's Plumbing Services, LLC	)	
Sherwood F. Tidwell, Owner/Oper./Agent	)	
#30530 and Beatrice Tyree Tidwell	)	
Defendants.	)	JURY TRIAL DEMANDED
	)	

ORDER

AND NOW, to-wit, this day of January, 2018, upon consideration of Plaintiff's Motion for Recusal from Plaintiff's Recusal Motion, Request for Continuance and Protection thru out the Month of January 2018, it is hereby ORDERED, ADJUDGED AND DECREED that Plaintiff's' Motion is GRANTED, and the case is referred back to the Administrative Judge of the Civil Division of the Court of Common Pleas of Richland County, South Carolina for further disposition.

All proceedings in this matter are stayed pending reassignment of this matter by the Administrative Judge.

_____

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CERTIFICATE OF SERVICE

I hereby certify that on the 2nd day of January, 2018 a true and correct copy of Plaintiff's Motion for Recusal from Plaintiff' Recusal Motion, Request for Continuance and Protection was delivered to the Defendants as listed below by depositing a copy in the U.S. Postal Service mail box with adequate postage attached.

Eugene H. Matthews, Esquire
Richardson, Plowden and Robinson
1900 Barnwell Street
Columbia, SC 29260

J.R. Murphy, Esquire
Attorney for Nationwide, et.al.
Murphy and Grantland, P.A
P.O. Box 6648
Columbia, SC 29260

Jescelyn T. Spitz, Esquire
Attorney for Tidwell
Clawson and Staubes, LLC
1612 Marion Street, Suite 200
Columbia, SC 29201-2939

Respectfully submitted,

Glenda Couram, pro se
104 Macaw Lane
Lexington, SC 29073
803 358-01427
grcouram@hotmail.com

Dated this 2nd day of January 2018
Lexington, South Carolina

2017-CP-40-04048

December 14, 2017

Attn: Anne Henley
Richland County Clerk of Court
Richland County Judicial Center
1701 Main Street, (29201)
Post Office Box 2766
Columbia, South Carolina 29202

RICHLAND COUNTY
2017 DEC 18 PM 1:1
JEANETTE

RE: Couram v Nationwide, Titan, Matthews, et.al

Dear Ms. Henley:

Per our conversation yesterday, I am writing this letter to ask that my case never be scheduled before Judge Casey Manning or Judge Joyce Newman and they be recused from presiding. I am attaching a Rule 60 Motion already filed in this court as to why Judge Newman should be recused from sitting on any case filed by this pro se litigant. Recusal for Judge Manning is below.

I am writing this in letter form per your request if it has to be as a Motion please let me know soon because as of this date you have me before Judge Manning as a result of a Motion to continue filed by Attorney Eugene Matthews on January 8, 2017 because he asked for a continuance from Judge Hood in December to Attend National Guard Training.

I looked at the roster and cannot understand why my case could not have been reschedule before Judge Hood as he is on the Roster for January 5th, 22nd etc., 2017. But, as always when this happens my case is taken from a Judge without prejudice or bias to Judge Manning a Judge who has dismissed my previous case without justification allowing Matthews to walk in with his Order already written (2013), refer to me as a "man" a judge who I have filed a complaint against twice before the Counsel and filed suit against which is still pending in Federal Court.

I spoke with Mr. Truitt, Clerk of Court Administration returned my call yesterday he answered my question as to who the Administrators are in Richland County Court -- Judge Manning (Civil) and Newman (Criminal). In complete disbelief, I stated, I will never get justice in Richland County Court his response "get an attorney" does this mean that this Court's goal is to ensure no justice for a *pro se litigant*, or just me, because they do not have an attorney forgetting not having an attorney does not mean no desire or effort to find one was not made but because they have no choice and Richland County Court has decided "No attorney no justice in our court?" He also said the supervisor was Justice Beatty.

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I am asking if this is the appropriate method[1] that my case which I pray with every fiber of my being is the last time I have to ask for justice in South Carolina not be put before Judge Manning or Newman - ***that they recuse themselves*** according to ethical laws/rules.

I do not know if this is black on black discrimination, discrimination against pro se litigants, their friendship with Attorney Matthews or just plain hatred for pro se litigants or just this pro se litigant but -- ***permanent recusal*** please. I know when my name comes up everyone knows because there is only one *COURAM* in this state and I have been attempting to get justice since 2013 if not longer as a pro se litigant. Asking for recusal before Judge Manning or Newman would be denied because I believe the goal is to force me to appeal.

Sincerely,

Glenda Couram
104 Macaw Lane
Lexington, SC 29073
Pro se Litigant
803 358-0127

/gre

Attachments

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[1] If this must be done by Motion I will find the $25. Somewhere please let me know

STATE OF SOUTH CAROLINA COUNTY OF RICHLAND Glenda R. Couram Plaintiff, vs Nationwide Mutual Insurance Company, Titan Indemnity Company, Eugene Matthews, in his individual capacity dba Sherwood's Plumbing Services, LLC Sherwood F. Tidwell, Owner/Oper./Agent #30530 and Beatrice Tyree Tidwell Tracy Peer and Richard "Rick" Skurko, in their individual and official capacities Defendants.	IN THE COURT OF COMMON PLEAS FOR THE FIFTH JUDICIAL CIRCUIT CASE NO.: 2017-CP-40-04048 **PROPOSED ORDER** **JURY TRIAL DEMANDED**

This court has asked the Plaintiff who is pro se and the three attorneys in this matter to write the courts decisions in this matter. It is unclear to the plaintiff and in all the research and interviews had with attorney this is an unprecedented action by a judge.

It appears to give the advantage to the opposing attorney but the plaintiff acting pro se with truth and honesty has provided the following proposed Order in response to the Tidwell Proposed Order emailed to the court at 5 pm today March 5, 2018. The court has the history of this matter.

The Defendants assert that the court must be dismissed for the following reasons: (1) the matter is a duplicate matter arising out of what they have coined as "Tidwell I," the case was filed in this court under Glenda Couram v Sherwood Tidwell, 2016-CP-02350 and declared this matter currently before me is related to the same auto accident.[1]

[1] Plaintiff has filed a Notice of Appeal, Rule 59 Motion that was denied by the presiding Judge, and she has a *pending motion SCRCP 60(b).*

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The only cause of action alleged in that case was negligence. Tidwell and the insurance company admitted liability and on July 1, 2016 Judge Robert Hood find Tidwell liability. The trial took place on July 15, 2017 were a jury find Tidwell liable for causation and damages.

The plaintiff filed notice of Appeal case number 2017-002145.

CURRENT LITIGATION

I. The plaintiff filed this action currently before me on July 17, 2017 initially with an amended complaint filed and there is currently and renewed amended complaint before this court dated December 5, 2017 requesting to add two new defendants' claims adjusters for Nationwide and Titan insurance and another cause of actions Tortious Interference with Employment Relationship.

This suit alleges claims against Sherwood Tidwell Plumbing Service, LLC, and Beatrice Tyree Tidwell. Neither was named in the previous action.

The current causes of Action against these defendants are;

1. Intentional Infliction of Emotional Distress and Negligent Infliction of Emotional Distress against *all Defendants*
2. Vicarious Liability/Respondeat Superior as applicable, Negligent Entrustment, et.al (Sherwood Plumbing Service LLC and Beatrice Tidwell)
3. Civil Conspiracy *all Defendants*
4. Tortious Interference with Employment Relationship (Amended complaint dated December 5, 2017)
5. Punitive as deemed appropriate

These claims were not litigated in the previous action against these defendants. Therefore it is not understood were res judicata or collateral estoppel is applicable in this current matter.

STANDARD OF REVIEW

II. "Under Rule 12(b)(6), SCRCP, a defendant may move to dismiss a complaint based on failure to state facts sufficient to constitute a cause of actions." *Spence v Spence*, 368 S.C. 106,

116, 628 S.E.2d 869, 874 (2006). "A motion to dismiss under Rule 12(b)(6) should not be granted if facts alleged and inferences reasonably deducible therefore entitle the plaintiff to relief under any theory." Id. Furthermore, the complaint should not be dismissed merely because the court doubts the Plaintiff will prevail in the action. Id *Toussaint v Ham*, 292 S.C. 415, 357 S.E.2d 8 (1987).

Rather, "[t]he question to be considered is whether, in the light most favorable to the plaintiff, the pleadings articulate any valid claim for relief" *Williams v Condon*, 347 S.C. 227, 233, 553 S.E. 496, 499-500 (Ct. App. 2001); citing, *Toussaint v Ham*, 292 S.C. 415, 357 S.E.2d 8 (1987); *Cowart v Poore*, 337 S.C. 359, 523 S.E. 2d 182 (Ct. app. 1999). "If the facts allege and inferences reasonably deducible thereform, viewed in the light most favorable to the plaintiff, would entitle the plaintiff to relief on any theory, then dismissal under Rule 12(b)(6) is improper." *Baird v Charleston County*, 333 S.C. 519, 511 S.E.2d 69 (1999).

Moreover, novel issues should not be decided on a rule 12(b)(6), SCRCP motion. As a general rule, important questions of novel impression should not be decided on a Rule 12(b)(6), SCRCP, motion to dismiss." Plaintiff allege that claims adjuster in tort actions and their role is a novel question and further review of the tort of civil conspiracy and the question of whether presented below should be review by the courts in order to clarify the tort and its role.

Last, even if the Court determines the pleadings are deficient, plaintiffs should ordinarily be given leave to amend. *Dockside Ass'n, Inc. v Detyens, Simmons & Carlisle*, 297 S.C. 91, 91, 94, 374 S.E. 2d 907, 909 (Ct. App. 1988) ("where complaint is dismissed under rule 12 (b)(6), plaintiff should be granted leave to file an amended complaint") (citing *Foman v Davis*, 371 U.S. 178, 83 S. Ct. 277, 9 L.Ed.2d 222 (1962). See also, *Foman v Davis*, 371 U.S. 178, 83 s. Ct 227, 9 L. Ed. 2d 222 (1962) ("Leave to amend complaint should be freely given in absence of any

apparent or declared reasons such as undue delay, bad faith or dilatory motive on part of movant, repeated failure to cure deficiencies by amendments previously allowed, undue prejudice to opposing party by virtue of allowance of amendment, and futility of amendment.")

ARGUMENT

III. Plaintiff Has Properly Pled a Valid Claim Intentional Infliction of Emotional Distress under Tort Law and she had properly pled a claim for Negligent Infliction of Emotional Distress against the Defendants

A properly plead claim under IIED and NEID in tort law must allege

Defendant argues that plaintiff failed to make factual allegations from which the level of severity needed for a claim of IIED could be inferred. Defendant claims plaintiff merely faces everyday work-place stress and has not been subjected to emotional distress. On the other hand, plaintiff argues that defendant knew about her condition, intended to inflict emotional distress, and then did cause her to have severe emotional distress far beyond the accident.

In South Carolina a plaintiff alleging an IIED claim must show that (1) the defendant's conduct was extreme and outrageous, (2) that the defendant intended to inflict severe emotional distress *or knew that there was at least a high probability that his conduct would inflict severe emotional distress*, and (3) that the defendant's conduct did cause severe emotional distress. See *Ford v Hudson*, 276 S.C. 157, 276 S.E.2d 776

This matter is not about a car accident but the tortious acts of the defendants after the car accident. Plaintiff has alleged that the defendants' actions went beyond the bounds of decency and considered intolerable in a civilized community. *Honaker v. Smith*, 256 F.3d 477, 490 (7th Cir. 2001). Each particular case for IIED will be judged by an objective standard to determine whether the alleged conduct was extreme and outrageous.

The question for this court is whether or not the plaintiff has met the threshold to allow her claims to move forward it is not the duty of the court to weigh the evidence or decide that the plaintiff cannot win under any circumstances but whether or not she has alleged enough facts to move forward in this matter.

The Defendants are asking this court to weigh the evidence and look at matters that are well beyond the four corners of the Plaintiff's complaint and that is not the appropriate process and just because the plaintiff is a pro se litigant the court must be doubly careful to ensure substantial justice in this matter.

As the Defendants are well aware in order for this court to grant a motion to dismiss or judgment on the pleadings the court *must find the plaintiff cannot prove her cause under any set of facts and that is simply not true in this case.*

B. Plaintiff Properly Pled His Claim For Tortious Interference with Employment and contractual Relationship

In a "tortious interference" claim, the plaintiff alleges that her contract with another was damaged by a third party (the defendant) who acted in an improper manner to interfere with the contractual relationship. The plaintiff has provided factual information enough to allow this matter to move for and allowing the addition of this claim will not prejudice the defendants.

C. In Order for Res Judicata to Attached The Following Must Have Occurred

In Order for this to court to find res judicata and collateral estoppel applies in this matter it must find that a final judgment on the merits in the previous complaint named was before a court and actually heard and litigated that is not the case here:

Collateral Estoppel: The South Carolina Court of Appeals *Judy v Judy*, 384 S.C. 634 682 S.E.2d 836 (2009) discussing this matter states "Collateral estoppel, or issue preclusion,

prohibits a court from *adjudicating an issue that was "actually litigated and determined by a valid and final judgment" in a prior suit.* Zurcher v. Bilton, 379 S.C. 132, 135, 666 S.E.2d 224, 226 (2008). Collateral estoppel applies to specific issues, regardless of whether the claims in the first and subsequent suits are the same. Id. It applies only if "the *precluded party has had a full and fair opportunity to litigate the issue in the first action.*" Id

"Collateral estoppel is inapplicable because the probate court did not adjudicate the issue of fault for destruction of the dam." See Zurcher, 379 S.C. at 135, 666 S.E.2d at 226.

As the defendants are well aware that did not happen in the previous matter before Judge Newman the only matter litigated was Tidwell's Negligence as to the car accident and if he was the proximate and but for cause of the injuries suffered by the Plaintiff.

Res Judicata: The South Carolina Supreme Court in *Judy v Judy* 393 S.C.160, 712 S.E.2d 408 (2011) clarified when res judicata attaches - *See Aliff v. Joy Mfg. Co.*, 914 F.2d 39, 43 (4th Cir.1990) ("There is no simple test to determine what constitutes the same cause of action for res judicata purposes. Each case presents different facts that must be assessed within the conceptual framework of the doctrine.").

"Instead, we reiterate and *rely on the conceptual framework recognized in Plum Creek Dev. Co. v. City of Conway, 334 S.C. 30, 512 S.E.2d 106 (1999),* wherein we stated: Res judicata bars subsequent actions by the *same parties* when the claims arise out of the same transaction or occurrence that was the subject of a prior action between those parties. Under the doctrine of res judicata, [a] litigant is barred from raising any issues *which were adjudicated in the former suit and any issues which might have been raised in the former suit. Id.* at 34, 512 S.E.2d at 109 (citations omitted)."

"We believe this approach effectuates the fundamental purpose of *res judicata*, which is to ensure that "*no one should be twice sued for the same cause of action.*" *First Nat'l Bank of Greenville v. U.S. Fid. & Guar. Co.*, 207 S.C. 15, 24, 35 S.E.2d 47, 56 (1945).

As the defendants has stated "in the previous matter the only claim that was necessary to and litigated was ***related to the accident*** 1) there *was one claim* and it *was the only* claim *litigated that one claim was for negligence as to the automobile accident* 3) it was the only claim determined by the jury and it was the only claim necessary to that accident to which Tidwell was found wholly responsible." (Page 5 of the Tidwell Proposed Order).

It is this court's finding that res judicata and collateral estoppel does not prevent the plaintiff from bringing the current matter before this court because not one of the claims presented here were litigated, nor was it foreseeable that such claims would have come up out of the previous action.

D. Plaintiff has Properly Pled Her Claim for Common Law Civil Conspiracy with Special Damages

It is this courts determination that the plaintiff has in fact alleged a civil conspiracy claim adequately under South Carolina Law.

Pursuant to well establish laws the tort of civil conspiracy has three elements: 1) a combination of two or more persons, 2) who conspire for the purpose of injuring the plaintiff, and 3) causing special damages.

The Defendants argue that Plaintiff does not allege special damages as required by the law. The plaintiff has pled special damages clearly in the Amended complaint dated July 16, 2017 and in the Amended Complaint dated December 5, 2017 she alleged special damages with greater specificity. Special damages are described as out of pocket expenses that can be calculated such as lost pension with a dollar amount, lost retirement with a dollar amount, loans

to pay mortgage with a dollar amount, lost monies for payment of student loans, late charges on credit cards, and mortgage payments, out of pocket legal cost, immediate medical costs, etc.

The plaintiff properly alleges claim for civil conspiracy, including special damages (see Amended complaint page 11 and the December complaint page 10-11).

She alleges that each individual defendant was acting as one conspired, combined, schemed and planned to orchestrate an agenda with the help of a sitting Judge to cause her demise and financial devastation. These damages are special in that they are different from other damages, including out of pocket legal costs which would not have come about without an unlawful civil conspiracy between the individual defendants named.

What's more the emotional damages alleged are distinct and unique. Plaintiff asks for awards of mental and emotional damages specifically caused by the conspiracy in addition to the emotional damages she suffered as a result of the other causes of action.

The plaintiff if she should recovery would not be in risk of double recovery.

A recent decision by the South Carolina Supreme Court decision makes it apparent that there should not be such a requirement of proof of special damages at the pleading stage. See *Allegro, Inc. v Synergetic, Inc., et.al.* Op. No. 27662 (S.C. S. Ct. filed August 24, 2016). The court went on to say that the change due to that case's age and procedural posture, it is clear that there is no such pleading requirement.

The defendants seek to dismiss Plaintiff's claims for negligent entrustment, intentional and negligent infliction of emotional distress, tortious interference with employment which would render her civil conspiracy claims moot.[2] Double recovery would not attach.

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[2] The third element of civil conspiracy, special damages, must be satisfied to prevent a double recovery, Kuznik v Bess Ferry Assocs., 342 S.C. 570, 610, 538 610 538 S.e.2d 15, 31 (Ct Appt 2000). See also Anthony v Ward, 336, fed. Appx 311, 318 (4th Cir. 2009) (unpublished opinion) (interpreting South Carolina civil conspiracy law and recognizing: the case law makes clear that the concern is with the plaintiff receiving a double recovery").

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E. Tortious Interference

Ins't it well established law that a person have to suffer and injuries and damages in order to sue someone? The plaintiff brought the only cause she could bring at the time it was not forseeable by her the level the defendants would go to cause her further harm, distress and mental anguish leading to financial devastation, emotional distress, etc.,

According to South Carolina Supreme Court in *16 Jade St., LLC v. R. Design Const. Co., LLC.*, 398 S.C. 338, 728 S.E.2d 448 (2012), reh'g granted (May 4, 2012), opinion withdrawn and superseded on reh'g sub nom. 405 S.C. 384, 747 S.E.2d 770 (2013) the South Carolina Supreme court found "that the Limited Liability Company Act (the "Act") *does not shield an LLC member from liability for his own torts, but rather protects only non-tortfeasor members from vicarious liability.*"

As is clear in the caption the plaintiff sued the LLC and Beatrice T. Tidwell not Sherwood Tidwell as an individual she sued him not as related to a breach of a contract case but or as an insured under Nationwide but under the tort laws of the State of South Carolina laws which makes him liability under the LLC and as the plaintiff can sue anyone who has caused her harm thru a tort Beatrice Tidwell can be named as a litigant because each is *personally liable to the plaintiff.*

As this maybe a novel questions it is not subject to dismissal under SCRCP Rule 12.

There is also the issue of the claims adjusters responsibility which could also be a novel question for this state and to the public to determine if they be held tortuously liable if an individual is harmed without reason or cause when they make themselves part of the process such as the named defendants holding out hope and dispensing delay.

CONCLUSION

This court, for the foregoing reasons must deny the defendants Motions to Dismiss including the Motion for Judgment on the Pleadings filed by pro se litigant Matthews.

The Plaintiff has submitted enough *facts that must be taken as true* by this court under well established law as to several issues that exist in the four corners of her compliant. This court also must view the evidence in light must favorable to the Plaintiff as well as view this matter according to well established laws relating to a pro se litigants despite the courts limited experience with such litigants.

In so applying well established law and to ensure justice this court must DENY the defendants' request to Dismiss and

Defendants' Motion for Judgment on the Pleadings is DENIED.

It must also GRANT Plaintiff's request to amend.

It is also the Order of this court to DENY the defendants' requests to take away the Plaintiff's rights under the South Carolina Constitution and the US Constitution. It also shocks this court's conscious that such a request was made by the attorneys with their knowledge of the judicial systems.

Merely because a layperson can go onto the internet in these times and learn does not automatically make them and expert and a match for the courts or attorneys. What it makes them is a person seeking justice in the manner society and the legal system require. Just because an attorney does not take a case does not make the cause frivolous if filed and to allow attorneys the power to determine who has access to the courts is unconstitutional.

The Motion for Sanctions is DENIED, to allow such a requests hidden/buried in Orders written by opposing counsel for Judges goes against sound precedent and well established law and

goes against public policy and does not allow for justice to all instead it gives attorneys a license to decide who has access to the legal system.

IT IS SO ORDERED

The Honorable G. Thomas Cooper, Jr.
Presiding Judge
Fifth Judicial Circuit

_____, 2018
Columbia, South Carolina

Please excuse typos and grammar mistakes.[3]

[3] I also find that an established attorneys such as Matthews, et.al. provided an abundant of unnecessary information in an possible attempt to abuse the legal process, to prejudice the court and cause confusion and to obtain an illegal act by legal means.

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOR THE FIFTH JUDICIAL CIRCUIT
COUNTY OF RICHLAND	)	CASE NO.: 2017-CP-40-04048
	)	
Glenda R. Couram	)	
Plaintiff,	)	
vs	)	
	)	
Nationwide Mutual Insurance Company,	)	
Titan Indemnity Company,	)	
Eugene Matthews, in his individual capacity	)	
dba Sherwood's Plumbing Services, LLC	)	
Sherwood F. Tidwell, Owner/Oper./Agent	)	
#30530 and Beatrice Tyree Tidwell	)	
Tracy Peer and Richard "Rick" Skurko, in	)	
their individual and official capacities	)	
Defendants.	)	JURY TRIAL DEMANDED
	)	

MEMORANDUM IN SUPPORT OF ORDER DENYING DEFENDANTS MOTION TO DISMISS AND JUDGMENT ON THE PLEADINGS FOR FAILURE TO STATE A *CAUSE OF ACTION WERE RELIEF CAN BE GRANTED*

I. BAD FAITH

1. The Plaintiff has not alleged a claim of **"bad faith"** against the defendants. The Plaintiff's complaint cannot be dismissed based on *bad faith* when there is no mention of this claim within the four corners of the complaint filed by the plaintiff. It is well established law that a Plaintiff is the master of her complaint.

2. The complaint before the court is for tortious actions by the defendants against the plaintiff the causes of action are:

a. Intentional and Negligent Infliction of Emotional Distress

b. Vicarious Liability/Respondeat Superior and/or Negligent Entrustment

c. Civil Conspiracy

d. Punitive Damages

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c. Tortious Interference with Economic and Business Relationship Employment with legal malice (Pending Approval of December 5, 2017 complaint)

3. In the complaint currently before the court dated July 17, 2017 and the one amended on December 5, 2017.

4. The plaintiff is alleging negligent infliction of emotional distress not as a result of the car accident but as a result of the defendants' tortious behavior/actions towards her well after the car accident therefore the ***bystander rule*** would not apply.[1]

5. A claim for IIED and NIED distress does not require physical injury but reaches beyond the physical into *emotional, mental anguish* resulting from the physical injuries which has and will have a devastating and long term and permanent impact on the plaintiff's life resulting in her inability to ever make a living.

6. In order for the Plaintiff to be eligible for help in Vocational Rehabilitation of South Carolina she must have had a documented mental and physical injuries based on her medical records. She has met that threshold and is a client of Vocational Rehabilitation.

7. In order for the Plaintiff to allege a claim under intentional infliction and negligent infliction of emotion distress she must allege outrageous conduct by the defendants:

> "Outrageous conduct has been defined as conduct that is 'so extreme as to exceed all bounds of that usually tolerated in a civilized community' [citation] and 'so extreme and outrageous "as to go beyond all possible bonds [sic] of decency, and to be regarded as atrocious, and utterly intolerable in a civilized community."' [Citations.] As the court observed in Newby v. Alto Riviera Apartments [1976] 60 Cal.App.3d [288,] 297, 131 Cal.Rptr. 547, '[b]ehavior may be considered outrageous if a defendant (1) *abuses a relation or position which gives him power* to damage the plaintiff's interest; (2) knows the plaintiff is susceptible to injuries

[1] Plaintiff is not bringing this action as a result of an automobile accident that matter is pending *before the SC Court of Appeals and Rule 60(b) Motion pending before this court.*

through mental distress; or (3) acts intentionally or unreasonably with the recognition that the acts are likely to result in illness through mental distress.'" (Bogard v. Employers Casualty Co. (1985) 164 Cal.App.3d 602, 616, 210 Cal.Rptr. 578.)

FACTUAL HISTORY OF PANIC ATTACKS

7. Plaintiff suffers from severe panic attacks which limit her ability to re enter the work force and she will be getting counseling provided by Vocational Rehabilitation. The last severe attack occurred on February 7, 2018 in public at the SC State Museum and February 12, 2018 outside the Richland County Courthouse. She also suffers documented break out of fever blisters due to the stress and anxiety the last severe break out occurred during the July 15, 2017 trial.

8. Personal injury, or tort, law, allows a person to recover in civil court for the physical, emotional and/or financial injury caused to them by an outside party. The emotional component of personal injury is most often represented by claims of negligent or intentional infliction of emotional distress. Neither of these claims necessarily involves physical injury.

9. In 1998, the North Carolina Supreme Court in *McAllister v. Ha*, 347 N.C. 638, 496 S.E.2d 577 (1998), stated that when a plaintiff asserts a claim of NIED, "[a]lthough an allegation of ordinary negligence will suffice, a plaintiff must also allege that severe emotional distress was *the foreseeable and proximate result of such negligence* in order to state a claim; mere temporary fright, disappointment or regret will not suffice." *McAllister*, 347 N.C. at 645, 456 S.E.2d at 583 *quoting Johnson v. Ruark Obstetrics & Gynecology Assoc., P.A.*, 327 N.C. 283, 395 S.E.2d 85 (1990).

10. In her claims the Plaintiff has alleged the defendants' actions have amounted to extreme and outrageous conduct resulting in plaintiff's suffering extreme and severe mental distress,

physical and financial loss. *McAllister*, 347 N.C. at 641, 456 S.E.2d S.E.2d at 580. (*See Amended Complaint dated December 5, 2017*)

11. *See Simmons v. Chemol Corp.*, 137 N.C. App. 319, 325, 528 S.E.2d 368, 371-72 (2000) ("An action for negligent infliction of emotional distress requires a showing that defendant negligently engaged in conduct, which was reasonably foreseeable to cause, and did in fact cause, plaintiff to suffer severe emotional distress."); *Johnson v. Scott*, 137 N.C. App. 534, 538, 528 S.E.2d 402, 404 (2000)(stating the elements for a claim NIED as: "(1) the defendant negligently engaged in conduct,(2) it was reasonably foreseeable that such conduct would cause the plaintiff severe emotional distress (often referred to as "mental anguish"), and (3)the conduct did in fact cause the plaintiff severe emotional distress") *citing Johnson v. Ruark Obstetrics & Gynecology Assoc., P.A.*, 327 N.C. at 304, 395 S.E.2d at 97.[2]

12. All of the Defendants investigated the Plaintiff, subpoenaed the Plaintiff's medical records both family doctor and mental health records and employment records twice the last going back 10 years – they obtained not the physical records by the mental health records; the employer supplied every aspect of the plaintiff history from the day of her employment in 2006, her FMLA records and information on her ADA request and diaries including being in constant contact with the attorney of the employer. There was nothing the Defendants via the submission by the plaintiff and subpoenas did not know about the plaintiff *most importantly her mental health issues* as the plaintiff prior to September 18, 2015 no physical issues or problems with knees, shoulder or back. The pro se defendant Matthews has referred to the Plaintiff as being "divorced from realty" statements made in writing to the investigator of the SC Human Affairs

[2] It was already ruled via Court Order of Judge Robert Hood dated July 1, 2017, admission by the insurance company and attorney for Tidwell that he was liable. The Jury on July 15, 2017 ruled that the accident was the cause of the physical injuries resulting from Tidwell's negligence.

Commission and the EEOC. In 2013, he made the same such statements to the SC Human Affairs Commission which are outside the purview of the courts and admission under the Freedom of Information Acts to show his complete knowledge of the Plaintiff and her mental health. He made that information made known to Tidwell and Nationwide, et. al., even after the hearing on February 12th, 2018, the defendants continued to "play" heap psychological torture the Plaintiff.

13. The defendants decided to on February 12, 2018 to display their complete disregard and distain for the plaintiff by duplicating the actions of Matthews and Tidwell in 2017 this time adding Nationwide, et.al

14. They decided it was a good idea to replay the incident related in the courtroom before Judge Cooper - Matthews knowing of the Plaintiff's public panic attack on February 7, 2018 continued bedeviling the plaintiff on February 12, 2018 with the assistance of Nationwide, et.al., who was aware of their report to the Lexington County Sheriff reporting the Plaintiff as suicidal and Tidwell when they gathered outside the courthouse in full view of the plaintiff laughing and talking causing her to have another attack were she could not go to her car but go behind a pillar to cope.

15. *They acted as bullies in a school yard torturing the fragile because they were bigger and stronger. They were also aware the plaintiff was a client of Vocational Rehabilitation and was having continued emotional distress*

16. Plaintiff has alleged that (1) the defendants negligently engaged in conduct, (2) it was reasonably foreseeable that such conduct would cause plaintiff severe emotional distress . . ., and (3) the conduct did in fact cause plaintiff severe emotional distress."

17. See Wrenn v. Byrd, 120 N.C. App. 761, 464 S.E.2d 89, disc. review denied, 342 N.C. 666, 467 S.E.2d 738 (1996), were the NC Supreme Court held that "that the emotional distress suffered by plaintiff was foreseeable." "We stated that "proof of knowledge by the defendant of the plaintiff's peculiar susceptibility to emotional distress is required only if the conduct of the defendant would not have caused injury to an ordinary person." Wrenn at 767, 464 S.E.2d at 93 The defendants knew of the Plaintiff's loss of employment and proceeded with full knowledge to devastate her financially, emotionally and physically.

18. While the Defendant did not know of the plaintiff's existence in September 2015, when she was found by Tidwell, they were very much aware of her existence and mental health issues after that date starting in mid 2016, particularly after subpoenaing the Plaintiff's medical records mid 2016 and into April 2017 when they subpoenaed the Plaintiff employment records for the second time supplying her ADA records and medicals along with FMLA records, emails and medicals.

19. The plaintiff has alleged all the elements of IIED and NIED including *outrageous* conduct of the Defendants which is all that is required of her at this stage of this matter she is not *required to prove the allegations*, the plaintiff must only ALLEGE these grounds, not prove them; and the court must construe that all allegations are true, for the purposes of deciding whether to dismiss. The FACTS of the matter are to be decided later, by a jury at trial.)

20. The plaintiff has also alleged the defendants in their efforts to devastate the plaintiff emotionally and financially enlisted the help of a sitting Judge which this court must also accept as true a fact that must be proven thru discovery, transcript and trial.

21. Negligent Infliction of Emotional Distress is the "lesser" of the two personal injury actions because it can encompass activity that was accidental. To succeed in an NIED claim in

North Carolina, the plaintiff, or injured person or their estate, must prove: 1)The defendant behaved negligently; it was reasonably foreseeable that such behavior would cause severe emotional distress to the plaintiff; and the conduct actually did cause the plaintiff severe emotional distress

22. As to what constitutes severe emotional distress, the courts require that it rise above the level of *temporary fright, regret or disappointment*. Rather, the plaintiff must be able to show that she suffers from a severe and disabling emotional or mental disorder that mental health professionals generally recognize and diagnose, such as chronic depression, neurosis, psychosis or phobia. Plaintiff has been diagnosed with chronic anxiety, stress, ptsd, panic attacks and depression. She prescribed multiple anxiety medications including xanax.

23. Plaintiff has severe issues with driving long distances so much so that she has to bring her dog along to prevent her from turning around. She has severe anxiety with cars following behind her were her attention is more on what is behind her instead of in front of her making her a danger to others on the roads.

24. She rarely leaves unless for an appointment or to comply with vocational rehabilitation requirements such as her counseling sessions and ensuring she is at the center regularly to remain a client.

25. Plaintiff continues to suffer as a result of the actions of the defendants beyond 2015, 2016, 2017 into 2018 and as it stands she will suffer even more so when she can no longer beg and borrow help.

26. The Plaintiff causes none of the *atrocities inflicted* upon her both physically and emotionally. She was an innocent of the actions of the defendants even being called for Jury duty on March 12, 2018.

CIVIL CONSPIRACY

27. The plaintiff has more than presented case for civil conspiracy. She has alleged there were two or more defendants with a single mind set combined for the express purpose of injuring her. See *McMillan v. Oconee Mem'l Hosp., Inc.*, 367 S.C. 559, 564, 626 S.E.2d 884, 886 (2006).

"... the primary inquiry in civil conspiracy is whether the principal purpose of the combination is to injure the plaintiff. *Pye v. Estate of Fox*, 369 S.C. 555, 567, 633 S.E.2d 505, 511 (2006). "Conspiracy may be inferred from the very nature of the acts done, the relationship of the parties, the interests of the alleged conspirators, and other circumstances." *Peoples Fed. Sav. & Loan Ass'n of S.C. v. Res. Planning Corp.*, 358 S.C. 460, 470, 596 S.E.2d 51, 57 (2004). "Civil conspiracy involves acts that are by their very nature covert and clandestine and usually not susceptible of proof by direct evidence." *McMillan*, 367 S.C. at 564, 626 S.E.2d at 886. *The purpose of the acts must be foreseeable that the act will cause injury to the Plaintiff and need not be unlawful. Allegro, Inc. v. Scully*, 418 S.C. 24, 32, 791 S.E.2d 140, 144 (2016) *reh'g denied* (Oct. 26, 2016). Those defendants are Matthews, Tidwell, Nationwide and Titan a prime example is their actions on February 12, 2018.

28. It is very clear that the purpose of the defendants was to devastate the Plaintiff. The combined actions were to injure and cause damage to the Plaintiff which they accomplished quite effectively financially.[3] See *Pye*, 369 S.C. at 567, 633 S.E.2d at 511 (quoting *Lee*, 289 S.C. at 13, 344 S.E.2d at 383).

30. Plaintiff has stated special damages to be proven at trial. (Factual damages her home in constant state of foreclosure accruing late charges, late charges on credit cards, and signature

[3] Matthews showed up at Voc Rehab on January 16th after the MLK holiday he claimed in the court on February 12, 2018 that he was there as an attorney for Voc Rehab., when the Plaintiff spoke with her counselor Tammy about seeing Matthews she was told he had no reason to be on campus particularly in the client area dorms, etc., and she stated he was not the attorney for Voc Rehab.

loan, she has used all pension and retirement totaling ten thousand plus (10k), she has gone into debt to her abuser for over six thousand (S6); plaintiff has out of pocket medical expenses, late charges, etc., past and future economic loss.

31. The gravamen of a civil conspiracy claim is the damage resulting to the plaintiff from the acts taken in furtherance of the combination; accordingly, the damages alleged must go beyond the damages alleged in other causes of action. *Pye*, 369 S.C. at 568, 633 S.E.2d at 511. "Special damages must be alleged in the complaint to avoid surprise to the other party." *Sheek v. Lee*, 289 S.C. 327, 329, 345 S.E.2d 496, 497 (1986).

32. It was clearly foreseeable that the actions of the defendants would harm the plaintiff. Baynard v. Malone, 268 F.3d 228 ,234-35 (4th Cir. 2001) ("The question is whether a jury, viewing the evidence in the light most favorable to [the non-moving party], could have properly reached the conclusion reached by this jury.").

33. Island Car Wash, Inc. v. Norris, 358 S.E.2d 150, 153 (S.C. Ct. App. 1987) (noting also that "concert of action, amounting to a conspiracy, may be shown by circumstantial as well as direct evidence").

34. See Charles v. Texas Co., 18 S.E.2d 719 (S.C. 1942)

The plaintiff has more than met the standard as to a motion to dismiss and judgment on the pleadings. She has alleged enough *factual allegations which this court must take as true and it must deny the motion to dismiss her civil conspiracy claims at this early stage of this action.*

35. See Anthony v Ward, 07-0932 (4th Circuit 2009) (unpublished). Including alleging *Special Damages* with facts and additional factual information at trial.

INTENTIONAL INFLCITION OF EMOTIONAL DISTRESS

36. Plaintiff is an almost 60 year old black woman who has never had to beg for anything in her entire life. She has suffered humiliation in applying for food stamps, having to go to charity agencies to try for help with her utility bills only to show up and be told without a job there is no help for her or without children there is no help for her, sitting and crying at the humiliation. Going shopping in an area she has lived in since 1994 with food stamps before people who know her.

37. Matthews showed up at Voc Rehab on January 16th after the MLK holiday he claimed in the court on February 12, 2018 that he was there as an attorney for Voc Rehab., when the Plaintiff spoke with her counselor Tammy about seeing Matthews she was told he had no reason to be on campus particularly in the client area dorms, etc., and she stated he was not the attorney for Voc Rehab.

38. Constant and several times a day receiving phone calls from creditors the humiliation of explaining daily why she cannot pay her bills any longer.

39. Daily fear of loss of home she has gone into bankruptcy for in 2004 and was able to get out in 2009, getting her credit repaired only to have the defendants destroy it all over again. And at 60 years old history is repeating itself were she had her life planned.

40. Daily fear of losing her dog she got for the sole purpose of helping her stay employed now looking at her daily knowing when the money runs out she will have to give her away like a mother giving away a child. Negligently her dog because she is in a constant state of pain and depression.

41. The Plaintiff has alleged the defendants conduct were extreme and outrageous. Calling and reporting the Plaintiff as being suicidal, reporting her to the Lexington County

Sheriff Department as suicidal causing police attention for 45 minutes and then despite the plaintiff protest having EMS come out to take her.

42. The Defendants knew the plaintiff was vulnerable their actions did in fact cause the Plaintiff's emotional distress beyond the norm and the bounds of decency. They simply decided that defending an innocent victim was far more important than the fact the plaintiff had no done any wrong to any one

43. This unfound action can be nothing but outrageous the actions are severe with the emotionally distress manifesting itself in public panic attacks, inability to function on a daily basis, inability to work to earn a living the distress has lasted to the extreme from the time of the plaintiff termination to this date and is permanent result in the need for counseling.

44. Plaintiff has alleged enough facts to allow her NIED claims to move forward she has alleged the defendants negligently engaged in conduct that was reasonable foreseeable would cause her physical and mental harm and their conduct did in fact cause the Plaintiff emotional distress, mental anguish, harm and damage. See Johnson v. Ruark Obstetrics & Gynecology Assocs., P.A., 327 N.C. 283, 304 (1990).

45. The defendants were not happy with causing physical harm to the plaintiff but went well beyond and caused her mental distress and harm to include loss of employment as a direct result of their actions and her emotional and financial ruin.

46. See Holderfield v. Rummage Bros. Trucking Co., 232 N.C. 623, 625 (1950) ("the tortfeasor is liable for all damages which may naturally and proximately result from his wrong without regard to whether he could have foreseen such injurious result."). "Under our general rules of negligence, a tortfeasor is liable if, by the exercise of reasonable care, he might have foreseen that some injury would result from his conduct or that consequences of a generally

injurious nature might have been expected." Slaughter v. Slaughter, 264 N.C. 732, 142 S.E. 2d 683 (1965). "A tortfeasor is liable to the injured party for all of the consequences which are the natural and direct result of his conduct although he was not able to have anticipated the peculiar consequence that did ensue." Lockwood v. McCaskill, 262 N.C. 663, 670, 138 S.E. 2d 541, 547 (1964). "It does not matter that [the particular consequences] are unusual, unexpected, unforeseen, and unforeseeable." Wyatt v. Gilmore, 57 N.C. App. 57, 58 (1982). The only limit on this recovery are damages which are speculative or "remote." "A wrong-doer is liable for all damages which are the proximate effect of his wrong, and not for those which are remote . . . ."

47. This court must accept the allegations as to the NIED and IIED as true. The plaintiff has alleged claims that would all any normal person to stay "outrageous". The Defendants' request for Dismissal and Judgment on the Pleadings must be denied at this stage of this actions.

COLLATERAL ESTOPPEL

48. See *Judy v. Judy,* 383 S.C. 1, 7, 677 S.E.2d 213, 217 (Ct.App.2009). The party asserting collateral estoppel must demonstrate that the issue in the present lawsuit was:

(1) actually litigated in the prior action;

(2) directly determined in the prior action; and

(3) necessary to support the prior judgment.

49. *Beall v. Doe,* 281 S.C. 363, 369 n. 1, 315 S.E.2d 186, 189-90 n. 1 (Ct.App.1984). "must have had "*a full and fair opportunity to previously litigate the issues.*" *Snavely v. AMISUB of S.C., Inc.,* 379 S.C. 386, *555 398, 665 S.E.2d 222, 228 (Ct.App.2008).

50. The doctrine of collateral estoppel should not be rigidly or mechanically applied. *Carrigg v. Cannon,* 347 S.C. 75, 81, 552 S.E.2d 767, 770 (Ct.App.2001).

56. See "*Richburg v. Baughman*, 290 S.C. 431, 434, 351 S.E.2d 164, 166 (1986); *see also Shelton v. Oscar Mayer Foods Corp.*, 325 S.C. 248, 251, 481 S.E.2d 706, 707 (1997).

57. "[T]he term "privity," when applied to a judgment or decree, means one so identified in interest with another that he represents the same legal right.'" *Allstate*, 339 S.C. at 207, 528 S.E.2d at 681 (quoting *Roberts v. Recovery Bureau, Inc.*, 316 S.C. 492, 496, 450 S.E.2d 616, 619 (Ct.App. 1994)). As the *Wade* court explained:

58. For purposes of collateral estoppel, privity turns on the relationship to the subject matter litigated in the prior proceeding, not personal relationships to each other. For the sake of privity, the question is whether the Plaintiff had a full and fair opportunity to litigate the issues of this actions/litigation.

59. The answer is no the plaintiff could not have brought these claims previously because she had not suffered the damages alleged.

IN CONCLUSION

60. The court must deny the Defendants' Motion to Dismiss and Motion for Judgment of the Pleading there is no basis for dismissal and the defendants cannot show that the claims in this action had been litigated previously, they cannot show collateral estoppel and they cannot show the plaintiff has not pleaded enough facts were relief cannot be granted.

Respectfully submitted by,

Glenda Couram

Glenda R. Couram
104 Macaw Lane
Lexington, SC 29073
grcouram@hotmail.com
803 358-0127

RE: REQUEST FOR ADDITIONAL TIME TO FILE "ORDER"

Cooper, G. Thomas Law Clerk (Jamie Rutkoski) <GCooperLC@sccourts.org>
Tue 2/20/2018, 7:31 PM

To: glenda c <grcouram@hotmail.com>; Cooper, Gordon G. <gcooper@spartanburgcounty.org>
Cc: CLAWSON AND STAUBES LLC <jspitz@clawsonandstaubes.com>;
jrmurphy@murphygrantland.com <jrmurphy@murphygrantland.com>;
gmatthews@richardsonplowden.com <gmatthews@richardsonplowden.com>

Ms. Couram,

We heard several motions in regards to your case, so the order would simply need to explain how you wish the court to rule on each of the motions and why. Judge Cooper will allow for the extension and give you a full 20 days to submit the proposed order.

Thank you,

Jamie Rutkoski
Law Clerk to the Honorable G. Thomas Cooper, Jr. and the Honorable Jean H. Toal
Circuit Court of South Carolina
1121 Broad St., Rm. 313
Post Office Box 1557
Camden, SC 29021
Phone: (803) 425-7182
Fax: (803) 425-5529

From: glenda c [mailto:grcouram@hotmail.com]
Sent: Tuesday, February 20, 2018 1:57 PM
To: Cooper, G. Thomas Law Clerk (Jamie Rutkoski) <GCooperLC@sccourts.org>; Cooper, Gordon G. <gcooper@spartanburgcounty.org>
Cc: CLAWSON AND STAUBES LLC <jspitz@clawsonandstaubes.com>; jrmurphy@murphygrantland.com; gmatthews@richardsonplowden.com
Subject: REQUEST FOR ADDITIONAL TIME TO FILE "ORDER"

Judge Cooper

As a pro se I am having difficulty in figuring out what you want in "this order." I have an appointment to speak with an attorney to get some direction as to what you want. I thought maybe you wanted what I would be willing to settle for but I cannot image that is the case.

I have put before the court already why this matter is not subject to dismissal at this stage so to ensure I am complying with what you are asking I have made an appointment to speak with an attorney.

Please allow me a full 20 days to submit to the court the "order" from me which will make the "order" due between now and March 4, 2018.

Glenda Couram

803 358-0127

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STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

IN THE COURT OF COMMON PLEAS

CIVIL ACTION NO: 2017-CP-40-4048

Glenda R. Couram,

Plaintiff,

vs.

Nationwide Mutual Insurance Company, Titan Indemnity Company, Eugene Matthews, in his individual capacity, Sherwood's Plumbing Services, LLC, and Sherwood Tidwell, Owner/Operator/Agent, and Beatrice Tyree Tidwell,

Defendants.

ORDER GRANTING DEFENDANTS SHERWOOD TIDWELL, "SHERWOOD'S PLUMBING SERVICES, LLC," AND BEATRICE TYREE TIDWELL'S MOTION FOR JUDGMENT ON THE PLEADINGS AND FOR SANCTIONS AGAINST PLAINTIFF AND DENYING PLAINITFF'S MOTION FOR LEAVE TO AMEND HER COMPLAINT

This matter is before the Court on Defendants' Motion for Judgment on the Pleadings and Plaintiff's Motion for Leave to Amend her Complaint. A hearing on the motions was held on February 12, 2018. Jescelyn Spitz appeared on behalf of Sherwood Tidwell, "Sherwood's Plumbing Services, LLC," and Beatrice Tyree Tidwell. The Plaintiff appeared *pro se*. For the reasons set forth below, Defendants' Motion is GRANTED and Plaintiff's Motion is DENIED.

I. FACTUAL AND PROCEDURAL HISTORY

a. "Tidwell I"

This action arises out of a motor vehicle accident that occurred September 18, 2015, which involved the Plaintiff and Defendant Sherwood Tidwell. Prior to filing this lawsuit, the Plaintiff filed a lawsuit captioned *Glenda R. Couram v. Sherwood Tidwell*, 2016-CP-40-02350 ("Tidwell I"), in the Richland County Court of Common Pleas. "Tidwell I" was related to the same motor vehicle accident, which occurred September 18, 2015, that is referenced in this case.

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The Plaintiff alleged negligence in "Tidwell I", and Defendant Tidwell admitted he was at fault in the September 18, 2015 accident. The case proceeded on the issues of causation and damages. On February 16, 2017, Defendant Tidwell filed an Offer of Judgment pursuant to Rule 68 of the South Carolina Rules of Civil Procedure, in which he offered the sum of Twenty Thousand Dollars ($20,000.00) to Plaintiff in full compromise and settlement of her claims. Plaintiff rejected Defendant's offer, and a jury trial commenced on June 15, 2017. On June 16, 2017, the jury returned a unanimous verdict in favor of the Plaintiff in the amount of one thousand dollars ($1,000.00). Plaintiff then filed post-trial motions in which she requested the entry of "judgment notwithstanding the verdict ..., [a] new trial or additur." Defendant opposed Plaintiff's motion and also filed a statement of costs in connection with his Offer of Judgment. The Honorable Jocelyn Newman denied Plaintiff's post-trial motions and granted Defendant Tidwell's motion for costs on October 4, 2017. Plaintiff submitted a Notice of Appeal to the South Carolina Court of Appeals on October 12, 2017. Subsequently, Defendant Tidwell filed a motion to pay funds into the court, which was granted by Judge Newman on November 16, 2017. The Plaintiff's appeal, 2017-002145, is currently pending in the South Carolina Court of Appeals.

b. Current Lawsuit

Plaintiff has alleged the following causes of action against Defendants Sherwood Tidwell, "Sherwood's Plumbing Services, LLC," and Beatrice Tyree Tidwell[1]:

[1] Plaintiff's Second and Third Causes of Action are not stated against Defendants Sherwood Tidwell, "Sherwood's Plumbing Services, LLC," or Beatrice Tyree Tidwell. Plaintiff's alleged Fifth Cause of Action, "Punitive Damages" is not a cause of action but rather a type of damages sought by Plaintiff.

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1. "First Cause of Action: "Vicarious Liability/Respondeat Superior Negligent Entrustment and or (Common Law Negligence if applicable) South Carolina Ann. Code § 15-3-530(5)"
2. "Fourth Cause of Action: Common Law Civil Conspiracy with Special Damages South Carolina Ann. Code §§ 15-3-530(5)"
3. "Fifth Cause of Action: "Punitive Damages SC. Ann. Code §§ 15-32-510 et. al. and 56-5-1520"

Section III of Plaintiff's Amended Complaint is titled "Facts Common to All Causes of Action," wherein Plaintiff has grouped together all factual allegations rather than including separate factual allegations related to each separate cause of action. All of Plaintiff's factual allegations clearly and plainly relate to "Tidwell I."

c. Plaintiff's Proposed Second Amended Complaint

Plaintiff filed a Motion for Leave to Amend her Complaint on December 6, 2017. She seeks to amend her Amended Complaint to add a sixth Cause of action for "Common Law Tortious Interference with Economic, Business Relationship and Legal Malice." Pursuant to Ross v. Life Insurance Co. of Virginia, 273 S.C. 764, 766 (1979), the Court construes the proposed amendment as a claim for tortious interference to a contract. The Plaintiff essentially alleges that the Defendants interfered with her "business relationship" with her employer, the South Carolina Department of Motor Vehicles (SCDMV). She alleges the Defendants interfered by "subpoenaing her employment records twice, eliciting help from two other attorneys to call the plaintiff employer and emailing her to instigate a employment problem that directly lead to her termination" [sic]. (Proposed Second Amended Complaint, ¶ 79). She further alleges that Defendants' "unnecessary contact"

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with the SCDMV and the SCDMV's attorney, Eugene Matthews disrupted "the relationship leading to Plaintiff termination." (Proposed Second Amended Complaint, ¶ 80).

II. OPINION OF THE COURT

a. Defendant's Motion for Judgment on the Pleadings and Sanctions

i. Res Judicata and Collateral Estoppel

The Plaintiff is clearly attempting to assert and/or expand the same allegations of "Tidwell I." The Plaintiff fully litigated "Tidwell I" and achieved a verdict in her favor. As noted above, "Tidwell I" is currently on appeal in the South Carolina Court of Appeals. It is clear that this lawsuit reasserts and expands on allegations she made in "Tidwell I," Plaintiff is estopped from litigating these claims a second time; she was given her day in court and won, although she was apparently disappointed with the jury's verdict.

"The doctrine of res adjudicata (or res judicata) in the strict sense of that time-honored Latin phrase had its origin in the principle that it is in the public interest that there should be an end of litigation and that no one should be twice sued for the same cause of action." First Nat'l Bank v. United States Fid. & Guar. Co., 207 S.C. 15, 24 (1945). "Under this doctrine, a final judgment on the merits in a prior action will conclude the parties and their privies in a second action based on the same claim as to the issues actually litigated and as to issues that might have been litigated in the first action." Sub-Zero Freezer Co. v. R.J. Clarkson Co., 308 S.C. 188 (1992).

To establish res judicata, the defendants must prove three elements: (1) identity of the parties; (2) identity of the subject matter; and (3) adjudication of the issue in the former suit. Sealy v. Dodge, 289 S.C. 543 (1986). It is undeniable that the Plaintiff is seeking to sue the same defendant, Sherwood Tidwell, related to the same motor vehicle accident, which was clearly litigated in the former suit, "Tidwell I."

Pursuant to South Carolina law in order to establish collateral estoppel, the defendants must prove "that the issue in the present lawsuit was: (1) actually litigated in the prior action; (2) directly determined in the prior action; and (3) necessary to support the prior judgment." *Carolina Renewal, Inc. v. S.C. Dep't of Transp.*, 385 S.C. 550, 554 (S.C. App. 2009). Each element is clearly established in the case at bar. Plaintiff's claims for injuries and damages related to the accident were (1) actually litigated in the prior action, (2) determined by a jury in the prior action, and (3) were necessary to support the judgment in "Tidwell I."

All of the Plaintiff's causes of action rely on the "Facts Common to All Causes of Action" alleged in Paragraphs 11-32 of her Amended Complaint. The "facts" alleged by the Plaintiff refer to the September 18, 2015 accident with Mr. Tidwell, the Plaintiff's alleged damages caused by the accident, and the settlement negotiations which took place during "Tidwell I." These matters were conclusively litigated in "Tidwell I." For that reason, Plaintiff's claims are barred and must be dismissed with prejudice.

ii. "Common Law Civil Conspiracy with Special Damages"

Plaintiff has failed to state her claim for civil conspiracy adequately under South Carolina law. Pursuant to South Carolina law, "[t]he tort of civil conspiracy has three elements: (1) a combination of two or more persons, (2) for the purpose of injuring the plaintiff, and (3) causing plaintiff special damage." *Hackworth v. Greywood at Hammett, LLC*, 385 S.C. 110, 115, 682 S.E.2d 871, 874 (S.C. App. 2009) (citations omitted). Further, "[a] claim for civil conspiracy must allege additional acts in furtherance of a conspiracy rather than reallege other claims within the Amended Complaint," and "because the quiddity of a civil conspiracy claim is the special damage resulting to the

plaintiff, the damages alleged must go beyond the damages alleged in other cause of action." Id. (internal citations omitted).

In the case at bar, the Plaintiff makes no factual allegations regarding the civil conspiracy claim that differ from her other claims, and she again relies on the "Facts Common to All Causes of Action" section of her Amended Complaint to support all of her claims, including the civil conspiracy claim. In Paragraphs 51 through 54 of the Amended Complaint, Plaintiff alleges that she is suing all Defendants for the "wrongful acts complained of herein." In Paragraph 64, Plaintiff alleges that the "Defendants worked in harmony to the detriment of the plaintiff to prevent their loss to a *pro se* litigant." All other allegations are supposed statements of law or allegations professing to set forth special damages. Therefore, the Plaintiff's civil conspiracy claim must be dismissed.

iii. Sanctions under Rule 11 and the South Carolina Frivolous Civil Proceedings Sanctions Act

Defendants Sherwood Tidwell, "Sherwood's Plumbing Services, LLC," and Beatrice Tyree Tidwel, gave notice of their intent to seek remedies pursuant to the South Carolina Frivolous Civil Proceedings Sanctions Act, S.C. Code Ann. § 15-36-10 in their Answer. Further, Defendants have requested Rule sanctions pursuant to the South Carolina Rules of Civil Procedure..

Pursuant to SRCP 11, a party may be sanctioned for filing a frivolous pleading, motion, or other paper, or for making frivolous arguments. Ex Parte Gregory, 378 S.C. 430, 438 (2008). The South Carolina Frivolous Civil Proceedings Sanctions Act also provides for sanctions of frivolous lawsuits. S.C. Code Ann. § 15-36-10. Sanctions are appropriate where "a reasonable attorney in the same circumstances would believe the case or defense was frivolous as not reasonably founded in fact." Id. A "reasonable

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attorney" standard applies. Southeastern Site Prep, LLC v. Atlantic Coast Builders and Contractors, LLC, 394 S.C. 97, 107 (S.C. App. 2011).

The Plaintiff has attempted to rely on her *pro se* status as an excuse and has claimed she is unfamiliar with the Court and its rules. The Plaintiff is an experienced litigator as evidenced by public record, and she has been involved in continuous civil litigation in both state and federal court over the past ten years. She has exhibited a history of vexatious and disruptive conduct throughout South Carolina courts. The Plaintiff cannot avoid sanctions under SRCP 11 and the South Carolina Frivolous Civil Proceedings Sanctions Act simply due to her *pro se* status.

"The right of self representation does not exist to be used as a tactic for delay, for disruption, for distortion of the system, or for manipulation of the trial process." State v. Samuel, 414 S.C. 206, 212 (Ct. Appl. 2015). The right to self representation is not absolute. Faretta v. California, 422 U.S. 806 (1975). The South Carolina Supreme Court ruled in City of Columbia v. Assa'ad-Faltas, 2017 WL 2665155, at *3 (S.C. June 21, 2017), that Appellant's unrelenting inappropriate conduct in the South Carolina courts necessitated that certain restrictions be placed upon Appellant's *pro se* access to the courts to curb her abuse of the judicial process; the Supreme Court noted that the Appellant had engaged in a pattern of frivolous filings and inappropriate conduct towards the courts, court officers, and court employees of the State.

In reviewing the record before the Court, I find that Plaintiff knew or should have known about the frivolous nature of these claims when they were filed, and order that she be sanctioned for this frivolous filing. Given Plaintiff's egregious conduct, the Court finds itself forced to sanction Plaintiff. Due to the Plaintiff's lengthy and litigious record and the likelihood of future of abusive conduct, the Court hereby issues an *Assa'ad-Faltas* Order

forbidding Plaintiff from filing any civil lawsuit in the Court of Common Pleas of Richland County unless it is signed and filed by an attorney with an active license to practice law in South Carolina.

b. Plaintiff's Motion to Amend: Tortious Interference with a Contract

Under Rule 15(a) of the South Carolina Rules of Civil Procedure, when more than thirty days have passed after service of a party's pleading, "a party may amend his pleading only by leave of court or by written consent of the adverse party; and leave shall be freely given when justice so requires and does not prejudice any other party." Rule 15(a), SCRCP. "[A] motion to amend a pleading is addressed to the sound discretion of the trial judge." Porter Bros., Inc. v. Specialty Welding Co., 286 S.C. 39, 41 (Ct. App. 1985); Pruitt v. Bowers, 330 S.C. 483, 489 (Ct. App. 1998). Although leave to amend should generally be freely given, "it may be denied where the proposed amendment would be futile." Jennings v. Jennings, 389 S.C. 190, 209 (Ct. App. 2010) rev'd on other grounds, 401 S.C. 1 (2012); Higgins v. Med. Univ. of S.C., 326 S.C. 592, 604, (Ct. App. 1997).

In Plaintiff's Motion for Leave to Amend her Amended Complaint, she requests leave to amend her Complaint to: (1) add Nationwide adjusters Rick Skurko and Tracy Peer as defendants, and (2) add two causes of action which she labels "tortious interference with employment relationship and tortious interference with business relationship to include legal malpractice." In her Proposed Amended Complaint, Plaintiff alternatively labels this as a single cause of action for "common law tortious interference with economic, business relationship and legal malice." As noted above, the Court interprets Plaintiff's proposed amendment as an attempt to state a claim for tortious interference with a contract. The elements for tortious interference with a contract include

the following: (1) existence of a valid contract, (2) the wrongdoer's knowledge of the contract, (3) the wrongdoer's intentional procurement of a breach of the contract, (4) the absence of justification, and (5) resulting damages. Dutch Fork Dev. Grp. II, LLC v. SEL Properties, LLC, 406 S.C. 596, 604 (2012); Camp v. Springs Mortgage Corp., 310 S.C. 514, 517 (1993). "[A]n action for tortious interference protects the property rights of the parties to a contract against unlawful interference by third parties." Threlkeld v. Christoph, 280 S.C. 225, 227 (S.C. App. 1984). "Therefore, it does not protect a party to a contract from actions of the other party." Id.

In the case at bar, it would be futile to grant the Plaintiff's Motion to Amend her Amended Complaint, because Defendants would be entitled to summary judgment similar to Jennings v. Jennings, 389 S.C. 208, 209 (Ct. App. 2010). Plaintiff's Proposed Second Amended Complaint alleges that Defendants' actions resulted in the termination of her employment with the South Carolina Department of Motor Vehicles. "[I]n order to constitute actionable interference with a contract, it must appear that the act complained of was the proximate cause of the injury or damage." Smith v. Citizens & Southern Nat. Bank of S.C., 241 S.C. 285, 288 (1962). Plaintiff alleges that Defendants subpoenaed her employment records, contacted her employer and emailed either Plaintiff or her employer. There is no allegation as to how these alleged actions lead to or caused her termination from the SCDMV. For the foregoing reasons, Plaintiff's proposed tortious interference with a contract claim is futile, and her Motion to Amend her Amended Complaint is denied.

III. CONCLUSION

For the reasons stated above, I hereby GRANT Defendants Sherwood Tidwell, "Sherwood's Plumbing Services, LLC," and Beatrice Tyree Tidwell's Motion for Judgment on the Pleadings and DISMISS WITH PREJUDICE each and every one of the Plaintiff's

claims, DENY Plaintiff's Motion for Leave to Amend her Complaint, and SANCTION Plaintiff as ordered above.

IT IS SO ORDERED.

The Honorable G. Thomas Cooper, Jr.
Presiding Judge
Fifth Judicial Circuit

_____, 2018
Columbia, South Carolina

STATE OF SOUTH CAROLINA)
) COURT OF COMMON PLEAS
COUNTY OF RICHLAND) 2017-40-CP-04048

Glenda Couram,)
)
Plaintiff,)
)
vs.) TRANSCRIPT OF RECORD
)
Nationwide Mutual Insurance)
Company, Titan Indemnity)
Company, et al.,)
)
Defendant.)

February 12, 2018
Columbia, South Carolina

B E F O R E:

THE HONORABLE G. THOMAS COOPER,JR., JUDGE.

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

GLENDA COURAM, PRO SE
Appearing for the Plaintiff

JOHN R. MURPHY, ESQ.
Attorney for the Defendants Nationwide and Titan
JESCELYN T. SPITZ, ESQ.
Attorney for the Defendants Tidwell
EUGENE H. MATTHEWS, ESQ., PRO SE
Appearing for the Defendant Matthews

DEBORAH M. McCURDY, RPR
Official Court Reporter

INDEX OF WITNESSES

(WHEREUPON, no witnesses were called during these proceedings.)

EXHIBITS

(WHEREUPON, no exhibits were introduced during these proceedings.)

FEBRUARY 12, 2018

(WHEREUPON, the proceedings began at 10:28 a.m.)

THE COURT: All right. I have one, two, three, four, five, six motions on my roster this morning in the case of Glenda Couram v. Nationwide Mutual, and a series of defense lawyers.

Are you Ms. Couram?

MS. COURAM: Yes, sir.

THE COURT: All right. Somebody tell me something about this case. Mr. Matthews?

MR. MATTHEWS: Thank you, Your Honor.

This case arises from an earlier case filed by Ms. Couram against, among others, Sherwood Tidwell. Ms. Couram is a former employee of the Department of Motor Vehicles.

MS. COURAM: Objection. This case has nothing to do with the Department of Motor Vehicles. It should not be part of this action at all.

THE COURT: Okay. I want to just hear something about the case.

MR. MATTHEWS: Hold on. If I am speaking, I prefer not to be interrupted by another party.

THE COURT: I understand.

I will let you speak.

MR. MATTHEWS: The case that is before you arises from the earlier case. Ms. Couram brought a lawsuit against, again, Mr. Tidwell and others, during which time she -- it was about an automobile accident. I believe Nationwide Mutual Insurance Company and Titan Indemnity Company were two of the companies, two of the insurers involved in that litigation.

Ms. Couram apparently is dissatisfied with the offers that were made to her to settle the case. There was an offer of judgment of $20,000 offered by the Defendants. She declined it. It went to trial. And the jury found for Ms. Couram, but only awarded $1,000.

THE COURT: One thousand?

MR. MATTHEWS: Yes, sir.

Following that, Ms. Couram filed the instant case which is before you today against a number of Defendants, including myself, as individual.

My role in this is as follows, as I can tell. I represent, as you may know, a number of state agencies, including the Department of Motor Vehicles. One of the employees of the Department of Motor Vehicles -- I believe her name is Heather Martin -- was subpoenaed as a witness. And during

the course of litigation, a number of witnesses or documents were subpoenaed by the Defense in preparation of their case.

Whenever the Department -- in this case, DMV -- gets a subpoena to appear as a witness or to produce documents, they will often call me for legal advice, which I am more than happy to render. In this case Ms. Martin wanted me to accompany her to the trial of the first case.

THE COURT: The trial of the first case?

MR. MATTHEWS: Yes, sir. And actually did appear at trial as a witness. I was sitting in the courtroom at the time.

Ms. Couram also has been terminated from employment at SCDMV in 2017, which is the nature of her -- which is related to her request to amend her complaint.

Now, in this case, as I understand the chronology, the current case before you now was filed on July 3rd, 2017. We filed an answer on -- when I say we, I mean me. I filed an answer on July 14, 2017, and a motion for judgment on the pleadings and for sanctions on July 17, 2017.

Shortly thereafter, on July 19, Ms. Couram filed an amended complaint, we filed an answer and

a supplement to our motion for judgment on the pleadings.

In December, I believe, of 2017, Ms. Couram also filed a motion to amend her complaint a second time to add a cause of action for tortious interference of contract.

And I would like to address each of those issues, if I could, right now.

THE COURT: Well. You want to address the motions to amend?

MR. MATTHEWS: Actually, I prefer to address our underlying motion for judgment on the pleadings, and in that process will address the motion to amend. But of course I am at your pleasure.

THE COURT: Yes. The motion with regard to the pleadings, when was that pleading filed, July 13th?

MR. MATTHEWS: As I recall, Your Honor, that motion was filed on July 14 and the supplemental on the 21st.

THE COURT: I mean, the case was filed on the 13th?

MR. MATTHEWS: The amended complaint was filed -- Your Honor, I have -- the case was filed

on July 3rd.

THE COURT: Okay. That is the amended complaint?

MR. MATTHEWS: The original complaint was filed on July 3rd. We filed an answer on July 14, and our original motion for judgment on the pleadings on July 17th.

Ms. Couram filed an amended complaint on July 19th, and we filed a supplement to our motion for judgment on the pleadings on the 21st. And I believe -- and of course my colleagues, who represent other parties to the case, filed their own dispositive motions.

I see that Ms. Couram filed a motion for leave to amend an amended complaint on December 6th of 2017.

And I can address all of those matters as you prefer.

THE COURT: She filed a motion to amend her amended complaint on December 6th?

MR. MATTHEWS: Yes, sir.

MS. COURAM: Excuse me, sir?

THE COURT: Yes. I'll hear from you in just a minute.

What is the amendment she is seeking?

MR. MATTHEWS: The amended complaint includes a proposed cause of action for tortious interference of contract.

THE COURT: Okay.

MS. COURAM: Sir?

THE COURT: I told you I'll hear from you, but let me finish with him.

All right. All right, Ms. Couram, tell me, what do you think we're doing here today?

MS. COURAM: What I'm hoping that the judge -- the Court will do is do the right thing and hear what is before it, and that is the motion to dismiss and a motion on -- can you hear me?

THE COURT: I'm trying.

MS. COURAM: Do these work?

THE COURT: Well, they don't work too good. I'm right here.

MS. COURAM: Okay. What I'm hoping to do is for this Court to do the right thing and hear the motions that is before it, and that is the motion Mr. Matthews filed was judgment on the pleadings, which is not appropriate in this case.

If the judge -- if the Court will read the complaint and the amended complaint which was filed without permission of Court, which I could do

within 30 days after filing the initial complaint, and technically that is not an amended complaint, it is within the timeframe allowed by law that I can redo my complaint if there has been no answers filed prior to that date. And that is what that complaint is right here that was filed on July 18th, I believe, or -- it was filed -- yes, July 18th, the initial complaint was filed a couple of months -- a month or so prior to that.

The amended complaint that Mr. Matthews is referring to that you asked him about is the one that I'm requesting for the judge -- for the Court to hear. And that is a complaint adding additional cause of action for tortious interference with employment and adding two new Defendants.

THE COURT: What?

MS. COURAM: Two new Defendants from Nationwide. A Mark Skurko and a Tracy Peer, who were the claim adjusters. And that is what the amended complaint is about that I would like for the Court to rule on today. That is part of the motion hearing.

The rest of the things that Mr. Matthews is discussing has no bearing on what is before this Court today. The only issue before this Court

today is whether or not I have stated enough facts for this matter to move on to a trial. And I believe I have done that. And without a question.

And I'm basing that motion on orders from the South Carolina Court of Appeals, and that is the only issue that is before this Court. Anything else this Court should not hear until trial date, until a date for trial has been set. And those things Mr. Matthews can bring in before a jury to determine whether or not I have a claim before the Court. But right now the only thing that is before the Court is whether or not my claim, I have stated enough facts to move forward.

THE COURT: Well, I agree with you on that. I don't agree with you that if you are successful here today that you automatically get a jury trial, because there is a lot of legal work that needs to be done before the case ever gets to the trial stage.

MS. COURAM: I understand that, sir.

THE COURT: All right. Mr. Matthews, you -- let me just try to get this straight.

MR. MATTHEWS: Yes, sir.

THE COURT: You filed a motion for judgment on the pleadings back in December?

MR. MATTHEWS: Actually, no, sir. On July 17th.

THE COURT: I'm sorry. I don't know where I got December. July what?

MR. MATTHEWS: July 17, in response to Ms. Couram's first complaint.

THE COURT: Okay. All right. That is what you want heard today?

MR. MATTHEWS: Correct. I also filed a motion, a subsequent motion following her amended complaint. She filed -- the dates that I have written down are that she filed the original complaint on July 3rd. We answered on July 14th, or I answered on July 14th. Filed a motion for judgment on pleadings on July 17. Following that, shortly thereafter -- I have July 19, Ms. Couram says July 18 -- she filed an amended complaint. And at that point we filed a supplement to our motion to address what we believe to be her amendments.

Then on December 6th --

THE COURT: Wait. After July 19th when she filed her amended complaint, what did you file?

MR. MATTHEWS: We filed a supplement on the 21st. That is this document.

THE COURT: You filed what, a supplement to your --

MR. MATTHEWS: A supplement to the motion for judgment on the pleadings to address her additional allegations in her amended complaint.

THE COURT: Okay. So --

MR. MATTHEWS: Then on December 6 of 2017, Ms. Couram filed a motion to amend that complaint, and that is the motion that Ms. Couram filed attempting to add a cause of action for tortious interference.

THE COURT: Okay. Is there a motion on that today, other than her motion to amend?

MR. MATTHEWS: We are ready to respond to it, if you want to hear it.

MS. COURAM: Excuse me, sir? The Defendants have not filed an answer to that motion. I'm assuming they are waiting for a judgment from -- a ruling from you. But neither one of them have filed the answer to that amended --

MR. MATTHEWS: She is again mistaken. We are ready to respond to it today.

MS. COURAM: They did not file an answer to that amended complaint, which is a requirement of the Court.

MR. MATTHEWS: No, that is not true at all.

THE COURT: Don't -- I mean, if you say yes and she says no, we'll be here all day.

MR. MATTHEWS: I understand, Your Honor.

THE COURT: Mr. Murphy?

MR. MURPHY: I was just going to mention, Your Honor, I appeared in the case for Nationwide and Titan. We have motions pending to dismiss all claims against them. They are completely groundless.

I have also been retained to appear specifically just for this hearing to oppose the motion to amend for Tracy Peer and Rick Skurko. So I have not made a formal appearance for them, but I believe that I only am required to be here when the motion is being heard. And I can address Ms. Couram's motion to amend on their behalf. So I just wanted to clarify who I am here for. And I would be opposing the motion to amend to add those two individuals. I would also be --

THE COURT: Who?

MR. MURPHY: That is Ms. Peer, Tracy Peer, P-E-E-R, and Rick Skurko, S-K-U-R-K-O. In her motion to amend her complaint a second time, she seeks to add those two individuals --

THE COURT: That's all?

MR. MURPHY: -- to this lawsuit.

THE COURT: That's all?

MR. MURPHY: Well, that's -- and assert claims against them. So I am here --

THE COURT: Tortious interference?

MR. MURPHY: No, actually it is a little more, maybe conspiracy and some other cause of action. They worked for Nationwide and handled her auto claim at different stages of the earlier claim.

THE COURT: Justice?

MR. MURPHY: Yes. So I would be opposing her motion that otherwise might not appear to involve Nationwide or Titan because I have been retained to appear for Ms. Peer and Mr. Skurko. And then I also have my own pending motions on behalf of Nationwide and Titan.

THE COURT: All right.

MS. SPITZ: Your Honor, Jescelyn Spitz, on behalf of the Tidwell Defendants.

THE COURT: Ma'am?

MS. SPITZ: Jescelyn Spitz, on behalf of the Tidwell Defendants.

THE COURT: Spitz?

MS. SPITZ: S-P-I-T-Z. And we have also

filed --

THE COURT: Like Professor Spitz?

MS. SPITZ: Like the Professor Spitz, but no relation.

We have also filed a motion to dismiss and a motion for a judgment on the pleadings.

THE COURT: Who do you represent?

MS. SPITZ: The Tidwell Defendants: Beatrice, Tidwell, Sherwood Tidwell, who alleged to have been doing business as Sherwood's Plumbing Company.

And, Your Honor, I would be happy to provide some additional background as to the first lawsuit. I did represent Mr. Sherwood Tidwell in that action as well.

THE COURT: Was that Couram v. Tidwell?

MS. SPITZ: Yes, Your Honor.

THE COURT: That is all it was? And those are the only parties?

MS. SPITZ: Originally when it was filed, Nationwide and Titan were included as Defendants, but they were removed in a consent order that was signed by Ms. Couram. So once it went to trial and to a verdict, the only Defendant was Sherwood Tidwell.

MS. COURAM: May I speak on that as well?

THE COURT: When she finishes. Are you finished?

MS. SPITZ: Yes, Your Honor.

THE COURT: Okay. Yes, ma'am?

MS. COURAM: Initially I did have Nationwide and Titan included in that order, but I was told that I could not sue them, the only person I could sue was Tidwell because he is the one that caused the accident.

THE COURT: Okay. But you went to trial on that case?

MS. COURAM: Yes. But I'm speaking to what she just said.

THE COURT: Okay.

MS. COURAM: That case has nothing to do with the actions before this Court now. That case was just -- these are intentional torts that I'm bringing before this Court now. What happened with Tidwell was an accident. The issue with Tidwell has no bearing on this matter, it is just -- that was an accident. These are solely different claims --

THE COURT: I understand.

MS. COURAM: -- against totally different individuals. And what I'm speaking to is what

Ms. Spitz just spoke to you about -- and I took medication, sir, so I am going to space out, and I'm going to get anxiety, and I'm in pain right now, so please excuse me, okay? I don't mean to be disrespectful in any way.

THE COURT: Let me understand. Is your new suit also against the Tidwells?

MS. COURAM: The new suit has claims against Tidwell. They are claims that could not have been brought during the initial complaint because that was related to an accident.

THE COURT: What are you claiming that they did now?

MS. COURAM: The claims against Mr. Tidwell and his company and his wife that is in the complaint that I filed is for intentional infliction of emotional distress, negligent infliction of emotional distress, tortious interference with employment, and civil conspiracy.

As a result of all this -- as a result of that accident, I ended up losing my job. My house is about to be foreclosed on because I lost my job, because I'm in severe pain as a result of that accident. And if they had settled this matter when they should have, when I tried to settle with them

two years ago, this would never have come to play. But because they did not settle it, because they were trying to save $50,000, which is all that was available, I ended up in the position that I'm in now with no credit. I have had to go back and ask an abuser for money to stay in my house. I had to do a lot of things because of this stupid accident that was not my fault.

And then Mr. Matthews and Mr. Tidwell got Judge Newman involved, who called me to arrange a trial, which is totally against the regular way of doing things. And she knew Mr. Matthews and she did not disclose the fact that she knew him. And he was in the court the entire time.

So there is a lot of issues of fact that does not allow these individuals to just walk out of this court leaving me a total wreck because of something that I did not do. I did not start this. I did not hit Mr. Tidwell, he hit me. And he should not be -- just walk away with only paying $500 to take care of all the medical bills and stuff I have endured as a result of that accident and things that I am still enduring as a result of that accident.

THE COURT: Did you have a lawyer when you

tried that case?

MS. COURAM: I didn't get a lawyer because I was trying to mitigate damages, which is one of other things that they -- and I wanted to get this over with as quickly as possible. And I did everything I could to try and settle with Nationwide, settle with Titan, mitigate damages with Mr. Tidwell, everything, to get it over with and get them gone out of my life. But they stayed in and wouldn't go away.

And I'm standing here broken and devastated because of something that was not my fault to begin with. And this action that is before this Court has nothing whatsoever to do with that accident, because that accident was what it was, an accident, just as Judge Newman said.

THE COURT: I think I understand that. This is about your subsequent filings against Mr. Matthews and whoever else you filed against?

MS. COURAM: After the accident. After this trial, after all -- this is after the fact. This has nothing to do with what happened with the accident.

THE COURT: I understand.

MS. COURAM: This is what took place

afterwards. And Nationwide even had the police coming to my house with a warrant saying that I was suicidal with EMS coming there. So I don't -- so this -- so the point is that a motion to dismiss would be totally inappropriate. I have a right to do discovery and go further in this case to try and prove my case. And a motion to dismiss, the judgment on the pleadings, I have given this Court enough for all those things to be denied here and now.

And as far as what she was saying about Mr. Tidwell -- I forgot, could you please repeat it? She was saying something about Mr. Tidwell and the accident. And all I'm saying is that it has nothing to do with the accident. And I could not have brought a negligent infliction of emotional distress claim against Mr. Tidwell, his wife, or his business because the accident was what it was, an accident. Everything afterwards is what was intentional and negligent intentional infliction of emotional distress.

THE COURT: What do you allege, after the accident, were the acts of these parties to intentionally inflict emotional distress?

MS. COURAM: Mr. Matthews showed up at court.

If Mr. Matthews wasn't in court when he was supposed to, Ms. Tidwell was, and they would always make sure that they were positioned where I would see them.

After a hearing before Judge Manning, Mr. Matthews and Ms. Tidwell were standing outside the balcony discussing whatever they were discussing as I walked out of the courtroom.

THE COURT: You mean Ms. Spitz?

MS. COURAM: Ms. Spitz. And they knew that I have emotional issues. They knew that -- Mr. Matthews has known this for the last ten years. He has even called me -- said I was divorced from reality. He kept telling people that I filed frivolous complaints, none of which was ever approved by the Court. But every document he has filed in court, that is what he has labeled me as.

He has told the South Carolina Human Affairs Commission that I was mental. He has told the South Carolina Human Affairs Commission the last time that I was divorced from reality. He has completely -- every time I turn around he is saying things like that.

THE COURT: Why is he appearing before the Human Affairs Commission?

MS. COURAM: Because I filed a complaint against my employer, sir, which I have a right to do for what they did. And that has no bearing on this either.

If Mr. Matthews was in the courtroom with me, Ms. Spitz showed up. If Ms. Spitz was in the courtroom with me, Mr. Matthews showed up.

THE COURT: It is a public courtroom.

MS. COURAM: It is a public courtroom, but when they know when a person has mental issues and mental problems; to deliberately show up and start discussing things standing in front of the -- in the courtyard talking when I walked out of the courthouse making sure I would see them every time I turned around.

And then he -- Mr. Matthews has a relation with Judge Newman, and called me -- called me.

THE COURT: With who?

MS. COURAM: She called me. Judge Newman.

THE COURT: Judge Newman?

MS. COURAM: She called me to arrange for a trial, for that trial. She called me. It was not arranged through the normal channels. She called me and asked if I wanted to have her sit on my -- sit. And she never disclosed the fact she was a

judge. She never disclosed the fact that she worked for Mr. Matthews. The entire time that I had a case against SCDMV since 2009, she never disclosed. Even when Mr. Matthews came in the courtroom and sat down, she said, Hi, Mr. Matthews, what are you doing in my courtroom today, never disclosing the fact that she knew who I was and she knew that there was a relationship there, that she should have told me from the very beginning, and she never did. She had just been -- when she was appointed judge, she had just been -- she was appointed from Mr. Matthews' law firm.

So conspiracy, as far as the conspiracy issues there, there are questions as to whether or not there was a conspiracy between Mr. Matthews, Ms. Tidwell, representing Mr. Tidwell, as to whether or not they knew all of this. And they did not disclose it, did not tell me about it, and it is up to a jury to determine whether or not they have conspired to cause me harm, because, as you know, two persons coming together to cause harm to a third party, and that third party was me. And I suffered harm.

THE COURT: Who are the two people?

MS. COURAM: Mr. Tidwell, Mr. Matthews.

Mr. Matthews is being sued in his individual capacity today, he is not being sued as an attorney for SCDMV.

THE COURT: All right. Thank you.

All right, Mr. Matthews, you may continue.

MR. MATTHEWS: Thank you, Your Honor.

In terms of our motion for judgment on the pleadings, let me begin with her actual complaint, and with some additional background that is included in the motion.

But when Ms. Couram filed her first lawsuit against Sherwood Tidwell in 2016 -- as I stated earlier, Ms. Spitz contacted DMV to issue subpoenas for documents related to her employment history. She also, as I recall, issued a subpoena to Ms. Martin, who is the employment relations director at SCDMV.

At that point, SCDMV contacted me as their attorney for assistance in handling those types of requests: Subpoenas, all commands for court.

They also contacted me because I offer general employment advice to SCDMV, not just in their litigation matters, but in their day-to-day matters.

Ms. Couram is correct that she has a long

history in suing DMV. It first began in January of 2010. There have been four such lawsuits. And each time I have represented DMV's interest in those matters.

She is also correct, she has filed a number of Chapman claims, to which the department responded.

Now, in terms of the allegations of this particular lawsuit, when you look at her complaints, the ones that were filed in July of 2017, and even the one filed in December, the motion filed in December of 2017, you know, she describes her efforts to settle the case with Mr. Tidwell's insurers. She wanted of course the insurers to offer her more money. The insurers, for whatever reason, decided not to, but did offer judgment in the amount of $20,000. And that is Exhibit B to our supplemental motion.

She was apparently dissatisfied with that offer. Chose to go to trial. During that trial, of course Ms. Martin was subpoenaed to attend. SCDMV requested that I attend with her. I did. I did confer with Ms. Spitz on --

THE COURT: Why would an employee of DMV be subpoenaed to testify in a wreck case?

MR. MATTHEWS: I believe there were some

issues on lost wages, but I'm not sure. She just received a subpoena.

THE COURT: Okay.

MR. MATTHEWS: At the time, I don't recall if Ms. Couram had been terminated from employment by that time or not. I know she had --

MS. COURAM: I had been.

MR. MATTHEWS: She had been. Then there may well have been an issue of lost wages for her, whether or not those lost wages were attributable to the accident instead of her own conduct.

MS. COURAM: Excuse me. Object. During the trial, Ms. Martin was not going to be called, as Ms. Spitz told Judge Newman at the time. So there was no reason for Mr. Matthews or Ms. Martin to be in the courtroom because there was not going to be any witnesses called forward.

THE COURT: Okay. Well, I wasn't there.

MS. COURAM: There is a transcript.

THE COURT: I'm sure.

MR. MATTHEWS: There is indeed, Your Honor. In that transcript, Ms. Couram herself called Ms. Martin.

MS. COURAM: I did, to find out why she was in the courtroom that day.

THE COURT: Okay.

MR. MATTHEWS: In any event, the lawsuit that is before you now, the allegations relate to those amendments.

The claims -- or the causes of action, intentional infliction of emotional distress against Nationwide, Titan, and me, negligent infliction against the same Defendants, and civil conspiracy against the same Defendants, we think should be dismissed for the reasons we have stated in our motion. And very briefly I will go over them.

The first, frankly, is the one that I think answers all matters. Actually in a case, a very similar case that was just ruled on by Judge Toal down in Charleston, we have added that as an exhibit to our original motion. It is Kovach v. Whitley.

THE COURT: What is the name of it?

MR. MATTHEWS: Kovach v. Whitley. It is in our -- we have included it. The civil action number is 2015-CP-08-2380.

And in it Justice Toal speaks directly about why she is dismissing a civil conspiracy claim. In this case it was because the allegations related to

events that occurred in conjunction with the judicial process. And the judicial process of course is absolutely privileged in that regard, not only in plans of slander, but in this case of Kovach, civil conspiracy.

The reported case upon which Justice Toal relies and which the Court can also rely is Crowell v. Herring, which is 301 S.C. 424.

THE COURT: Crowell v. what?

MR. MATTHEWS: Crowell v. Herring.

THE COURT: Herring?

MR. MATTHEWS: Herring, H-E-R-R-I-N-G. I believe that is how it is spelled.

THE COURT: Like Dwight?

MR. MATTHEWS: Correct. In our supplemental motion we mention it on Page 10. And I'll read from the holding: We hold absolute privilege exists as to any utterance arising out of the judicial proceeding and having any reasonable relation to it, including preliminary steps leading to judicial action of any official nature, provided that the steps have a reasonable relation to it.

Also, the Kovach v. Whitley case, where justices found that: Acts that were part of the judicial process were absolutely privileged and

cannot be the basis for a civil conspiracy claim.

And we would commend those cases to you when you review Ms. Couram's pleadings.

Certainly in my case, I am appearing for myself today in my case. She is complaining that I was acting within my capacity as an attorney for SCDMV. There is my only reason, frankly, to be involved at all with Ms. Couram. When I'm acting as an attorney for SCDMV in the process of helping them deal, frankly, as a bystander in this lawsuit with the Tidwells in terms of answering subpoenas, accompanying witnesses to the trial, that sort of thing, that is privileged and could not be a subject of any lawsuit.

She has raised allegations with regard to Judge Newman. Judge Newman was for some years an associate at our law firm. We did not work together. She did not -- she had no role, to my knowledge, in any case that involved Ms. Couram. I have no knowledge of any communications between Judge Newman, she and Ms. Couram. Regarding the Tidwell trial, I had nothing to do with it outside my capacities in helping DMV respond to these subpoenas.

To the extent that her allegations against me,

the ones that she stated and the ones that I have been able to identify at trial -- or, sorry, in her complaint, all seem to relate to, as she has stated, me being in a court with my client, me assisting, presumably in responding to subpoenas that were issued to my client. Other than her own allegation, you know, there is no real -- I have no role other than what I do in my job as an attorney for a state agency. Under that, none of the claims are justiciable.

I do have a couple of other comments as to those substandard nature claims, if you will allow me.

Even if you didn't count Crowell, if Crowell doesn't exist, her claim still fails. In an intentional infliction claim, you need to describe conduct that is outside all decency and humanity. Those are the -- that is the standard, as we set forth in our motion. Even if I had an ill intent, if I developed some -- I really wanted Ms. Couram to lose her claim, if I'm doing things like accompanying a client to court, if I'm helping them respond to subpoenas, if I'm responding to a question from, you know, the court officer, those are things I am required to do as an attorney.

Those are not things that support an intentional infliction claim.

In terms of negligent infliction, the claim simply doesn't apply because, as you are well aware, as we discussed in elements, that has to do with the emotional distress when someone's close relative is injured in front of them. The elements are: Negligence of the Defendant that cause death or physical serious injury to another, the bystander must be in close proximity to the accident, the Plaintiff or the victim must be closely related, the Plaintiff must contemporaneously foresee the accident, and emotional distress must be both manifest itself by physical symptoms capable of objective diagnosis and established by an expert's testimony.

That claim simply doesn't apply in this case.

In terms of civil conspiracy, as we said, not only does Crowell and Kovach mean that that claim is not justiciable here, if you just look at the elements, including alleging additional acts in furtherance of a conspiracy rather than re-alleging claims within the amended complaint -- that is the Hackworth case -- those claims, essentially she is saying, because of what you have done that has

caused me emotional distress, and later her motion to add a tortious interference claim because of what you have done here, you have also engaged in some civil conspiracy, presumably with Ms. Spitz.

There is no additional facts here. So you can't simply restate -- you can't warm over your other allegations and restate it as a civil conspiracy claim.

Finally -- well, not finally, but with regard to the motion to amend and add a tortious interference claim, the law is pretty clear that a terminated employee has no such cause of action against a former employer when they get dismissed. And my understanding of her tortious interference claim is she alleges that the Defendants caused SCDMV to fire her. And that is the contract in issue. Well, there are a couple of issues there.

First of all, her relationship with SCDMV was never by statute. When she was terminated by the department, she had a right to grieve that termination and to appeal any adverse decision by the department to the State Employment Grievance Committee. She has done so. And as it happens, as happenstance occurs, on Thursday of this week she'll have her hearing. And the State Employment

Grievance Committee will decide whether or not the department had substantial evidence to terminate her employment or not.

In terms of this case, however, I believe that she can't -- she should not be allowed to amend her complaint because her amendment, at least with regard to me, is futile.

There is no South Carolina case that I could find recorded on whether or not you can sue an attorney of the employer who fired the Plaintiff, simply because I don't think the issue has ever been raised, at least it has not been recorded. It has, however, been recorded in Georgia.

And the two cases I have to cite -- and I can hand them up if you wish -- one is Dutch Fork Development Group, LLC, v. SCL Properties. That is a South Carolina case. But that has to do primarily -- forgive me -- that has to do primarily, again, with the Ross case. It says essentially a stranger, you have to be a stranger to a contract to be a proper party in a tortious interference claim. You can't be a party to the contract. And in this case, if you are an attorney to one of the parties -- the SCDMV in this case -- you can't be sued for that either.

The Hyre v. Paxson case -- I'm sorry, Hyre v. Denise is 449 S.E.2d 120, a case from Georgia. The other is Watkins & Watkins, PC, v. Colbert. That is at 516 S.E.2d 347. And in each of these cases it pretty clearly states, as you would imagine, because attorneys acting on behalf of their clients, you know, clients were bound by their acts, in the eyes of law you are essentially the same party there. You simply can't sue an attorney for those purposes. And if you wish, I can hand those up.

THE COURT: If you wish for me to read them.

MR. MATTHEWS: I do wish for you to read them, Your Honor.

(Cases handed up to Court.)

MR. MATTHEWS: On that basis, the claims that have been brought by Ms. Couram here are not justiciable. The claims that she would like to amend, her already-amended lawsuit, is also not justiciable. And, again, as I'm standing and speaking, at least as to me -- and there is of course competent counsel next to me who can answer on behalf of the other Defendants -- I am happy to answer any questions that you have.

THE COURT: I will hear from Mr. Murphy.

MS. COURAM: I would like to respond to Mr. Matthews first, sir.

THE COURT: All right. Go ahead.

MS. COURAM: First of all, I am not suing Mr. Matthews as an attorney for SCDMV, I am suing him as an individual. The fact that he is an attorney for SCDMV is just a side point. And DMV has nothing to do with Matthews' interference in my personal life the way he did. SCDMV should not have allowed Mr. Matthews to go as far as he did in this because it bespeaks of personal issues against me. And, as such, that makes this a matter for a jury to decide, not for Mr. Matthews to decide that he is not liable.

As far as the amended complaint is concerned, it does not make it futile either, because the Courts have allowed pro se litigants leeway in order to amend their complaint. That doesn't make that futile. And the tortious interference, I am not suing SCDMV for interference in my employment, I'm suing Matthews, Nationwide, and Mr. Tidwell, via his attorney. That does not make SCDMV a party to this action. And because Mr. Matthews is an attorney for SCDMV does not make DMV a party to this action. It is a totally separate and distinct

matter.

Mr. Matthews has, throughout the time that I have had legitimate reasons for suing SCDMV, which is, again, not a party to this action, but throughout this matter he has met with Judge Barber, he has met without me being present. I have evidence of that fact. I have evidence of the fact he met with the two federal judges. One of the judges even stated in her response that she had a meeting with Mr. Matthews and the other judge.

THE COURT: About this case?

MS. COURAM: No. As I said, that is what I'm saying, sir, it has no bearing on this issue at all, but it goes to the fact that Mr. Matthews has not -- is not coming in this court with clean hands of his actions towards me.

I also have evidence that Mr. Matthews met with Judge Manning. Each time I have a case before in this courtroom, for some reason Judge Manning seems to show up, just like he did just now, co-signing you. I don't know why that happened, I don't know if that is something he just does, but for some unknown reason he seems to come in and look over the courtroom.

THE COURT: His office is right there. He

just walks in. He does it every day. It has got nothing to do with you.

MS. COURAM: He seems to come in. And he should stop doing that, especially somebody who has filed a legal action against him.

THE COURT: You filed a legal action against him?

MS. COURAM: Yes.

THE COURT: Okay.

MS. COURAM: That's why I asked him not to hear any cases for me pro se, or any other pro se litigants. But my point is, is that he has this need to show up. And then he claims he doesn't know who I am. But every time I'm in this courthouse, he comes in, looks at me, and then walks out.

And, also, Mr. Matthews says he has no ill intent. One thing as far as my grievance hearing is concerned, Mr. Matthews, the attorney on that matter, he quashed all the subpoenas that I had for my employer to show up, my supervisor, my manager, everyone. He went before Judge Anderson. All those subpoenas were squashed except for my supervisor, who is no longer with DMV. And apparently they don't know where she is and they

are not going to serve her, so she won't show up. But my point of saying that is that what happened is he had Judge Anderson say I had to pay state employees who are still employed to come in and testify in a grievance hearing where it is clear that there is an exception in that fact, that state employees are not to be paid to testify as for a Defendant or a Plaintiff. Again, this is not against DMV, it is against Mr. Matthew's actions towards me. It is personal and it has nothing to do with my employment at SCDMV as far as the tortious interference is concerned.

As far as SCDMV, Mr. Matthews, I agree with you, it is a public courtroom, he can go where he wants. He just seems to show up where I'm at, even though they knew about my issues with anxiety, and so forth, and medication, and so forth.

He says that Judge Newman knew nothing about him or she probably didn't know anything. That is not a question for Mr. Matthews to decide. That is a question for a jury to decide if whether or not Judge Newman knew or knew of or had some knowledge of me or should have made herself -- if I had known. It is not for Mr. Matthews to stand in this courtroom and say, Well, that she simply doesn't

have a case. That is not his decision. It is not even Your Honor's decision. It is for a jury to decide. It is a question of fact.

He claims he is here representing himself as a pro se litigant, not as an attorney for SCDMV.

As far as this case that he is talking about, this is a criminal case, it is not a civil case. And Judge Toal, who apparently was the judge in this, stated the elements for a civil conspiracy. In South Carolina a civil conspiracy is a combination of two or more people for the purpose of injuring the Plaintiff which caused special damages. I have special damages, because I don't have money to pay for witnesses to testify at a grievance hearing. Matthews knew that, knows I don't have a job. And that is fact. It is not something I'm just saying off the top of my head, it is fact.

Judge, even when Judge Anderson made that decision, he hesitated. But, again, that is me. But my point is that that ruling should not have been made. It was not a correct ruling and it should not be upheld by SCDMV or the grievance hearing.

As I said, Judge Perry in the federal court in

2010 when I filed my case against SCDMV for retaliation, age discrimination, so forth, which the law gives me a right to do, and I don't understand why it was so wrong for me to have done it, according to Mr. Matthews. If DMV does something wrong, the law says you can file a complaint against them with EOC, South Carolina Human Affairs Commission, and if they don't do anything you can file a case in civil court, which is what I did. And nothing wrong with what I did. But I been paying for it ever since.

I filed a case in January 2010. Judge Perry, unfortunately for me, passed away in the midst of all this. Ruled in my favor as far as -- he ruled in their favor as far as the age discrimination and the federal claims, but he remanded the matter back to federal to this court just before he died to be heard in this court.

Mr. Matthews had a meeting with Judge Barber without me being present, which allowed him to file a motion to dismiss, and Judge Manning to hear my case where he dismissed my case based on the claims that was already decided by Judge Perry.

So my point is, this is not a case against SCDMV, as Mr. Matthews as the attorney, it is a

case against Mr. Matthews as a citizen of the state and a private individual. And DMV has nothing to do with it. The tortious interference is involving Mr. Matthews and his action, not SCDMV. And if I can't bring a case against -- and I don't know if I can or not. I know I can bring a termination, a false termination case against the DMV when the time comes, but that is not before this Court. The only issue that is before this Court is whether or not I have given the Court enough facts to allow the matter to move forward to discovery.

THE COURT: Thank you. Let me hear from Mr. Murphy.

MR. MURPHY: Thank you, Your Honor. As I mentioned earlier, I represent Nationwide Mutual Insurance Company, Titan Indemnity Company. I am also appearing today, and I will get to in a moment, Ms. Tracy Peer and Mr. Rick Skurko, regarding the motion to amend.

Your Honor, you can already tell, this is a very, very important matter, because if pro se litigants can run wild over our system, can continually file suits after they don't like the result that they had a fair and full trial on, what is next? The three of us over here are getting

sued because we successfully defeated this claim. Because this lawsuit is based on one thing, and one thing only: Ms. Spitz won the case. And Ms. Couram refused to accept the settlement offer of $20,000 and wanted her day in court. She got it. And the jury awarded her $1,000. That should have been the end of it, subject to any issues that she wanted to raise about that case, which I'm informed she has and is probably appealing those issues.

You will note that not Ms. Spitz, not the Tidwells, not Nationwide, not Mr. Matthews was ever cited for any contempt of court, any rule to show cause, anything that would be even the slightest bit unethical, abusive, or unprofessional. And even if it was, that is not enough to support a claim for outrage.

And we cited two cases in our brief on Pages 6 and 7. The Gattison v. South Carolina State College case. In that case there was evidence of unprofessional and inappropriate behavior, and it still fell short of the standard of outrage, which is a very, very narrow tort that is reserved for very unusual circumstances.

When you read through Ms. Couram's

allegations, there is nothing more than people doing their job. The Tidwells' attorney subpoenaed the Plaintiff's medical records and employment records. I have been a Defense lawyer over 30 years. I have subpoenaed thousands of people's medical records and client records. Am I going to get sued every time I do that from here on out?

The Plaintiff was only offered $20,000. I have tried -- the Plaintiff was only offered $20,000. I tried many cases where Plaintiffs refused to accept the offer. Am I and my law firm going to get sued every time a Plaintiff doesn't accept the offer and then doesn't get the result they want when they go to trial?

Nationwide is accused of influencing and controlling the outcome of the previous trial merely by the good lawyering that Ms. Spitz did. Is every good lawyer who is successful in court going to be sued for outrage because the Plaintiff didn't like the outcome that they got against them? Is that influencing and controlling a trial? There is no evidence of any bribes, any inappropriate contact by anybody associated with Nationwide. No one from Nationwide was even present in the building, according to the complaint.

And the fact that a lawyer trying a case met with an attorney who was there with a witness, which I just did last week at the Workers' Comp Commission, and I spoke to the attorneys, am I now going to get sued if that claimant in Workers' Comp doesn't get the result they want because I spoke to the attorney for the carrier employer?

That is why this case raises some really, really important issues. When you couple that with the long history that Ms. Couram has demonstrated in the record, that is why a dismissal of the case is not enough. That is why Assa'ad Faltas, who I had to escort out of my office a couple of times in the past, that order needs to be entered and the sanction needs to be given because I have seen more of this type of behavior in the last two or three years than I saw in the previous 30. And these pro se Plaintiffs that come into this court need to be held to the same standard as an attorney. I can assure you any attorney who had brought this lawsuit, this Court would not hesitate to find a violation of Rule 11 and sanction that attorney. And I ask that the same sanction be entered here because this is a completely groundless matter regarding all parties, but I won't argue for them,

I will just argue for Nationwide and Titan. Nationwide and Titan issued a liability insurance policy to Mr. Tidwell. They hired a lawyer -- when they adjusted the claim, made an offer, couldn't settle, suit was filed. They hired Ms. Spitz and her firm to defend their insured. They did everything aboveboard. There is not one finding of any abusive discovery tactics or any inappropriate attorney contact -- conduct in that case. And simply the fact is Ms. Couram doesn't like the result she got.

Her allegations, if we get down to them, fall far short of alleging outrage because, as we have seen, the cases have said it has to be beyond all tolerable bounds of decency.

There is no -- in regard to her conspiracy claim, there is no allegation that Nationwide's primary purpose was to injure the Plaintiff. Nationwide was defending its insured. There is nothing beyond that in the allegations of the complaint, nor are there any allegations of any separate and independent acts of a conspirational nature between any Nationwide employee and anybody else. And if meeting and speaking to another attorney who is there with a witness in the

courthouse is sufficient to support a conspiracy, then we are going to have to rewrite the law of conspiracy, civil conspiracy in South Carolina, and that is why I implore you to dismiss this case and let the Supreme Court decide if that standing alone is enough.

Your Honor, lastly, on the motion to amend, Ms. Peer and Mr. Skurko were merely the adjusters located in Cleveland, Ohio, who adjusted the claims at various stages.

If making an offer that is $20,000, $19,000 more than a Plaintiff receives from a jury, could subject them to personal liability, then every adjuster is now fair game for every suit.

I would add that this is really an attempt to get around very many limitations such as the Kleckley case, which impedes a third-party complainant from suing a liability carrier directly alleging bad faith. And the Charleston Dry Cleaners v. Zurich case, which is a case prohibits suing adjuster independently for some type of bad faith. So it is some window dressing given to an attempt to get around cases. In substance, there is allegations or at least the attempt to claim something, but any bad faith claim in a liability

situation has to start with a verdict in excess of the policy limits. And $1,000 would not support any cause of action against Nationwide, Titan, or its employees, or any violation of their duties to Mr. Tidwell under their liability coverage. And obviously the conduct of Ms. Spitz should not even be an issue in this court.

And so I respectfully ask that the pending amended complaint be dismissed with sanctions, and the motion to allow a second amendment of that client to add Ms. Peer and Mr. Skurko as a Defendant be denied because it is futile, because the alleged claims against them are completely groundless, just like the ones that are already in the case.

THE COURT: Thank you. Ms. Spitz?

MS. COURAM: I'd like to --

THE COURT: Go ahead, Ms. Couram.

MS. COURAM: First of all, Ms. Peer and Mr. Skurko are liable in this matter because they couldn't settle the matter two years prior. They started out with $10,000, $2,500 for pain and suffering. $10,000 medical -- I mean, the rest on medical. Then they went to 15. Then they went back to 10. Then they went back and they forced me

to file legal action. I tried to settle for 23. No. So I told -- they forced me to file legal action, which I tried with everything I had in me not to do. And then they -- then we went into mitigation -- mediation. They set on 20 and wouldn't budge from 20. Stayed there. And then I got an e-mail from Ms. Tidwell where she was saying, Well, I have a little bit more leeway now since that the mitigation -- the mediation is over with. Came back with a Rule 68, $20,000. Wouldn't budge from there. I tried to settle this matter many, many times. Nationwide could have ended this and stopped this from going -- getting this far if they had wanted to. And they should have done so.

THE COURT: You could have settled for $20,000, couldn't you?

MS. COURAM: Sir?

THE COURT: I said, you could have settled for $20,000, couldn't you?

MS. COURAM: No, I could not, because I have $17,000 in medical bills.

THE COURT: Okay.

MS. COURAM: And the fact I'm still suffering from that accident tells you right there that $20,000 was nowhere near necessary. And all he had

was 50. That is all he had. I would have had to go to my insurance to get any more than that. That is all -- that was the whole -- that was all there was. No more than that. And they wouldn't even attempt to try and settle anywhere near it. So if you have pain and suffering, somebody causes you an injury in this state, and your injuries and your medical bills are over $17,000, you are going to sit there and say, Oh, yes, let me pay all my medical bills, and I have nothing for a lifetime of back pain and injury.

THE COURT: Why do you think the jury just awarded you $1,000?

MS. COURAM: Because Judge Newman would not allow me to show my medicals to the jury. She would not allow me to submit my -- the medical records to the jury. She said it was hearsay, which it wasn't. According to the hearsay rule, medical records are not hearsay. They could have been submitted to the jury.

THE COURT: Okay.

MS. COURAM: She would not -- they had an issue -- whenever I said the word insurance, she and Ms. Tidwell would jump up and make a big deal out of it. And the only time I made reference to

insurance was when I was talking about Blue Cross Blue Shield, which was my medical insurer. They didn't even let me finish my testimony before they started jumping up.

Judge Newman was going to let me submit my medical bills, and so forth, to the jury, but with Mr. Matthews in the back? I don't know. Maybe it was -- because he came down to the pulpit to ask me a question. He had no business being down there asking me about something that had nothing to do with the case at hand. He was asking me something about the case with SCDMV. Mr. Matthews had no place in that courtroom that day, and he certainly had no place coming down there talking to me about something that had to do with something else, knowing what my situation was, knowing that the only issue that was in that courtroom that day was that auto accident.

And, yes, I have filed a Rule 60 motion to overturn the verdict. Again, this case has nothing to do with that car accident. The car accident issue was taken care of.

And on top of all that, the jury said $1,000 on me. I get to pay Mr. Tidwell $600 of that $1,000 back. I'm the one that got hurt. I'm the

one that is injured and I'm the one that is still suffering, and he gets -- I get $1,000 and he gets $600 of it back.

Anyway. So, as I said, this is not a case where I did not try to settle the matter and get it over with and end it. And it would not have impacted my job in the slightest because it would have been over in 2016, but they would not allow that. They kept on and kept on. Ms. Tidwell kept on subpoenaing my medical records and she subpoenaed -- from the day I was born she subpoenaed every record I ever had: Medical, counseling, disability, all my records. And then she turned around and subpoenaed DMV the second time. Why? Because they were interfering in my employment. Subpoenaing the DMV one time was all they needed. I have only been with DMV 10.8 years -- was with DMV 10.8 years. And she already subpoenaed those records and turned around and did it all over again. There was no need to do that. And I can understand the attorney over here saying about subpoenaing records with clients. That's fine. But how many times is somebody focused so much on one individual who did nothing to anyone that they would cause this much damage to that

person. This case is not about that car accident, it is about the negligence of the insurance company and Mr. Tidwell and his company and Mr. Tidwell as a owner of Tidwell Plumbing Services. His wife -- this case is about Mr. Matthews as an individual, it has nothing to do with SCDMV or the fact that he is an attorney representing himself. Nationwide had a duty and they had an option, they had a very clear option to stop this. Ms. Peer did, Mr. Skurko did, the person that represented them in the mediation court had an option to stop it. She didn't do it. Ms. Spitz had an opportunity to stop this. And none of them did it. I was the only one that was acting in good faith. And I wasn't asking for a whole lot of money, just to pay for what was done to me.

And these actions against these individuals now, as I said, there is no way, according to the South Carolina Supreme Court, that these individuals -- I believe the case was called Covision v. Hall. It was decided in 2009. And that case was reversed. It says under Rule 12(b)(6) of the South Carolina Rules of Civil Procedure a Defendant may move to dismiss a complaint based on a failure to state facts

sufficient to constitute a cause of action. That is not the case here. And I have given the Court all the facts that is necessary to allow this matter to move forward. The appellant -- and that is from Spence v. Spence. The appellate court applied the same standard of review as the trial court in reviewing this dismissal and action pursuant to Rule 12. Doe v. Martin. In considering motion to dismiss, a complaint based on failure to state facts sufficient to constitute a cause of action, the trial court must base his ruling solely on the allegations set forth in the complaint. The motion may not be sustained if the facts alleged and recently reducible therefrom would entitle the claimant to any belief or any theory of the case. The question is whether in the light most favorable to the Plaintiff and with every doubt resolved in his favor the complaint states any valid claim for relief. And I have done that.

And there is no basis for sanctions either, because the Defendants have not followed the standard or the procedure in filing sanctions. For one thing, they filed the sanctions within the motion to dismiss. It is supposed to be a separate

action allowing a grace period. So even if they got sanctions, they would not be appropriate because they did not follow the exact procedure for filing for their sanctions against me. And understand this, and I did not do anything to any other attorney. Just because some other attorney didn't file against Nationwide for their actions, then I'm doing it. And I have every right to do so. And I filed claims that -- factual claims that allow me to go forward in this. Nationwide had a right -- had a duty, maybe not to me, at the time of the car accident, but it has a duty to me to have settled this matter and prevented the damages that resulted after that car accident.

And if you will give me a minute, I would like to speak on the sanctions issue.

(Pause.)

MS. COURAM: Oh, what I was saying, intentional infliction of emotional distress has to do with what somebody say is outrageous. And calling the police to my house telling the police I'm suicidal? Nationwide did that. That is clearly something that somebody would say is outrageous.

According to the bar, Rule 11 from South

Carolina, Rule 11 supplies a narrow and frequently misused rule of evidence for the two basic categories of duties when presenting its cases to the Court. The presenter certifies that the paper is not presented for improper purpose and recent inquiry was made into the factual and legal contentions made. These are not high hurdles. It requires that you serve your Rule 11 motion on your adversary but refrain from filing it with the Court for 21 days so your adversary can withdraw the offending paper, which in other words the rule requires that they file a separate motion. They cannot include it inside the motion to dismiss that they filed to me. It is supposed to be something that is totally separate and different, and they did not follow the correct procedure. And there is no basis for motion for a motion for sanctions either.

THE COURT: Thank you. Ms. Spitz?

MS. SPITZ: Yes, Your Honor. We are here today on behalf of Mr. and Ms. Tidwell, also seeking that Ms. Couram's claim be dismissed and requesting sanctions against Ms. Couram.

It is clear, based on all argument that you have heard this morning, that Ms. Couram had her

day in court against Mr. Tidwell. That case was related to a motor vehicle accident. Mr. Tidwell admitted fault in that accident and the case went to trial on the issues of causation and damages. Clearly the jury heard the evidence presented and awarded a fair verdict. I would note that that case is currently on appeal with the South Carolina Court of Appeals.

While Ms. Couram has stated several times this morning that this current case is not about that prior accident with Mr. Tidwell, that is simply incorrect. You can flip through the complaint to see there is numerous mentions of the prior motor vehicle accident. And, in fact, the first cause of action against Mr. and Ms. Tidwell is for vicarious liability/respondeat superior, negligent entrustment. That claim is clearly related to the motor vehicle accident, Your Honor, and Ms. Couram had her day in court related to that accident.

The next claim against the Tidwells is the claim for civil conspiracy. And, Your Honor, I would add that while Beatrice Tidwell is named in the complaint, there are no specific factual allegations anywhere in the complaint against her. It appears, based on Ms. Couram's argument today,

that her only claim or frustration with Ms. Tidwell is the fact that she appeared in court during her husband's trial. Certainly I think that is reasonable and would not amount to any civil conspiracy.

Your Honor, it appears as well that the claims of civil conspiracy against Mr. Tidwell are related to my actions in representing him in the original lawsuit, actions such as filing subpoenas against her -- on her medical providers and SCDMV.

Your Honor, Ms. Couram placed her work history at issue in the case. She claims she was missing time from work because of the accident. She claimed that she lost wages because of the accident. Certainly, to do my job properly and effectively represent my client, I had to subpoena that information, Your Honor.

And, further, we would argue that there are no factual allegations that would support her claim for civil conspiracy. If you simply read the complaint, it is legal conclusion.

Your Honor, we would as well join in the other attorneys in this matter in opposing Ms. Couram's motion to amend her complaint as to the tortious interference of a contract. Your Honor, it appears

to be same contention that she is relying on in her claim for civil conspiracy, Your Honor.

And, again, there simply are not enough to assert those causes of action against the Tidwells. We would certainly ask that you dismiss this action as to them. And certainly we think these claims against the Tidwells would call for sanctions. It has well been established this morning that Ms. Couram had her day in court, she had her claim fully adjudicated, heard by a jury. A verdict, while she might not be happy with it, was rendered. And it is completely inappropriate for her to file subsequent actions against the Tidwells because of the same motor vehicle accident.

What is to stop her from, if Your Honor would dismiss this action against the Tidwells, from coming to the courthouse tomorrow or the next day to file another lawsuit against the Tidwells? There appears to be no end in sight when it comes to her claims related to this motor vehicle accident.

THE COURT: Ms. Couram? Yes?

MS. COURAM: My claims against the Defendants on the first cause of action were vicarious liability, malicious injury. This is the first

amended complaint. But the amended complaint was intentional infliction of emotional distress, negligent infliction of emotional distress, civil conspiracy, punitive damages, negligence, vicarious liability.

Mr. Tidwell had eye problems right after this car accident in January. This accident took place September. He went and got glasses in January. He also testified to the fact that he did not know how to operate the brakes on his work vehicle, on the van that he was driving, during the testimony, which makes vicarious liability appropriate, and I don't know if it is an appropriate claim or not. But negligent entrustment is an appropriate claim. Civil conspiracy is an appropriate claim, because this is not about Ms. Spitz and her representation of Mr. Tidwell. Ms. Spitz is Mr. Tidwell. Anything she did she did for -- as Mr. Tidwell, for Mr. Tidwell. Conspiring with Mr. Matthews, she did for Mr. Tidwell. Meeting with Mr. Matthews, she did for Mr. Tidwell. Constantly going back to my employer for my medical records. My employer gave her everything about me: My FMLA records, my records from work, my medical history, everything they gave her. She already had that information

from my medical doctor, from Blue Cross Blue Shield. She had everything. And I gave her the information. I gave her the information about when I was off work and when I went on medical leave, and so forth. She had all that information. There was no need to go back in late 2017 to get additional information from my employer, continuing to interfering with work history. And at the time she got that information I was still employed.

My other complaint is for vicarious liability and legal malice on the part of the Defendant. And that is in the first amended complaint that I'm asking the Court to rule on to allow me to put before the Court.

As I said, tortious interference is -- tortious interference and civil conspiracy are totally two different things. One has to do with interfering with someone's job and causing that person to lose that job and to interfere with their lives. And civil conspiracy is a totally separate action. It has to do with a combination of two or more people -- and we have two or more people here -- for the purpose of injuring the Plaintiff. The Plaintiff has been injured. She continues to be injured. I'm going into counseling for what is

going on right now with Voc Rehab. Mr. Matthews showed up at Voc Rehab on Tuesday after the holiday this year. He had no business being there. I asked my counselors and I asked them why he was there and if they were expecting him. And the reason he had no business being there was because of where he was located was only for clients.

THE COURT: What?

MS. COURAM: Clients, people who are residents of Voc Rehab, to eat lunch, and so forth, or to go over and have exercise, and so forth.

Mr. Matthews showed up. When I turned, I saw him ut of corner of my eye. He went back out in the parking lot. He showed up at a place that I was being treated for my injuries and what was going on with me. Again, knowing full good and well the medical issues I was having.

And as far as all this, this can all be settled. It doesn't even have to go to trial. They can settle this matter right now, here and now today if they wanted to. But I have provided this Court with enough to proceed forward to discovery. And then after discovery they can also file a motion for summary judgment, or even during the trial they can file a motion for directed verdict.

But I have provided this Court with enough to move forward with my case.

THE COURT: All right. Thank you.

Anything further?

MR. MATTHEWS: Your Honor, as far as me being at Voc Rehab, I represent Voc Rehab.

MS. COURAM: No, you don't. I asked them. They said they have their own attorney.

THE COURT: I don't care about that.

MR. MATTHEWS: Perfect.

THE COURT: All right. Thank you.

All right, counsel, proposed orders in ten days. Do you understand that, Ms. Couram?

MS. COURAM: Excuse me?

THE COURT: I said, my practice is, in a complicated case like this, to request that the attorneys and the parties submit to me a proposed order telling me what they want.

MS. COURAM: Okay.

THE COURT: All right? And you filed a complaint, an amended complaint, and a motion to amend. So I think you have -- you have at least read the rules because you got the case this far, even though you don't have a lot of legal training, but you obviously know what you are doing, so I

will give you a little more time than that if that is not enough time, but these attorneys are -- they are familiar with my practice of requesting a proposed order within ten days. Do you understand what I'm saying to you?

MS. COURAM: You want us to file a proposed order within ten days telling you what we want?

THE COURT: Uh-huh.

MS. COURAM: I understand that.

THE COURT: And they will do it and you'll do it. And I will take the matter under consideration. I will go through this entire file. I have not read this file yet, but I will go through it and read it, and I will let you know as soon as I can after I get those proposed orders. Is ten days enough time for you?

MS. COURAM: Can we -- as Mr. Matthews told you, I am going for my grievance hearing on Thursday.

THE COURT: Do you want 20 days?

MS. COURAM: Fifteen or 20.

THE COURT: That's fine. We'll do that. Fifteen days, counsel.

MR. MURPHY: Thank you, Your Honor.

MR. MATTHEWS: Thank you, Your Honor.

THE COURT: Ms. Couram, do you have access to e-mail?

MS. COURAM: Yes, sir.

THE COURT: Can you e-mail that to me?

MS. COURAM: The proposed order?

THE COURT: Yes?

MS. COURAM: Yes, sir.

THE COURT: As opposed to filing papers?

MS. COURAM: Yes, sir.

THE COURT: See, I may not be here next week or 15 days from now. I will be off hearing cases somewhere else. So if you can send it to me by e-mail that would -- I know that way it would get to me and I would have a chance to look at it.

MS. COURAM: Okay. Can I get a copy of your e-mail?

THE COURT: This lady right here will give you what you need.

Thank you very much.

(WHEREUPON, the proceedings were concluded at 11:48 a.m.)

(END OF TRANSCRIPT)

CERTIFICATE OF REPORTER

STATE OF SOUTH CAROLINA)
)
COUNTY OF RICHLAND)

I, Deborah M. McCurdy, Official Court Reporter for the Fifth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the Court of Common Pleas for Richland County, South Carolina, on the 12th day of February, 2018.

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

August 2, 2018

s/Deborah M. McCurdy, RPR

Deborah M. McCurdy, RPR
Fifth Circuit Court Reporter

admin
THE SOUTH CAROLINA
DEPARTMENT of ADMINISTRATION

Henry McMaster, *Governor*
Marcia S. Adams, *Executive Director*

DIVISION of STATE HUMAN RESOURCES
Karen Luchka Wingo, Director
8301 Parklane Road, Suite A220
Columbia, SC 29223
803.896.5300
803.896.5050 Fax

September 25, 2018

CERTIFIED MAIL

Ms. Glenda Couram
104 Macaw Lane
Lexington, South Carolina 29073

Dear Ms. Couram:

In accordance with the State Employee Grievance Procedure Act, you are hereby advised of the final decision of your appeal against the South Carolina Department of Motor Vehicles to the State Employee Grievance Committee. Pursuant to the Act, within twenty calendar days of the conclusion of the hearing, the State Employee Grievance Committee shall render its decision on the appeal. The Committee's decision is enclosed for your file.

Please advise us if you have any questions.

Sincerely,

Karen Luchka Wingo
Director

Enclosure

c: Mr. Kevin Shwedo
Mr. Eugene Matthews

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State Employee Grievance Committee

Final Decision

APPELLANT'S NAME: Glenda Couram
JOB CLASSIFICATION: Administrative Assistant II
AGENCY: South Carolina Department of Motor Vehicles
DATE OF HEARING: February 15, 2018 and September 5, 2018
NATURE OF CASE: Termination

Based on documentary evidence and testimony presented at the hearing of Glenda Couram v. South Carolina Department of Motor Vehicles (SCDMV) held in Columbia, South Carolina on February 15, 2018 and September 5, 2018, the State Employee Grievance Committee (Committee) finds:

FINDINGS OF FACT

1. Ms. Glenda Couram (Appellant) was employed with SCDMV from June 19, 2006, until April 3, 2017, most recently as an Compliance Specialist (Administrative Specialist II). (Committee Exhibit #1, p. 205.)

2. On February 14, 2017, automated security alerts were sent to the SCDMV Information Security Team alerting them of a potential suspected confidentiality data breach that may have occurred with a department computer that was assigned to Appellant. The alerts were triggered because of emails that were sent to and from a personal email address, grcouram@hotmail.com. While it was later determined that the emails did not contain any Personal Identifiable Information (PII), the emails did contain numerous attached documents that consisted of law studies, court briefings, forms and various personal emails. In addition, several internet usage reports confirmed that Appellant compiled a portion of this information from various websites from her work computer during working/non-break times. (Committee Exhibit #1, pp. 207 & 219.)

3. By letter dated February 22, 2017, Mr. Rick Steen (Mr. Steen), SCDMV Senior Investigator in the Office of Inspector General, informed Ms. Shirley Rivers (Ms. Rivers), SCDMV Driver Records Manager, that Mr. Ray Benoist, SCDMV Information Security Officer, received several automated security alerts triggered by Appellant sending emails from her SCDMV email account to a personal email account. This letter further states that, "we are forwarding this information to you for review. If you concur with our findings, we suggest that [Appellant] be discouraged from sending any similar emails to her personal account in order to prevent these incidents from recurring." (Committee Exhibit #1, pp. 210-211.)

4. On March 1, 2017, Ms. Rivers attempted to have a counseling session with Appellant regarding her computer usage; however, Appellant left the office before

the counseling session was finished. Therefore, on March 2, 2017, Ms. Rivers and Ms. Aline Goodwin (Ms. Goodwin), Appellant's Supervisor, met with Appellant again and informed her of the February 14, 2018 automated security alerts. Appellant was counseled regarding her conducting non-work related duties during work hours and specifically told to, "avoid the use of the internet that is in violation of our policies." In this counseling session, Ms. Rivers also discussed SCDMV policies AD-500 "Appropriate Use of Computing Resources" and HR-202, "Progressive Corrective Action/Disciplinary Policy." (Committee Exhibit #1, pp. 212-214.)

5. On March 2, 2017, at 3:19 p.m., Appellant sent an email from her SCDMV email account to her personal email account (grcouram@hotmail.com) with attachments titled, "stay1.pdf; WI_Plantiffs_Opposition_to_Jt_Motion-08-05-2004.pdf; WI_Def_Jt_Motion_Time_Extension-08-27-2004.pdf." (Committee Exhibit #1, p. 220.)

6. On March 7, 2017, at 3:20 p.m., Appellant sent an email from her SCDMV email account to her personal email account (grcouram@hotmail.com) with attachments titled, "Document1.dox; GS_1A-1,_Rule_68.pdf; Offers of Judgement in Oregon State Court.pdf; 27631.pdf; 5460.pdf; Document2.docx." According to Ms. Heather Martin (Ms. Martin), SCDMV Employee Relations Manager, this email prompted SCDMV to begin reviewing Appellant's email and internet usage for a second time. (Committee Exhibit #1, p. 220.)

7. Ms. Martin testified that she received information from Appellant's management team that Appellant requested leave to attend a court hearing on February 27, 2017, but Appellant submitted her leave request as Family and Medical Leave Act (FMLA) leave for that day. Ms. Martin contacted the Cofield Law Firm on March 7, 2017, to determine if Appellant was in court on February 27, 2017. While on the telephone with an attorney from the law firm, Ms. Lora Stuart Shortt (Ms. Shortt), Ms. Shortt shared with Ms. Martin that Appellant was using her SCDMV email account to conduct her personal legal matters and the she felt this was inappropriate. (Appellant Exhibit #1.)

8. On March 8, 2017, at 3:29 p.m., Appellant sent an email from her SCDMV email account to her personal email account (grcouram@hotmail.com) with the subject, "PTSDVetsA&CSeries interference" with an attachment titled, "PTSDVetsA&CSeries.docx." (Committee Exhibit #1, pp. 42-61.)

9. On March 9, 2017, at 3:51 p.m., Appellant sent a thirty-four (34) page email from her SCDMV email account to her personal email account (grcouram@hotmail.com) with information regarding several court cases. (Committee Exhibit #1, pp. 67-101.)

10. On March 10, 2017, at 2:54 p.m., Appellant sent an email from her SCDMV email account to her personal email account (grcouram@hotmail.com) with the

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subject, "FW: YOUR JUDGEMENT OFFER UNDER RULE 68." (Committee Exhibit #1, pp. 62-64.)

11. Appellant sent an email from her SCDMV email account to her personal email account (grcouram@hotmail.com) with the subject, "FW: Complaint Case Number: 00999640..." on March 14, 2017, at 8:07 a.m. (Committee Exhibit #1, pp. 65-66.)

12. Appellant sent emails from her SCDMV email account to Ricquael.James@LibertyMutual.com with the subject titled, "SERVICE of complaint VIA SC LAW" on March 15, 2017, at 9:32 a.m. and 10:24 a.m. (Committee Exhibit #1, pp. 160-161.)

13. On March 20, 2017, at 7:32 a.m., 9:46 a.m., and 11:16 a.m., Appellant sent emails from her SCDMV email account to dbenjaminlc@sccourts.org with the subject titled, "RE: Case 2016CP4002350-Glenda Couram vs Sherwood Tidwell , defendant, et al added to Court Roster for period 2017-04-17 through 2017-04-21." (Committee Exhibit #1, pp. 164-167.)

14. Ms. Rivers issued Appellant a Level II Reprimand on March 24, 2017, because Appellant continued to send multiple personal emails during working/non-break times which violated SCDMV's HR-202 Progressive Corrective Action/Disciplinary Policy for the offense of "working on personal jobs during working hours." The Reprimand further states, "[y]ou are being issued this corrective action because you have failed to show consistent improvement in your computer usage." (Committee Exhibit #1, pp. 215-218.)

15. After being issued the Level II Reprimand, Appellant sent an email from her SCDMV email account to "Benjamin, DeAndrea G. Law Clerk (Jasmine Burns)" on April 3, 2017, at 9:37 a.m. with the subject titled, "RE: Case 2016CP4002350-Glenda Couram vs Sherwood Tidwell , defendant, et al added to Court Roster for period 2017-04-17 through 2017-04-21." (Committee Exhibit #1, p. 354.)

16. SCDMV terminated Appellant, effective April 3, 2017, for a violation of its Progressive Corrective Action/Disciplinary Policy HR-202 for the offenses of "willful violation of rules, regulations, or policies by **working on personal jobs during work hours and unauthorized use of state equipment or property.**" [Emphasis in original.] (Committee Exhibit #1, pp. 207-208.)

17. According to SCDMV Progressive Corrective Action/Disciplinary Policy HR-202, the recommended sanction for a first offense of "[w]illful violation of rules, regulations or policies" and "[w]orking on personal jobs during work hours" ranges from a Level II Reprimand to Termination. In addition, the recommended sanction for "[u]nauthorized use of state equipment or property" ranges from a Level II Reprimand to Suspension for a first occurrence. Appellant acknowledged receipt of this policy on June 8, 2016. (Committee Exhibit #1, pp. 365 & 376.)

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18. According to SCDMV policy AD-500 Appropriate Use of Computing Resources, computing resources include the use of "personal computers and desktop office automation software (such as Microsoft Word, Excel, Outlook or Access) to create, update, store, delete, retrieve, print and disseminate agency documents, correspondence, emails, calendars, spreadsheets, project plans, presentations, databases as required by an user's job duties" and "use of the agency's personal computers, network, Intranet and Internet for work-related research, training, and communications, including social media sites." The policy further states that, "Use of the internet is permitted only under the following conditions: 1) Only when Phoenix and the Customer Queuing system are closed (not minimized) prior to accessing the internet. (These applications must be closed because they access and contain customer Personally Identifiable Information.) 2) Only when on break. 3) Never in the presence of customers or the public. 4) Never while on the telephone assisting a customer. 5) All browser home pages must be set for the DMV Intranet or DMV browser-based applications." Appellant acknowledged receipt of this policy on July 11, 2016. (Committee Exhibit #1, pp. 365 & 368.)

19. Mr. Benoist testified that he believed Appellant's internet usage from February 2017 to March 2017, was excessive based on the high volume of emails and attachments being sent from agency equipment to Appellant's personal email. Mr. Benoist also testified that he attempted to run a report on Appellant's internet usage from March 1, 2017, to approximately March 31, 2017; however, the system stopped the report, after 6000 pages, due to its length. Mr. Benoist testified that, based on this information, he believed that Appellant was using the internet at least 20 times more than the average SCDMV employee. Also, he believed that, based on the amount of information collected, Appellant was using the internet during non-break times. Mr. Benoist further testified that he and Ms. Martin created a report regarding Appellant's email usage in which they found that Appellant sent 25 emails from her SCDMV email account between December 20, 2016, and April 3, 2017, regarding legal matters not related to Appellant's SCDMV job duties. (Committee Exhibit #1, p. 219.)

20. Mr. Gregory Torok, (Mr. Torok), SCDMV Director of Human Resources, testified Appellant's established break times were between 9:30 a.m. – 9:45 a.m. and 3:00 p.m. – 3:15 p.m.

21. Mr. Torok testified that Appellant requested an accommodation under the Americans With Disabilities Act (ADA). Mr. Torok stated that, in an effort to accommodate Appellant's ADA request, SCDMV offered Appellant two (2) ten-minute breaks in the morning, her normal one (1) hour lunch break, and two (2) ten-minute breaks in the afternoon; however, Appellant did not accept this accommodation.

22. Appellant contends that she stopped using her computer to send personal emails except on her lunch and break times after she was counseled on March 1, 2017.

Appellant also contends SCDMV has no evidence she collected the information she sent from her SCDMV email account to her personal email account during her working hours. Appellant testified that her breaks were from 9:30 – 9:45 a.m. and from 3:15 – 3:30 p.m. Appellant also testified that she was allowed to have two ten-minute breaks in morning and two ten-minute breaks in the afternoon as an ADA accommodation in lieu of her two (2) fifteen-minute breaks. Appellant testified that there were office rules that applied to her department to which she contends she followed. Appellant pointed to a document in the record titled, "Office Rules" that states, in part, "[i]nternet usage is prohibited and will result in disciplinary action. Please refer to the updated policy, Appropriate Use of Computing Resources. **(AD-500)**." [Emphasis in original.] (Committee Exhibit #1, p. 6.) Further, Appellant testified that she believes SCDMV solicited information from Ms. Shortt that led to her termination.

23. SCDMV contends that it terminated Appellant's employment in accordance with SCDMV HR-202, Progressive Corrective Action/Disciplinary Policy for her willful violation of rules, regulations or policies by working on personal jobs during work hours and her unauthorized use of state equipment or property. SCDMV also contends that Appellant continued to violate SCDMV's Appropriate Use of Computing Resources policy even after being counseled on March 1, 2017, and reprimanded on March 24, 2017, regarding her inappropriate use of her SCDMV email and the internet during working hours/non-break times. (Committee Exhibit #1, pp. 207-208.)

STATEMENTS OF POLICY AND CONCLUSIONS OF LAW

The State Employee Grievance Procedure Act (Grievance Act) creates the Grievance Committee as a quasi-judicial review body that conducts hearings of certain specified state employee grievance appeals. S.C. CODE ANN. § 8-17-340 (1976). In addition, the Grievance Act provides:

> (E) The committee may sustain, reject, or modify a grievance hearing decision of an agency as follows:
>
> > (1) In cases involving actual or threatened abuse, neglect, or exploitation, to include those terms as they may be defined in § 43-35-10 or 63-7-20, of a patient, client, or inmate by an employee, the agency's decision must be given greater deference and may not be altered or overruled by the committee, unless the covered employee establishes that:
> >
> > (a) The agency's finding that the covered employee abused, neglected, or exploited or threatened to abuse, neglect, or exploit a patient, client, or inmate is clearly erroneous

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in view of reliable, probative, and substantial evidence;

(b) The agency's disciplinary action was not within its established personnel policies, procedures, and regulations; or

(c) The agency's action was arbitrary and capricious.

(2) In all other cases, the committee may not alter or overrule an agency's decision, unless the covered employee establishes that the agency's decision is one or more of the following and prejudices substantial rights of the covered employee:

(a) in violation of constitutional or statutory provisions;

(b) in excess of the statutory authority of the agency;

(c) made upon unlawful procedure;

(d) affected by other error of law;

(e) clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record; or

(f) arbitrary or capricious or characterized by abuse discretion or clearly unwarranted exercise of discretion.

S.C. CODE ANN. § 8-17-340(E).

This case is governed by § 8-17-340(E)(2), which establishes that Appellant has the burden of proof to demonstrate that the decision to discipline her was wrong for the reasons articulated.

Based on the documents and testimony presented at the hearing, the Committee found substantial evidence to support SCDMV's decision to terminate Appellant. "'Substantial evidence' is something less than the weight of the evidence; it is evidence which, considering the record as a whole, would allow reasonable minds, to reach the conclusion that the administrative agency reached in order to justify its action." *Todd's Ice Cream, Inc. v. South Carolina Employment Security Commission,* 281 S.C. 254, 258, 315 S.E.2d 373, 375 (Ct. App. 1984).

According to the record, SCDMV received automated security alerts regarding Appellant's internet and email usage on February 14, 2017. SCDMV determined that Appellant was inappropriately using her SCDMV email account to send emails, not related to her job duties, during working hours. Ms. Rivers and Ms. Goodwin counseled Appellant on March 1-2, 2017, and subsequently issued a Level II Reprimand on March 24, 2017, regarding her inappropriate internet and email usage. The record indicates that documentation of both Appellant's counseling session and Level II Reprimand cite

SCDMV's Appropriate Use of Computing Resources Policy, which limits personal internet usage for employees to break times only. In addition, SCDMV's Progressive Corrective Action/Disciplinary Policy prohibits employees from working on personal jobs during work hours and the unauthorized use of state equipment or property. Appellant contends that she stopped using the email and internet inappropriately after the March 1-2, 2017 counseling session. According to Mr. Torok's testimony, Appellant's established break times were between 9:30 a.m. – 9:45 a.m. and 3:00 p.m. – 3:15 p.m. The Committee finds that Appellant sent at least 12 emails that were not related to her job duties from her SCDMV email account between the March 1-2, 2017 counseling session and her termination on April 3, 2017. The Committee also finds that Appellant sent, during hours outside of her breaks, at least eight (8) emails from her SCDMV email account that were not related to her job duties between March 9, 2017 and March 20, 2017. Based on the record and testimony presented, there is no dispute that Appellant sent these emails contained in the record from her SCDMV email account and during her assigned work hours. The Committee believes that SCDMV attempted to correct Appellant's behavior with a counseling session on March 1-2, 2017, and a Level II Reprimand on March 24, 2017. The Committee finds, however, that Appellant continued to violate SCDMV's Progressive Corrective Action/Disciplinary Policy and its Appropriate Use of Computing Resources Policy even after these two attempts by SCDMV to correct her behavior.

Appellant also contends there is no evidence she collected the information she sent from her SCDMV email account to her personal email account during her work hours. The Committee, however, relied on the testimony and report from Mr. Benoist, who testified regarding the high volume of emails and attachments being sent from agency equipment to Appellant's personal email account. Mr. Benoist stated that, based on his report of Appellant's internet usage, he believed that Appellant used the internet at least 20 times more than the average SCDMV employee and used the internet during non-break times. The Committee finds that, based on Mr. Benoist's testimony and the volume of information Appellant gathered, it is reasonable to believe that Appellant collected this information during her working hours.

Appellant also contends that she followed the office rules of her department regarding internet usage. The Committee, however, finds that the office rules of Appellant's department prohibit internet usage and using the internet could result in disciplinary action. (Committee Exhibit #1, p. 6.) As previously stated, the Committee believes that Appellant used the internet and email for personal use during working hours.

According to SCDMV Progressive Corrective Action/Disciplinary Policy, the recommended sanction for a first occurrence of "Willful violation of rules, regulations or policies" and "Working on personal jobs during work hours" ranges from Level II Reprimand to Termination. The recommended sanction for "Unauthorized use of state equipment or property" ranges from Level II Reprimand to Suspension for a first occurrence. Therefore, the Committee finds that SCDMV's decision to terminate Appellant was in accordance with its established policy and guidelines.

DECISION

The Committee finds Appellant failed to establish that SCDMV's decision prejudiced her substantial rights and met one or more of the elements contained in S.C. Code Ann. § 8-17-340(E)(2). Therefore, the Committee upholds the decision of SCDMV to terminate Appellant and denies the relief sought.

For the Committee: Wanda Miller /ebm Date: 9/25/2018

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THE STATE OF SOUTH CAROLINA
In The Court of Appeals

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SC Court of Appeals

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas

G. Thomas Cooper, Jr.
Circuit Court Judge

Appellate Case No.: 2018-001134

Glenda R Couram ..... Appellant,

v.

Nationwide Mutual Insurance Company, Titan Indemnity Company, Eugene Matthews in his individual capacity, Sherwood Plumbing Service, LLC, dba, Beatrice T. Tidwell, Rick Skurko in his official and individual capacity and Tracey Peer in her official and individual capacity
..... Respondents

CERTIFICATE OF COUNSEL

I certify that to the best of my knowledge and pursuant to Rule 210(g) SCACR the Record on Appeal contains all materials heard during the hearing and proposed to be included herein by any of the parties and not any other material and is in substantial compliance with the Rules of this Court; and, in compliance with Order dated May 9, 2019

Glenda Couram
104 Macaw Lane
Lexington, SC 29073
(803) 358-0127
Pro se Appellant

Dated this 28th day May 2019
Lexington, South Carolina